



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 14 December 2016
at the Shire Chambers, Nabawa, commencing at 9:00am.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

UNCONFIRMED MINUTES

DECEMBER 2016

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

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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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ORDER OF BUSINESS:

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Chairman, Cr Collingwood welcomed Elected Member and Staff and declared the meeting open at 9.00am.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Cr Collingwood acknowledged the receipt of the additional submissions relating to Item 10.1.1 - Proposed Relocated Building – Lot 51 Eliza Shaw Drive, Buller and provision of a copy of the additional submissions to all Councillors prior to the meeting.

3.0 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

3.1 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
Mr Maurice Battilana	Chief Executive Officer
Simon Lancaster	Deputy Chief Executive Officer
Mrs Karen McKay	Executive Services Administrator (Minute Taker)
Mrs Dianne Raymond	Manager of Finance & Corporate Services (from 10.04am to 10.33am)
Mrs Rebecca Miller	Community Development Officer

c. Visitors

Name	
Mrs Kathryn Jackson	Item 10.1.2 from 9.00am to 9.49am
Mr Dave Higgs	Item 10.1.1 from 9.07am to 9.33am

3.2 Apologies

Name	
Cr Anthony Farrell	North East Ward

3.3 Previously Approved Leave of Absence

Name	
Nil	

4.0 PUBLIC QUESTION TIME

4.1 Response to Previous Public Questions On Notice

Nil

4.2 Public Question Time

Nil

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6.0 DISCLOSURE OF INTEREST

Cr Wood declared an impartiality interest in item 10.1.5 as she is a member of the Parkfalls Residents Association.

Cr Maluish declared an impartiality interest in item 10.1.5 as he is a member of the Parkfalls Residents Association.

Cr Warr declared an impartiality interest in item 10.1.5 as she is a member of the Midwest Development Commission which is discussed in the minutes of the Bill Hemsley Park Committee and pending grant application.

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

Nil

7.3 Deputations

Mrs Jackson gave a brief overview for item 10.1.2 Extractive Industry (Gravel & Sand) on behalf of the applicant.

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

COUNCIL RESOLUTION

MOVED: CR WARR

SECONDED: CR WOOD

8.1 Ordinary Meeting of Council held on Wednesday 16 November 2016

That the minutes of the Ordinary Meeting of Council held Wednesday 16 November 2016 be confirmed as a true and accurate record.

Voting 7/0

CARRIED

Minute Reference 12/16-1

9.0 ITEMS TO BE DEALT WITH EN BLOC

Nil

10.0 OFFICERS REPORTS

10.1

Manager of Planning

December 2016

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AGENDA ITEM:	10.1.1
SUBJECT:	PROPOSED RELOCATED BUILDING
PROPONENT:	D & R HIGGS
SITE:	LOT 51 ELIZA SHAW DRIVE, BULLER
FILE REFERENCE:	A1228
PREVIOUS REFERENCE:	Nil
DATE:	6 DECEMBER 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

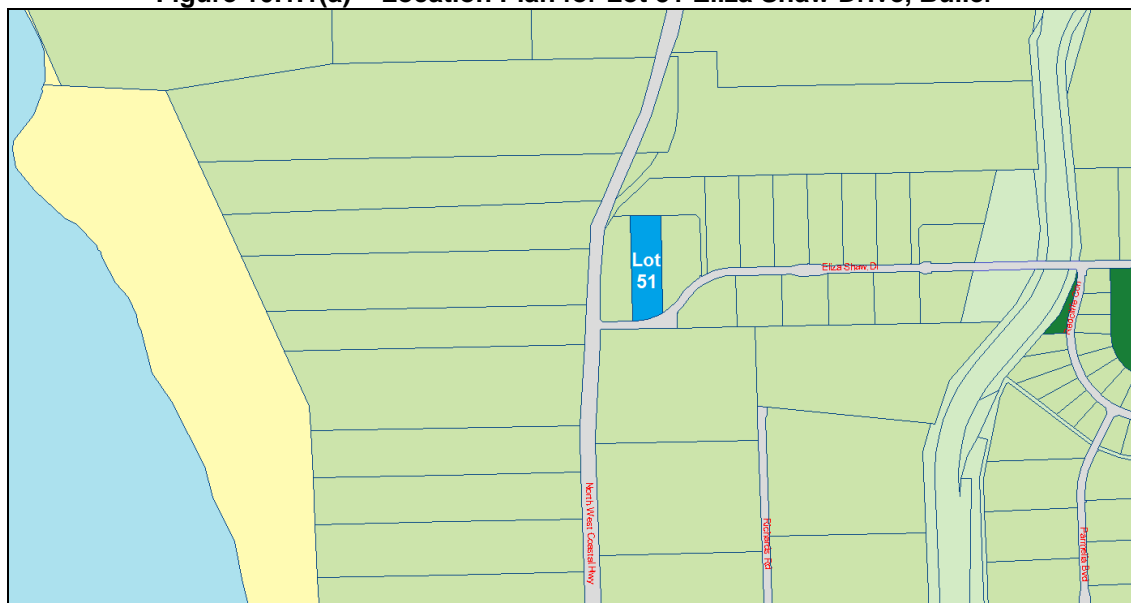
BACKGROUND

Council is in receipt of an application to relocate 2 buildings upon Lot 51 Eliza Shaw Drive, Buller and undertake works to convert them to a residence. The application has been advertised for comment and is now presented to Council for its consideration. This report recommends refusal of the application. An alternative recommendation is provided, at the conclusion of the comment section (immediately prior to the statutory environment section of the report), in the event that Council consider that the application should be given conditional approval.

COMMENT

Lot 51 is a 2ha property located on the northern side of Eliza Shaw Drive approximately 100m east of the intersection with the North West Coastal Highway. The property is relatively flat and predominantly cleared with the exception of some established trees along the 80m frontage.

Figure 10.1.1(a) – Location Plan for Lot 51 Eliza Shaw Drive, Buller



The applicant is seeking to site 2 transportable buildings upon Lot 51 Eliza Shaw Drive. The buildings would be sited 133.73m back from the front (southern) property boundary, and 10m from the nearest side (eastern) property boundary.

The applicant is proposing to connect the 2 buildings with a patio/common deck, and add a verandah/common deck and 2 carports along the western elevation of the building, and a verandah at either end (north and south) of the building. The finished building would be single storey with a common gabled roofline, and consist of a 33x12m (396m²) 5 bedroom, 2 bathroom main residence area, and a 15x12m (180m²) 2 bedroom, 2 bathroom granny flat. There would be 2 x 27m² structures at either end of the building, that when combined with the 2 x 81m² carports and 97.35m² verandah and 72m² patio area would make for a total area of 961.35m².

A copy of the applicant's submitted site, elevation and floor plans, and photographs of the building in its current location have been included as **Attachment 10.1.1(a)**.

Figure 10.1.1(b) – Aerial Photograph of Lot 51 Eliza Shaw Drive, Buller



The applicant has provided the following information in support of their proposal:

“REASON FOR THIS TYPE OF BUILDING:

Is for the Quick Set up / Build time to establish a suitable dwelling to house My Family to move from Perth to Geraldton for semiretirement a sea change and a better life style / future for all of us...we are a large young active growing working class family, we may yet enlarge our family again if we decide to, there for the need for a large block and a large house with the ability for my wife to have a part time home based beauty salon at the south end of the house which does not interfere with the general running of our home or neighbouring properties, The house also features a separate Games room / bathroom / theatre / office and Guest room that enables us to have areas split up to suit the kids sleeping and general living routines when we have family come to stay as we come from large families and they are spread out over Western Australia and Other States, Our immediate relatives all have kids of their own and my brother in law is disabled making it essential for the size and set out of this temporary house, Once we are living there then we'll be able to start the land scaping and working out the design / location / facing etc of our dream house to suit the views / energy ratings / usability etc, Please note this will be a larger / slower / very up market build worth a lot more than the standard dwelling in the area”

“REASON FOR THIS AREA:

*Park Falls estate seems to be a nice area just out of town with a few large size / acreage lots close to the sea and beaches
There are still a lot of buildings in the area with low market budget dwellings / sheds turned into houses / a lot of unused and developed paddocks around houses / many properties with sea containers etc, It is not a high end prestige area as some others but I'm hoping it should be good enough to bring my family up there”*

“BUILDING INFORMATION:

The instantaneous temporary neat / tidy / modest Transportable build with all features to be a nice standard and appeal that will be more than satisfactory for the area and sufficient for my family to live in for time being

The temporary building is a modern built building comprising of many modules in extremely good condition that were previously used for a short time as a large commercial office all connected up as one whole unit, As per all the Plans that I have provided I have proposed to separate the units add Verandas, Car Ports, Patio, Decking, Nice Double Glass sliding doors, Reclad Some Elevations with a up market CFC Matrix System Cladding etc to dress it up, Every thing that the shire asked for plus more”

“LAND USAGE:

This Block is rural residential and is to be for my personal use, To eventually be fully developed and set up like the staged plan provided with a sweeping Driveway / Large House / Patio / Granny Flat / Fruit orchard / Large Playground / Basketball and tennis court / mini grass oval / feature Entrance and front fence / boundary fence upgrade / Games-show room for my classic vehicles / nice large shed for my Hobbies with the kids and much more to suit our life style as time goes on”

Figure 10.1.1(c) – View of Lot 51 looking north from Eliza Shaw Drive



Figure 10.1.1(d) – View of Lot 51 looking south-east from North West Coastal Highway



If, after reviewing the application, Council considers that the application should be approved it may consider the following alternative wording appropriate in its determination:

“That Council grant formal planning approval for the siting of relocated buildings upon Lot 51 Eliza Shaw Drive, Buller and its conversion to a habitable building, subject to compliance with the following conditions:

- 1 Development shall be in accordance with the plans included as Attachment 10.1.1(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 The building is required to be externally clad and painted (inclusive of skirting between the floor level and ground level) to the approval of the local government.*
- 4 The building must not be occupied until it is compliant with the Class 1 requirements of the Building Code of Australia to the requirements of the local government.*
- 5 A bond of \$5,000 must be lodged by the applicant with the Shire, prior to the siting of any buildings upon the property, that will be returned upon completion of the requirements pertaining to the conditions of approval within a period of 12 months, and in the event that the works to the relocated buildings as described in the application are not carried out within the 12 month timeframe the bond shall be forfeited to the Shire.*
- 6 Landscaping is required to be installed and maintained between the relocated building and Eliza Shaw Drive and North West Coastal Highway for the purpose of softening the visual impact of the structure upon the land to the approval of the local government.*
- 7 All stormwater is to be disposed of to the approval of the local government.*
- 8 The approval is for the siting of a relocatable building and subsequent external works to enable its conversion to a residence. The approval is not for the commencement of a home occupation/business from the property for which a separate application and determination is required. The approval is not for the development/construction*

of outbuildings/sheds upon the property for which a separate application and determination is required.

Notes:

- (i) In regards to condition 5 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) In regards to condition 8, the applicant is advised that the maximum total outbuilding area permitted under the Shire of Chapman Valley Local Planning Policy 'Outbuildings' is 200m² (whether enclosed or open).*
- (iii) 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."*

STATUTORY ENVIRONMENT

Lot 51 Eliza Shaw Drive, Buller is zoned 'Rural Residential 1' under Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme').

Section 4.2.5 of the Scheme lists the objectives of the 'Rural Residential' zone as being:

- "(a) Provide for residential development within a low-density environment;*
- (b) Provide for other land-uses compatible with a high level of residential amenity;*
- (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."*

The proposed siting of a transportable building and its conversion to a habitable building can be considered under the Scheme for this zone, although the building would not be able to be occupied until it has been modified to meet the Class 1 (habitable) building requirements of the Building Code of Australia.

Section 1.6(d) establishes the following aims of the Scheme:

"Protect, preserve and enhance the environment, natural and cultural heritage and landscape and streetscape values."

Part 4 of Schedule 11 of the Scheme notes the following for the 'Rural Residential 1' zone:

"All buildings constructed on the land 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 of the Scheme lists the following relevant matters to be considered by the Local Government in considering a development application:

- “(a) the aims and provisions of the Scheme...*
- ...(f) any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;...*
- ...(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;...*
- ...(y) any relevant submissions received on the application...*
- (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."

In most circumstances the Council will adhere to the standards prescribed in a Local Planning Policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification warrants a concession and the variation granted will not set an undesirable precedent for future development.

FINANCIAL IMPLICATIONS

- **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:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting and reviewed and approved by Council at its 16 March 2016 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.

Lot 51 Eliza Shaw Drive is in a highly visible location, both through its siting at the entrance to the Parkfalls Estate, and as one of the first lots that can be seen from the North West Coastal Highway as visitors enter the greater Geraldton area. On this basis the application was advertised from 11 November 2016 until 2 December 2016 with the following actions being undertaken inviting comment:

- placement of an advisory sign on-site;
- copy of the application documentation being made available for viewing at the Shire office/library;
- copy of the application documentation being sent to the 6 surrounding landowners and the Parkfalls Residents Association.

At the conclusion of the advertising period 7 submissions had been received, all in objection to the proposed development, 1 late submission was also received, also in objection to the application.

A Schedule of Submissions that identifies the respondents, the nature of their submissions, and provides individual comment upon any raised issues has been provided as **Attachment 10.1.1(b)**.

Copies of the received submissions have been provided to Councillors as **separate Attachment 10.1.1(c)**.

A copy of the applicant's submission in response to the issues raised has been provided to Councillors as **separate Attachment 10.1.1(d)**.

RISK ASSESMENT

Not applicable.

VOTING REQUIREMENTS

Simple majority of Council

Late Submissions were tabled at the meeting

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR WOOD

SECONDED: CR MALUISH

That Council refuse the application for the siting of a transportable building upon Lot 51 Eliza Shaw Drive, Buller for the following reasons:

- 1 The development is considered contrary to Section 1.6(d) of the Shire of Chapman Valley Local Planning Scheme No.2.
- 2 The development is considered contrary to Section 4.2.5(d) of the Shire of Chapman Valley Local Planning Scheme No.2.
- 3 The development is considered contrary to Section 5.8.1 of the Shire of Chapman Valley Local Planning Scheme No.2.
- 4 In its consideration of the application Council is not satisfied that the development satisfies the matters under Section 10.2 of the Shire of Chapman Valley Local Planning Scheme No.2.
- 5 The development is considered contrary to Part 4 of Schedule 11 'Rural Residential 1' of the Shire of Chapman Valley Local Planning Scheme No.2.
- 6 Council is not satisfied that sufficient justification has been provided to warrant a concession being granted in this instance to the requirements under Section 4.2(a) of the Shire of Chapman Valley Local Planning Policy 'Relocated Buildings'.
- 7 Approval of this application may well set an undesirable precedent for future variation to the Shire's statutory and policy requirements, which in time could prove to be detrimental to the rural residential amenity of the locality.
- 8 The objections received during the public consultation period for the application, and the issues raised therein, do not indicate a level of support for a variation to be considered by Council.
- 9 Lot 51 Eliza Shaw Drive is in a highly visible location, both through its siting at the entrance to the Parkfalls Estate, and as one of the first lots that can be seen from the North West Coastal Highway as visitors enter the greater Geraldton area, and this should be given due regard for in any assessment of a development application for this property.

Advice Note:

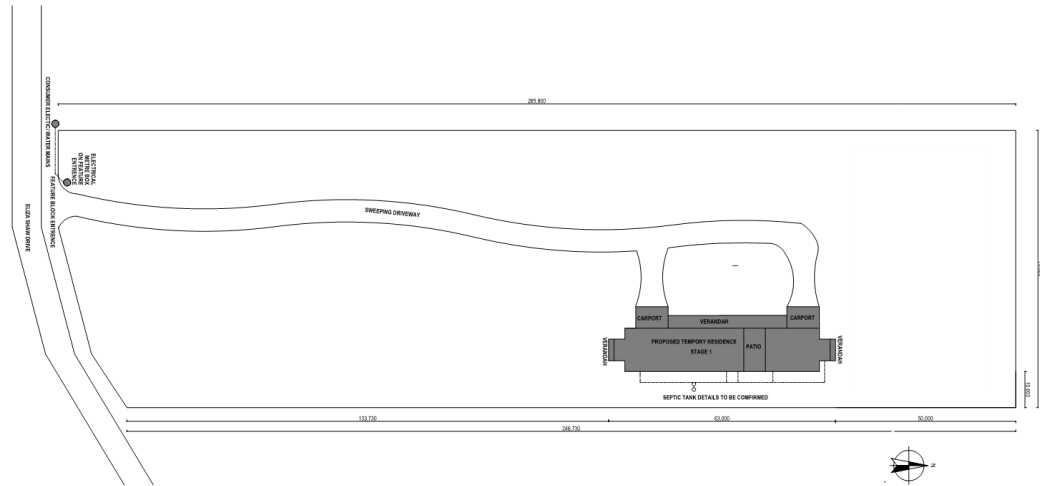
Should the applicant be aggrieved by this determination there is a right pursuant to the *Planning and Development Act 2005* to request to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

**Voting 7/0
CARRIED
Minute Reference 12/16-2**

Mr Higgs left Chambers at 9.33am

ATTACHMENT 10.1.1(a)

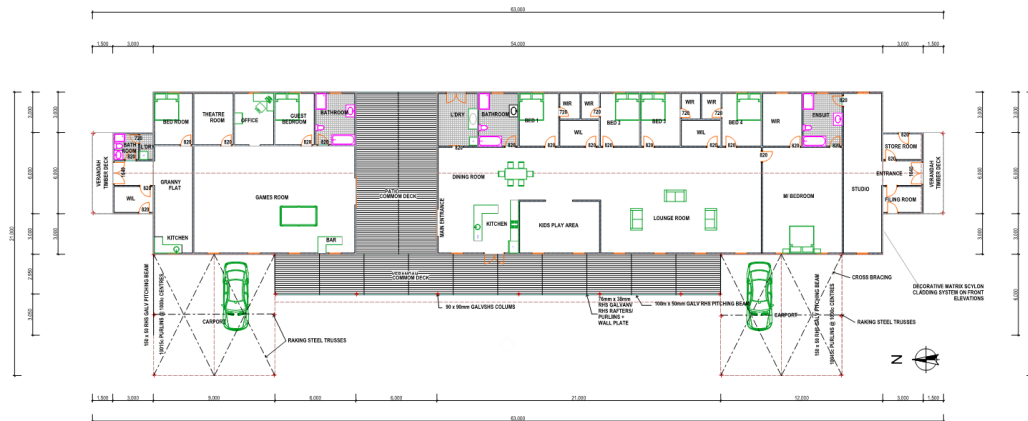
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SITE PLAN
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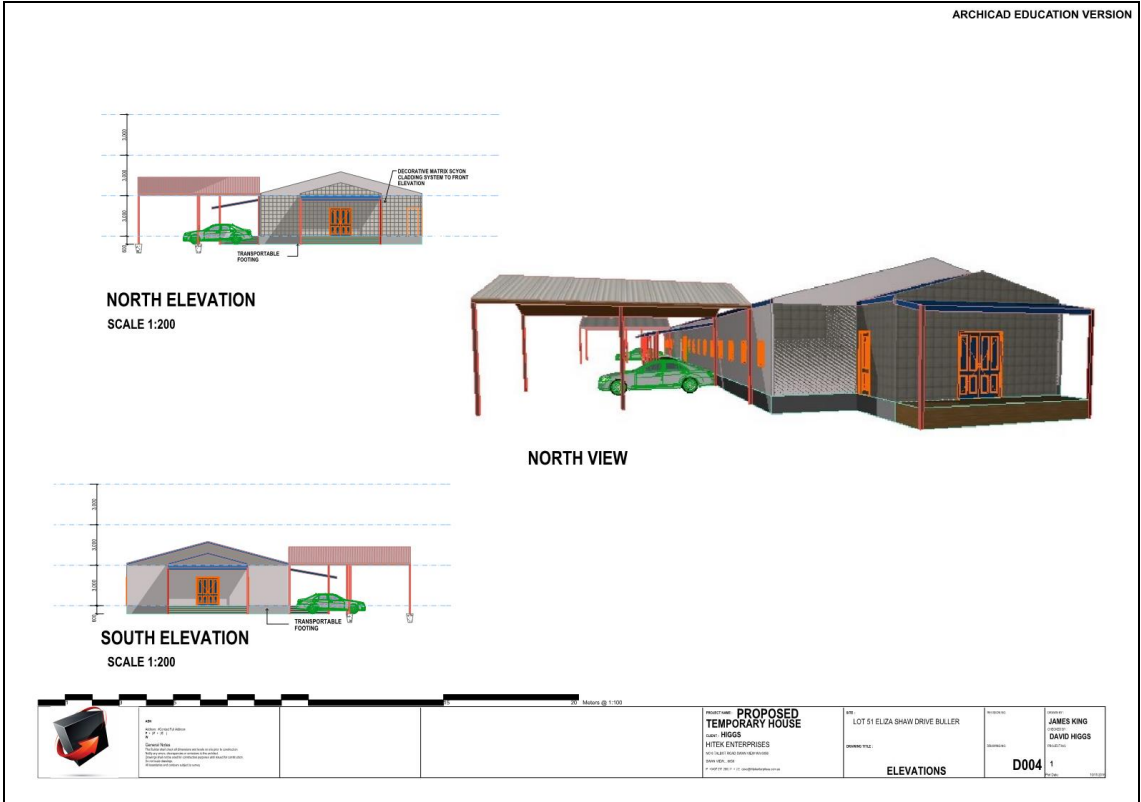
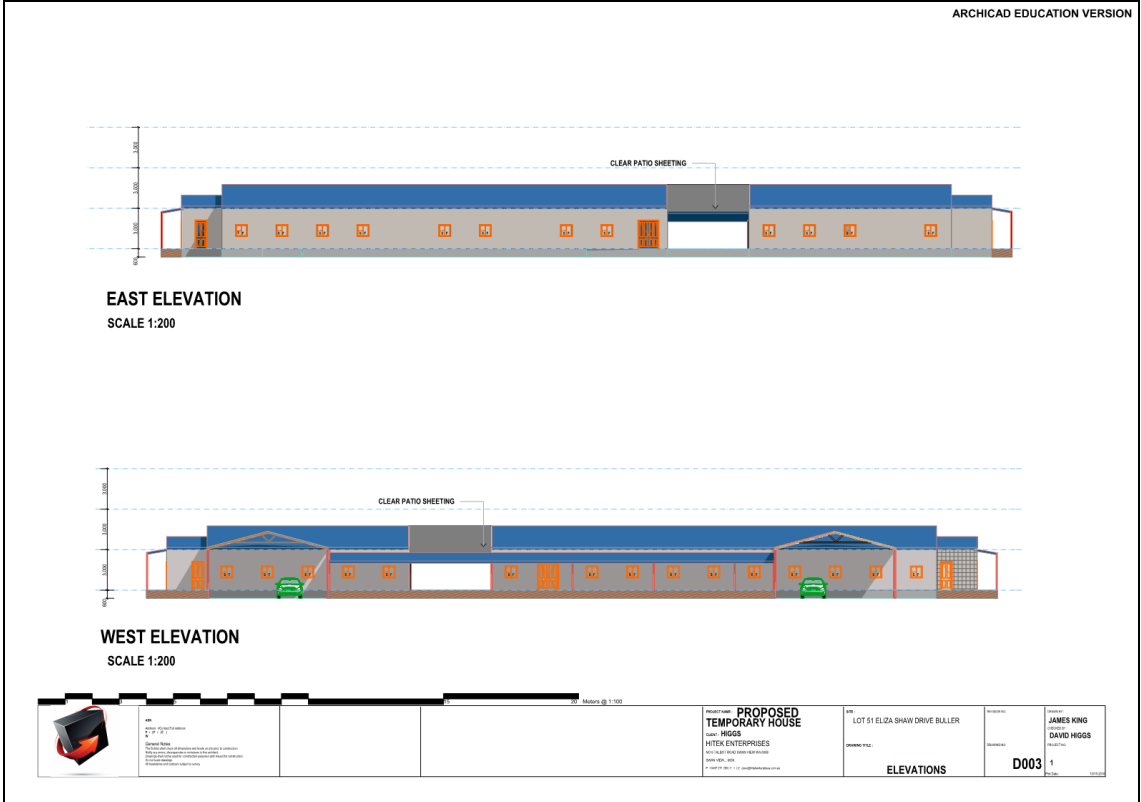
	<p>DATE: 12/12/2016 DRAWN BY: JAMES KING CHECKED BY: DAVID HOGGS PROJECT: PROPOSED TEMPORARY RESIDENCE STAGE 1</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>
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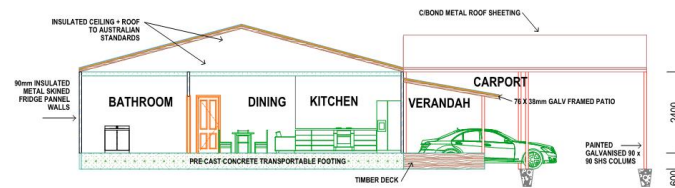
ARCHICAD EDUCATION VERSION



FLOOR PLAN
SCALE 1:200

	<p>DATE: 12/12/2016 DRAWN BY: JAMES KING CHECKED BY: DAVID HOGGS PROJECT: PROPOSED TEMPORARY RESIDENCE STAGE 1</p>	<p>NOTE: PROPOSED PANEL CONSTRUCTION (TRANSPORTABLE BUILDING) SECTION CLADDING SYSTEM TO SOUTH ELEVATION LIGHT HEIGHT PATIO TUBE CONSTRUCTION TO CAR PORTS AND VERANDAH 2 PURLINS TO PATIO</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>	<p>PROPOSED TEMPORARY HOUSE LOT 51 ELIZA DRIVE DRIVE BLUER HTEK ENTERPRISES 1000 HTE, 1000 1000 HTE, 1000</p>
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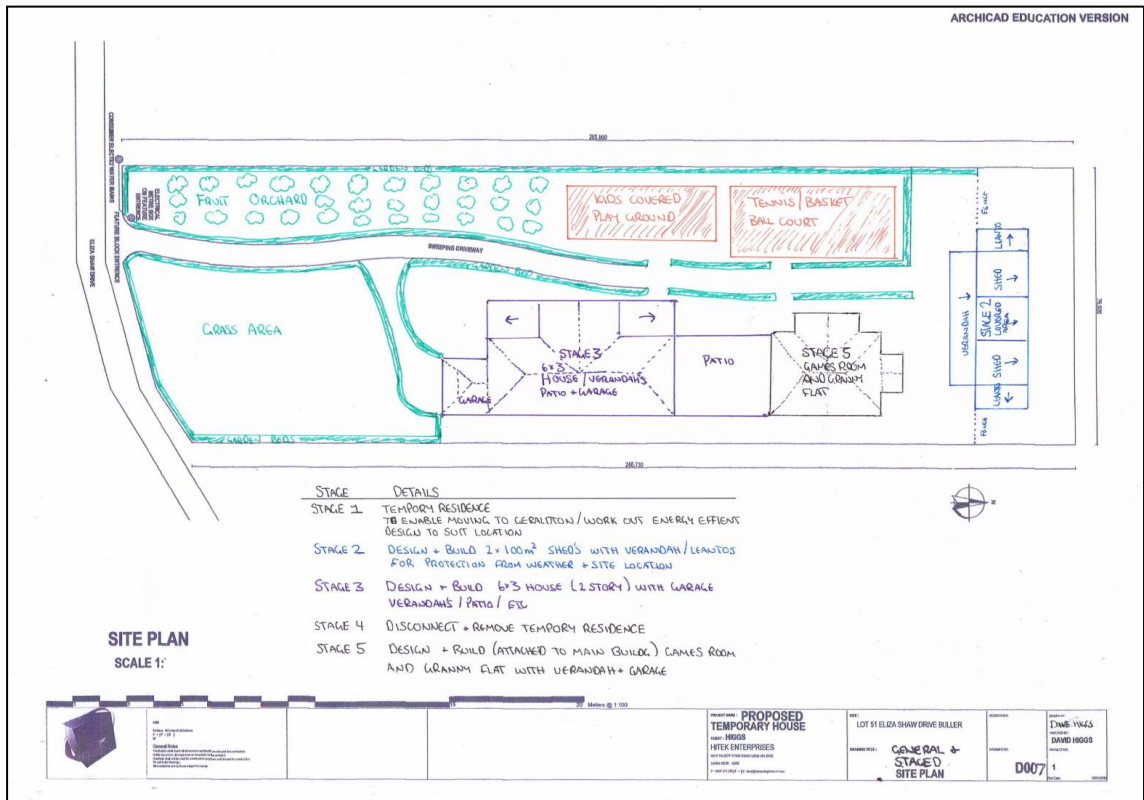
SECTION VIEW
SCALE 1:100

	<p>ARCHICAD 21.0.0 (64-bit)</p> <p>Project Name: PROPOSED TEMPORARY HOUSE</p> <p>Client: HITEK ENTERPRISES</p> <p>Location: LOT 51 ELIZA SHAW DRIVE BULLER</p> <p>Scale: 1:100</p> <p>Author: JAMES KING</p> <p>Editor: DAVID HIGGS</p>			<p>PROPOSED TEMPORARY HOUSE</p> <p>HITEK ENTERPRISES</p> <p>LOT 51 ELIZA SHAW DRIVE BULLER</p> <p>Scale: 1:100</p> <p>Author: JAMES KING</p> <p>Editor: DAVID HIGGS</p>	<p>LOT 51 ELIZA SHAW DRIVE BULLER</p> <p>Scale: 1:100</p> <p>Author: JAMES KING</p> <p>Editor: DAVID HIGGS</p>	<p>SECTION VIEW</p>	<p>D005 1</p>
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3D VIEW

	<p>ARCHICAD 21.0.0 (64-bit)</p> <p>Project Name: PROPOSED TEMPORARY HOUSE</p> <p>Client: HITEK ENTERPRISES</p> <p>Location: LOT 51 ELIZA SHAW DRIVE BULLER</p> <p>Scale: 1:100</p> <p>Author: JAMES KING</p> <p>Editor: DAVID HIGGS</p>			<p>PROPOSED TEMPORARY HOUSE</p> <p>HITEK ENTERPRISES</p> <p>LOT 51 ELIZA SHAW DRIVE BULLER</p> <p>Scale: 1:100</p> <p>Author: JAMES KING</p> <p>Editor: DAVID HIGGS</p>	<p>LOT 51 ELIZA SHAW DRIVE BULLER</p> <p>Scale: 1:100</p> <p>Author: JAMES KING</p> <p>Editor: DAVID HIGGS</p>	<p>3D VIEW</p>	<p>D006 1</p>
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Schedule of Submissions - Proposed Transportable Residence – Lot 51 Eliza Shaw Drive, Buller				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
1 (17/11/16)	G Halton (32 Eliza Shaw Drive)	<p>Objection No timeframe</p> <p>Development way too large</p> <p>Uninsightly Downgrade general ambience of the area Negative affect on streetscape</p>	<p>The applicant was invited to make comment upon the issues raised in objection to their proposal and has provided the following:</p> <p>"The Time Frame for Stage 1 the Temporary Residence with take approximately 3 Months to set up The Time Frame for Stage 2 Shed- Depending on the Design Stage and Approvals etc approximately 6 Months The Time Frame for Stage 3 House- Depending on the Design Stage and Approvals etc approximately 24 Months The Time Frame for Stage 4 Remove Temporary Building- Depending on Approvals etc approximately 3 Months The Time Frame for Stage 5 Granny Flat and Games Room- Depending on the Design Stage and Approvals etc approximately 12 Months The Time Frame for the completion of my Multimillion dollar property with all the Stages will be a minimum of approximately 4 Years depending Design and Approvals swell as all the Landscaping Will be ongoing"</p> <p>"Is there a Law / Regulation saying the maximum build size or Cover area % to Land Size? When I brought the property the only size restrictions when I made the enquiry was that the dwelling had to be a minimum of 200m2, There is no law or Caveats saying that I can't build my Family a large house, This is one of the main reasons that I purchased a 5 acre Block in the Park Falls estate rather than closer to the beach on a smaller block"</p> <p>"In What reference? Everyone has their own likes and Dislikes that doesn't mean that something that someone loves shouldn't be built on their own property to suit their requirements because someone with no ties / rights / legal entitlement doesn't like it Each house and House design has its own characteristics that suit what they wanted when designed, unfortunately a lot of people don't have a creative side and sign up for general stock standard house builds straight of the plans with no changes from one to another, but that is fine if that's what they like. Personally, I like more upmarket designs with a bit of an elegant but industrial design touch The Buildings are not old rusty or damaged, they are modern and in good condition I have altered the set up to Resemble a lot of standard houses but with additional verandas / carports / Decking / Patio / Entrances / Cladding at Elevation to Eliza Shaw Drive, All above and beyond the chapman Valley Shires Requirements This with land scaping in my opinion will look better than many other undeveloped houses in the area with Sea containers / Sheds for houses / Untouched paddocks / etc I'm Quite happy to upgrade the Boundary fences to a nice neat Block and Colour Bond Fence rather than the Minimum existing fences which may enhance the property appeal even more</p>	Note submission and applicant's comments.

Schedule of Submissions - Proposed Transportable Residence – Lot 51 Eliza Shaw Drive, Buller					Recommendation
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment		
			and make the property more secure"		
		When we built we couldn't even live in a shed while house was being built and this 'temp' is way over the top with over 700m ² floor space	"There may have been many factors why they may or may not have been able to live in there shed, not really sure if they have a large family or not but the shed idea is not adequate in my situation, still not really sure why they not being able to live in a shed why they built for whatever reasons other than no compliance with BCA's / A.S. / Regulations etc would become a bonified reason to Object against my Build other than being spiteful"		
2 (23/11/16)	A & S Broadhead (35 Eliza Shaw Drive)	Objection How long is temporary? Is a business to be run from location? What happened to the caveats we all had to follow?	Refer to comments on timeframe contained within applicant's response to Submission 1. The applicant was invited to make comment upon the issues raised in objection to their proposal and has provided the following: "Yes, there will be a small part time home beauty salon operated from temporary and the future house This will be Run buy my Wife and Within the regulations stated from Chapman Valley Shire web site relating to home business for the area" "When I brought the property the only restrictions when I made the enquiry was that the dwelling had to be a minimum of 200m2, there is no law / Caveats or envelopes saying otherwise, this is one of the main reasons that I purchased a 5-acre Block in the Park Falls estate rather than closer to the beach on a smaller block I am abiding with the No Zinc / No Flat Roof and Minimum Dwelling Size Caveats that I have been advised of Not sure what caveats are or where in place for whatever reason on their Lot in whatever suburb they are in Common Caveats would be Minimum Dwelling Size, Colours locations and maybe build time, but as this property obviously has been handed over and sold from original purchaser if there was a time restriction on it that the neighbouring properties would be happy for something to be moving on Lot 51 rather than a weedy fire risk paddock"	Note submission and applicant's comments.	
3 (2/12/16)	G Ives (23 Eliza Shaw Drive)	Objection Having lived at Parkfalls since 2004 we have been able to enjoy both ocean and land views which was the main factor in purchasing the property. With regards to the ocean view we can at present see far as Coronation Beach and beyond.	The role of town planning in the protection of views is a long debated matter with the general consensus being that one does not 'own their view'. The Parkfalls Estate Structure Plan does not establish a building envelope for Lot 51, therefore the siting of a building is subject to the Scheme and policy requirements of a minimum front boundary setback of 15m, a minimum side and rear boundary setback of 5m, and a requirement that outbuildings be located in-line with or behind the residence, and not more than 22m from the residence. The application complies with these requirements. The applicant was invited to make comment upon the issues raised in objection to their proposal and has provided the following:	Note submission and applicant's comments.	

Schedule of Submissions - Proposed Transportable Residence – Lot 51 Eliza Shaw Drive, Buller				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
		<p>In allowing any building at the northern end of this block will remove our view completely, whereas building at the southern end as all the other properties constructed to date on our side of the road have been would still allow us and other residents to enjoy the sea view.</p> <p>Removal of the sea view will undoubtedly reduce the value of our property should we wish to sell in the future.</p> <p>There is no time frame on the building project so we could be living next to a 5 acre building site for years to come.</p> <p>Size of living accommodation in combination with granny flat sheds etc. leads one to question whether a business will be operating from this site as is already happening in Parkfalls.</p> <p>Submission contains photograph of building in current location with handwritten added annotation "this look like a minesite/farming donga well below Parkfalls standard"</p>	<p>"There are houses built in line and of set with other houses, There is no Location requirements on where I can or can't build my house, unfortunately as yes they a moderate size lots it still is rural residential and there will always be other buildings obstructing part view in certain directions, If they wanted an unrestricted view of the beach then they should have built a different design or purchased a property on the beach or on a hill which would give them there desired unrestricted view not one inland on a fairly flat part of land where it would be obvious that more buildings would be built, Common sense would tell one that, There still are views of the ranges and most probably of other parts of the ocean or beaches"</p> <p>"Unfortunately, the possible price drop or increase of their property with having restricted sea views in my direction is not any of my business nor my issue If they wanted unrestricted views of the beach, Ranges, Forrest, Fire Works etc then they didn't do much research in to the location of their Lot and the Design of their Dwelling Knowing that at some stage the neighbouring lots will be developed The Point of having a building rather than a vacant paddock on lot 51 would think that the price may actually increase"</p> <p>Refer to comments on timeframe contained within applicant's response to Submission 1.</p> <p>"There are no size limits / requirements other than minimum 200m2 The Sheds etc are not in question as they are not part of this submission and have not yet been designed, I showed them on the Staged Plan to give the Shire an Idea of what I would eventually be heading towards Yes, there will be a small part time home beauty salon operated from temporary and the future house This will be Run buy my Wife and Within the regulations stated from Chapman Valley Shire wed site relating to home business for the area If there are other business operating in Park Falls estate then that is a separate issue and not one for this submission"</p> <p>"This is a Picture of what the Building looked like without verandas/ patio / carpports / decking etc in the original set up and configuration not how I proposed to set them up, this photo was only as additional information to show how modern and how good of condition the building is in"</p>	

Schedule of Submissions - Proposed Transportable Residence – Lot 51 Eliza Shaw Drive, Buller				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
4 (2/12/16)	L Dymond (142 Parmelia Boulevard)	Objection This does not reflect a rural or semi rural outlook, this proposal looks more like a business will be run at this location.	<p>The applicant was invited to make comment upon the issues raised in objection to their proposal and has provided the following:</p> <p>"This is just 1 persons personal opinion on what suits where Should all the designs be like old school beach shacks or a modern upmarket 2 story house with skillion roofs and bright colour paint work because there close to the beach, should all the properties have big bull nose verandas all the way around or like a standard 4x2 town house because there rural residential Should the dwellings be constructed only by Brick walls / Tiled Roofs Steel Supports ? Or alternative methods as allowed by the BCA and Australian Standards Being that its 2016, it's close to the beach but zoned as rural residential, one would think it's the land owners right to build what they like and what suits their needs The proposed to use an economic / efficient / structurally sound and approved construction designed for higher wind loadings than Geraldton requires with steel verandas / carports / Patio etc Yes, there will be a small part time home beauty salon operated from temporary and the future house"</p> <p>The applicant was invited to make comment upon the issues raised in objection to their proposal and has provided the following:</p> <p>"Obviously must have no bonified reasons or come up with any reasons to Object."</p> <p>The applicant was invited to make comment upon the issues raised in objection to their proposal and has provided the following:</p> <p>Refer to comments on contained within applicant's response to Submission 5.</p> <p>"I have altered the set up to Resemble a lot of standard houses but with additional verandas / carports / Decking / Patio / Entrances / Cladding at Elevation to Eliza Shaw Drive, All above and beyond the chapman Valley Shires Requirements This with land scaping in my opinion will look better than many other undeveloped houses in the area with Sea containers / Sheds for houses / Untouched paddocks / etc I'm Quite happy to upgrade the Boundary fences to a nice neat Block and Colour Bond Fence rather than the Minimum existing fences which may enhance the property appeal even more and make the property more secure The 5 second view from North West High Way as the speed limit driving past is high when passing shows a lot of undeveloped paddocks full of weed and prickles but again I'm Quite happy to upgrade the Boundary fences to a nice neat Block and Colour Bond Fence rather than the Minimum existing fences which may enhance the property appeal even more and make the property more secure How long the high way will be in the current location before it is redirected to the proposed</p>	Note submission and applicant's comments.
5 (2/12/16)	B Dymond (142 Parmelia Boulevard)	Objection No comment provided		Note submission and applicant's comments.
6 (2/12/16)	Parkfalls Residents Association	Objection The building does not suit the look of the estate, it will look really unsightly amongst the houses already in the estate as well as being an eyesore from North West Coastal Highway.		Note submission and applicant's comments.

Schedule of Submissions - Proposed Transportable Residence – Lot 51 Eliza Shaw Drive, Buller				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
7 (29/11/16)	L Cole (74 Redcliffe Concourse)	<p>It looks like a commercial residence, a residence for workers not a residence for a family.</p> <p>As it looks like commercial accommodation, a commercial business could be run from the property.</p> <p>How temporary is the proposed building? Is there a proposed time frame from the temporary building to be removed?</p> <p>It seems the building is made of second hand materials, is this allowed in the Estate?</p> <p>If this is a temporary building should it be classed as an "Outbuilding" if so the outbuilding can only be 200m² this building is 1323m²</p> <p><i>Objection</i> I believe that the proposed residence to be quite frank very ugly and it will be an eyesore. The property can be seen from North West Coastal Highway also.</p>	<p>route comes down to main roads and other bodies with their scheduling, then this comment would be null and void"</p> <p>"Personal opinion, As Above and maybe a lack of information or understanding of being able to read / see plans This is a dwelling for my family, I spent many years on commercial site and have never seen a commercial residence look even close to this"</p> <p>"Yes, there will be a small part time home beauty salon operated from temporary and the future house Obviously a commercial Business could potentially be run from any property, depending on the type and shire approvals that is"</p> <p>Refer to comments on timeframe contained within applicant's response to Submission 1.</p> <p>"Not sure why or where this information was fabricated up from, But its False All bar the building it's self, all new materials are to be used"</p> <p>"Why Would it be classed as an out building? It's not a shed or an additional standalone building Not sure how they added it Up to 1323m2, Not even close, the m2 are detailed clearly on floor plan"</p> <p>The applicant was invited to make comment upon the issues raised in objection to their proposal and has provided the following: "Everyone has their own likes and Dislikes that doesn't mean that something that someone loves shouldn't be built on their own property to suit their requirements because someone with no lies / rights / legal entitlement doesn't like it Each house and House design has its own characteristics that suit what they wanted when designed, unfortunately a lot of people don't have a creative side and sign up for general stock standard house builds straight of the plans with no changes from one to another, but that is fine if that's what they like. Personally, I like more upmarket designs with a bit of an elegant but industrial design touch The Buildings are not old rusty or damaged, they are modern and in good condition I have altered the set up to Resemble a lot of standard houses but with additional verandas /</p>	Note submission and applicant's comments.

Schedule of Submissions - Proposed Transportable Residence – Lot 51 Eliza Shaw Drive, Buller				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
			<p>carports / Decking / Patio / Entrances / Cladding at Elevation to Eliza Shaw Drive, All above and beyond the Chapman Valley Shires Requirements</p> <p>This with land scaping in my opinion will look better than many other undeveloped houses in the area with Sea containers / Sheds for houses / Untouched paddocks / etc</p> <p>I'm Quite happy to upgrade the Boundary fences to a nice neat Block and Colour Bond Fence rather than the Minimum existing fences which may enhance the property appeal even more and make the property more secure</p> <p>This with land scaping in my opinion will look better than many other undeveloped houses in the area with Sea containers / Sheds for houses / Untouched paddocks / etc</p> <p>The 5 second view from North West High Way as the speed limit driving past is high when passing shows a lot of undeveloped paddocks full of weed and prickles but again I'm Quite happy to upgrade the Boundary fences to a nice neat Block and Colour Bond Fence rather than the Minimum existing fences which may enhance the property appeal even more and make the property more secure</p> <p>How long the high way will be in the current location before it is redirected to the proposed route comes down to main roads and other bodies with their scheduling, then this comment would be null and void"</p> <p>"Again Personal opinions, As Above and maybe a lack of information or understanding of being able to read / see plans</p> <p>This is a dwelling for my family, I spent many years on commercial site and have never seen a commercial residence look even close to this</p> <p>The Kids play ground is for my kids to do what kids are meant to do but with some protection from the sun, regardless of this this submission is not for the playground that they will have but for the Proposed temporary House"</p> <p>Refer to comments on timeframe contained within applicant's response to Submission 1.</p> <p>"Seems very similar wording and details to some other Submissions, and is worded as they are not effected residence in the area. One would question the integrity in this submission"</p> <p>"I have addressed the very opinionated comments such as looks, fabricated thoughts of commercial use or workers camp, issues that are not relevant to this submission, Approximate time frames, and another very opinionated response</p> <p>Not sure if they have the correct information or even understand the drawing or where they are getting there fabricated information from</p>	
		<p>It looks it is for commercial purposes as it looks as it is accommodation is for workers and not families. There is kids play area, but this could be for when families visit.</p> <p>I would be interested to find out the timeframes for them putting a permanent house on the block, would it be a couple of years or more like 10-15 years?</p> <p>I really feel sorry for the residence who live near the property if the planning application is approved, it could devalue their properties if it looks like what is proposed.</p>		

Schedule of Submissions - Proposed Transportable Residence – Lot 51 Eliza Shaw Drive, Buller				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
Late Submission 8 (5/12/16)	G & N Hayley (59 Pitchford Crest)	<p>Objection Who is going to monitor this planned construction and what deadlines are going to be in place for total completion?</p> <p>We have several vacant blocks around us so will this be a similar pattern as to the type of building being built around us. We have paid top dollar to be where we are so the standard of buildings we feel should reflect this.</p> <p>This is similar to sheds, time limit and completion on how long they can live in them, this is not happening now.</p>	<p><i>But I would strongly question the integrity of this submission</i> <i>I Fail to see any Bonified Reasons or supporting Information to use any information from this submission for Objection to the Planning Approval for the Proposed Temporary House"</i></p> <p>The submission was received by the Shire following the close of the advertising period.</p> <p>Submissions received by the close of the advertising period were provided to the applicant who was invited to make comment upon the issues raised in objection to their proposal.</p> <p>Due to the late arrival of this submission it was unable to be provided to the applicant in-time for them to provide a response. However, given that this late submission largely addresses the issues of timeline and building standards it is considered that the issues raised mirror those of the other submissions, and therefore the responses of the applicant in relation to previous submissions are relevant to this submission.</p>	Note submission.

AGENDA ITEM:	10.1.2
SUBJECT:	EXTRACTIVE INDUSTRY (GRAVEL & SAND)
PROPONENT:	K & G QUADRIO
SITE:	320 (LOT 13) URCH ROAD, NARRA TARRA
FILE REFERENCE:	A1058
PREVIOUS REFERENCE:	Nil
DATE:	6 DECEMBER 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

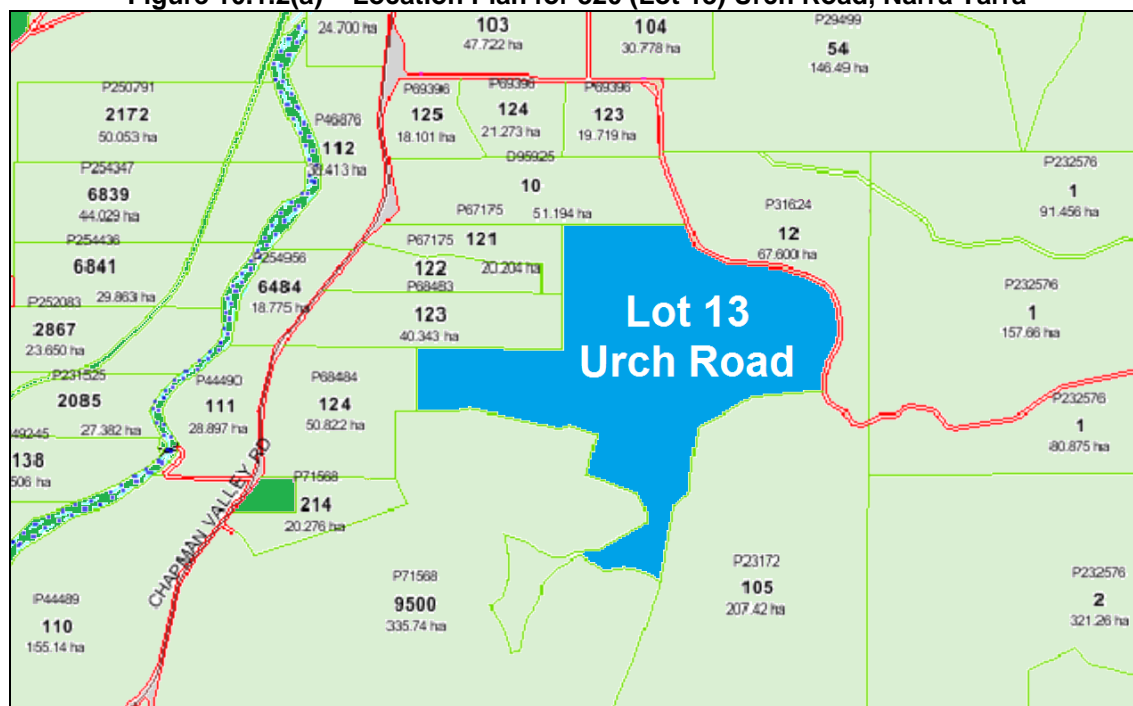
BACKGROUND

Council is in receipt of an application to operate an extractive industry (gravel and sand) upon 320 (Lot 13) Urch Road, Narra Tarra. The application has been advertised for comment and is now presented to Council for its consideration. This report recommends approval of the gravel extraction area, approval of the southern sand extraction area, refusal of the northern sand extraction area, and refusal of the proposed access alignment into the sand extraction area, and requirement that an alternative internal access alignment be created.

COMMENT

The applicant owns 320 (Lot 13) Urch Road which is a 195.26ha property that contains a residence and outbuilding at its eastern end. The undulating property is largely cleared with the exception of remnant vegetation on outcrop areas.

Figure 10.1.2(a) – Location Plan for 320 (Lot 13) Urch Road, Narra Tarra

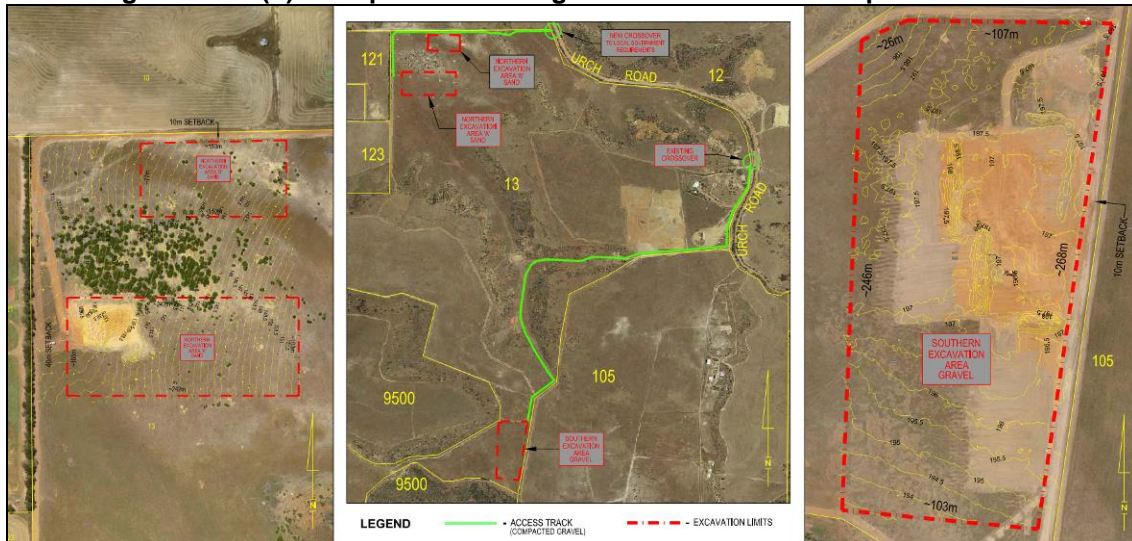


The recent development history for 320 (Lot 13) Urch Road, Narra Tarra as follows:

16 December 2002	Shire approval issued for outbuilding upon property.
1 January 2006	Shire approval issued for residence upon property.
29 March 2011 - 19 April 2011	Shire advertised application for extractive industry (gravel).
28 April 2011	Shire issued conditional 5 year approval for extractive industry (gravel).
5 February 2013	Shire wrote to landowners of Lot 13, in response to complaints received from 2 landowners along Urch Road regarding truck movements on Sunday. Shire reminded landowner that condition of

19 & 20 March 2013	approval restricts extractive industry operations to 7:00am-6:00pm Monday to Saturday (and not on public holidays). Shire received complaints concerning dust from truck movements along Urch Road from operation upon Lot 13, and from a separate extractive operation operated by another landowner on Lot 12.
20 March 2013	Council advised of received complaints.
26 March 2013	Council viewed Urch Road on its Road Inspection Tour.
17 April 2013	Shire received Freedom of Information request for details concerning extractive industry operations.
14 May 2013	Landowner of Lot 13 Urch Road advised Shire that there had been a total of 166 truckloads operating from their gravel pit in the last 2 years.
23 July 2013	Shire received complaint concerning speed of truck movements along Urch Road. Shire wrote to gravel pit operator requesting that truck drivers going to and from the pit travel at a safe speed along Urch Road. Operator advised that trucks travel at 60km/hour along Urch Road and if they exceed this they are not allowed to return.
19 November 2013	Shire received complaint of 4 truck movements on a Sunday in the last 6 months relating to Lot 13. Shire advised complainant that Urch Road is open to general vehicle movement and unless the trucks are identified as specifically travelling for the purpose of carrying extracted material from the site, or involved in transporting machinery used for extractive purposes this would not be considered as associated with the extractive industry approval.
19 December 2013	Shire received complaint concerning dust from truck movements along Urch Road, complaint does not elaborate upon whether this is from movements associated with the extractive industry upon Lot 13 or the separate operation by a different landowner upon Lot 12. Shire advised complainant that if dust emissions relate to the load itself or from the extractive industry site itself then this is an issue addressed by the conditions of approval. If the complaint concerns vehicles driving along an unsealed public road within the approved hours of operation and within the prescribed speed limit then this is not considered to be exceeding the conditions of approval.
28 April 2016	5 year approval period expires.
8 September 2016	Shire received complaint concerning extraction of sand from area close to the northern boundary of Lot 13 and associated truck movements along the northern boundary of Lot 13. Shire inspected Lot 13 and made contact with landowners to advise that previous extractive industry approval relating to the property had been for gravel only and from a pit to the south-west of the residence, not from elsewhere on the property. Landowner advised that 8 x 6-wheeler truck loads (approx. 9m ³) had been taken from the site for a sand pad for their own residence that is to be constructed in Geraldton and not for wider commercial purposes. Landowner further advised that they would conduct a test sample of the sand and should it be of a suitable quality would make application to the Shire for an extractive industry.
13 September 2016	Shire wrote to landowners of Lot 13 to advise that approval for extractive industry upon Lot had been for gravel only, from one specific location, and this had expired on 29 April 2016.
8 November 2016	Shire commenced advertising of received application for extractive industry (gravel & sand).
2 December 2016	Advertising period concluded.

Figure 10.1.2(b) – Proposed sand & gravel extraction areas upon Lot 13 Urch Road



The application before Council for its consideration is for the following:

- 3.05ha Southern Excavation Area (gravel), proposed excavation depth 1m, proposed annual excavation 6,200m³, proposed total excavation of 31,000m³ over 5 years, 705m from closest residence;
- 2.49ha Northern Excavation Area 'A' (sand), proposed excavation depth 2.5m, proposed annual excavation 12,400m³, proposed total excavation of 62,000m³ over 5 years, 440m from closest residence;
- 1.2ha Northern Excavation Area 'B' (sand), proposed excavation depth 1.5m, proposed annual excavation 3,600m³, proposed total excavation of 18,000m³ over 5 years, 415m from closest residence.

The extractive industry is proposed to have operating hours of 7:00am–6:00pm Monday to Saturday, with no operation on Sundays or public holidays. The extractive industry would operate on an intermittent, as required basis.

On-site activities would involve a loader removing topsoil and overburden for storage in bunds around the excavation area, and loading directly onto a truck for transportation off-site. Stockpiling would be kept to a minimum and processing of the resource on-site would not be required.

The applicant has advised that the extractive industry would involve 2 truck movements per day for smaller contracts (typically 1-2 days at a time), and 10 vehicle movements per day for larger contracts (potentially up to 2 weeks). Trucks would be either a 12 tonne, 6 wheeler truck or a 25 tonne capacity truck and trailer.

The applicant is proposing to access the sand extraction areas via a new access track from Urch Road along the northern boundary of Lot 13, and access the gravel pit via an internal track that would access onto Urch Road at the existing residence driveway, that also served as the access point for the previously operated gravel pit.

At the conclusion of the excavation activity the overburden and topsoil would be replaced on the excavation area floor and the site graded and returned to pasture for stock.

A copy of the received application, that provides further information on the proposed development, along with a management plan, noise management procedures, dust management procedures, and an environmental management plan has been provided as **separate Attachment 10.1.2(a)** due to its size. This information was provided to surrounding landowners and relevant government agencies, inviting comment, and the outcomes of the advertising period are summarised in the Consultation section of this agenda report.

Figure 10.1.2(c) – View looking south at previous gravel extraction area upon Lot 13 (the proposed ‘Southern Excavation Area Gravel’ would operate in a similar manner)



Figure 10.1.2(d) – View looking north at ‘Northern Excavation Area A (Sand)’



Figure 10.1.2(e) – View looking west at proposed ‘Northern Excavation Area B (Sand)’



STATUTORY ENVIRONMENT

320 (Lot 13) Urch Road, Narra Tarra is zoned ‘Rural’ under the Shire of Chapman Valley Local Planning Scheme No.2 (‘the Scheme’). The property is also located within the ‘Special Control Area 2 – Moresby Range Landscape Protection’ zone.

The Zoning Table of the Scheme specifies ‘Industry-Extractive’ as an ‘A’ use within the ‘Rural’ zone, this being a use that is not permitted unless the local government has exercised its discretion by granting planning approval after advertising.

Schedule 1 of the Scheme defines ‘Industry-Extractive’ as follows:

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

Section 4.2.6 of the Scheme lists the objective for the ‘Rural’ zone as being:

- “(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 6.3 of the Scheme lists the requirements relating to the ‘Special Control Area 2 - Moresby Range Landscape Protection’ zone:

“6.3.2 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.

- 6.3.3 *Within Special Control Area 2 no clearing or destruction of any remnant native vegetation or re-vegetation shall be permitted except for:*
- (a) Clearing to comply with the requirements of the Bush Fires Act 1954 (as amended), the Local Government's Bush Fire Notice and/or any fire management plan endorsed by the Local Government;*
 - (b) Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the Local Government; and/or*
 - (c) Clearing as may be allowed under the Department of Environment and Conservation Land Clearing Regulations;*
 - (d) Trees that are diseased or dangerous.*
- 6.3.4 *In the determination of any application for planning approval within Special Control Area 2 the Local Government may, having regard to the purpose of the Special Control Area set out in Clause 6.3.2 and the assessment criteria detailed in the Moresby Ranges Management Strategy, require modification of development proposals, or impose conditions of approval regarding:*
- (a) The siting of the proposed development;*
 - (b) The design and layout of the proposed development;*
 - (c) The materials and finishes to be used in the proposed development;*
 - (d) The protection of remnant native vegetation or re-vegetation located on the site;*
 - (e) The installation and maintenance of vegetation to provide for the visual screening of proposed development; and/or*
 - (f) The installation and maintenance of vegetation, retaining walls or other works to prevent erosion."*

POLICY IMPLICATIONS

Shire of Chapman Valley Local Planning Policy 'Extractive Industry' sets the following requirements for the establishment and operation of extractive industries:

- "(a) Extractive industry will only be approved where Council is satisfied that the proposal will not result in unacceptable environmental impacts as a result of noise, dust, light spill, odour, visual intrusion or contamination.*
- (b) An extractive industry proposed within the Moresby Range as defined by the Moresby Ranges Management Strategy shall be assessed with regard for that development and the Moresby Range Management Plan.*
- (c) Depending on the nature of the proposed extractive industry, local wind, topography and vegetation conditions, setback distances from site boundaries and existing watercourse or bodies may need to be increased. When determining such setbacks Council shall consider existing and potential land-uses on adjoining and nearby properties.*
- (d) Council may require the preservation and/or planting of a vegetated buffer strip ensuring that the extraction activities are adequately screened from the road and adjoining properties.*
- (e) Where an extractive industry has direct access to a sealed road and the projected number of vehicle movements from the site would justify such a requirement (as determined by Council), the Council may require crossover and vehicle access areas within 50 metres of the road to be constructed with a stable, impervious surface, with stormwater runoff being controlled. In this regard the construction of a crossover shall be in accordance with the Council's existing Crossover Policy.*
- (f) Where an extractive industry is being developed with or without direct access to a sealed road, the Council may require assistance to upgrade and maintain the road/s that will be affected by heavy vehicle movements associated with the extractive industry. Such upgrading contributions may be financial or in-kind and shall be calculated on a case-by-case basis.*

- (g) *The Council will not support the operation of extractive industry outside of the following hours, unless it can be demonstrated the proposed extraction area/activity is at least 1000 metres from the closest neighbouring residence upon which the Council may entertain extended operating times:*
 - *Monday to Saturday – 7:00am to 6:00pm*
 - *Sundays and Public Holidays - no operations*
- (h) *The Extractive industry will generally be approved for a one year period from the date of issue. Operations that continue beyond one year's duration will be subject to a renewed application for planning consent on an annual basis.*
- (i) *For large scale mining operations an extended period of approval may be entertained by Council, based on individual merit."*

A local planning policy does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

In most circumstances Council would adhere to the standards prescribed in a local planning policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification is demonstrated and the variation granted will not set an undesirable precedent for future development.

The applicant has addressed the requirements of the 'Extractive Industry' policy within Table 2 of their submitted Management Plan.

FINANCIAL IMPLICATIONS

- **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

The 3 proposed extraction sites upon Lot 13 are located within Planning Precinct No.3 – Chapman Valley as contained in the Shire of Chapman Valley Local Planning Strategy ('the Strategy').

The Strategy lists Extractive Industry as a land use that can be considered as appropriate in the Chapman Valley Precinct, subject to compliance with the provisions of the Scheme and specific policies of Council.

The Strategy lists the following economic objective for the Chapman Valley Precinct:

- "3.2.5 *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'."*

The proposed development should be required to comply with the following environmental objectives listed for the Chapman Valley Precinct within the Strategy:

- "3.3.4 *Ensure that land use conflicts (i.e. noise, dust, odour, spray drift, vermin etc.) are avoided through appropriate environmental and planning controls.*
- 3.3.5 *Protect the rural amenity and character of the area from incompatible land use/development, again through the implementation of appropriate environmental and planning controls."*

Council may consider that the applicant should make contribution to the Shire for the upgrading of Urch Road to assist in meeting with the following infrastructure objectives listed for the Chapman Valley Precinct within the Strategy:

“3.4.2 Ensure adequate levels of servicing and infrastructure, as determined by Council, exist or will be provided when supporting proposals for a change in land use/development or subdivision, to avoid burden (financial or otherwise) on the Council’s resources.

3.4.3 Identify, support and facilitate the efficient and coordinated use of existing road linkages.”

The Moresby Range Management Strategy (WAPC, 2009) seeks to coordinate management of the Moresby Range by government agencies, private sector organisations, landowners and community groups, with the aims of protecting, enhancing and promoting the regional significance of the Moresby Range. The subject land falls within the study boundary of this Strategy but is not identified as a visually sensitive area or requiring further investigation. Section 4.5.3 of the Strategy ‘Resource extraction and infrastructure’ notes that:

“In recognising that mining interests exist on the range it should be noted that the extraction of resources may conflict with other land uses such as conservation, recreation and tourism; therefore, it is important to ensure careful management of potential and existing raw material extraction and mineral resources. This will facilitate the minimisation of potential land use conflict, the loss of visual amenity, a reduced conservation value, and noise and dust pollution. Given that exploration licenses exist in the study area, subdivision and development applications should be referred to the DMP for their comment. In addition, any mining proposal in the study area received by DMP should be referred to the WAPC for consideration so the objectives and recommendations of the strategy are addressed.”

Recommendation No.50 of the Moresby Range Management Strategy states that developments of this nature should seek to:

“Minimise and manage the impact of mineral extraction on the landscape, visual and conservation values of the range with reference to the manual, Visual Landscape Planning in Western Australia (DPI, 2007).”

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

The Shire of Chapman Valley Strategic Community Plan was adopted by Council at its 19 June 2013 meeting, and reviewed and approved by Council at its 16 March 2016 meeting. The Plan lists utilising the land available in the area for a range of new businesses as an economic objective. The Strategic Community Plan also lists protection of our farm land as important to the future of the area as an environmental objective.

CONSULTATION

The original application seeking to commence an extractive industry (gravel) upon 320 (Lot 13) Urch Road, Narra Tarra was advertised for comment by means of erecting a sign on-site, and writing directly to surrounding landowners and government agencies from 29 March 2011 to 19 April 2011. At the conclusion of the original advertising period 1 submission in support of the application had been received from a neighbouring landowner, and 2 submissions offering technical comment from government agencies.

This (expanded) application seeking to operate an extractive industry (gravel & sand) upon 320 (Lot 13) Urch Road, Narra Tarra was advertised for public comment from 8 November 2016 until 2 December 2016 with the following actions being undertaken inviting comment:

- placement of an advisory sign on-site;
- copy of the application documentation being made available for viewing at the Shire office/library;
- copy of the application documentation being sent to the 13 surrounding and Urch Road landowners; &
- copy of the application documentation being sent to the following government agencies; Department of Aboriginal Affairs, Department of Agriculture & Food, Department of Environment Regulation, Department of Fire & Emergency Services, Department of Mines & Petroleum, Department of Water, Main Roads WA, Telstra and Western Power.

At the conclusion of the advertising period 11 submissions had been received. 1 submission expressed support for the application (this being from the landowner on the opposite side of Urch Road who also operates an extractive industry for sand and gravel), 7 submissions from government agencies providing technical comment upon the application, and 3 submissions objecting to the application.

A Schedule of Submissions that identifies the respondents, the nature of their submissions, and provides individual comment upon any raised issues has been provided as **Attachment 10.1.2(b)**.

Copies of the received submissions have been provided to Councillors as **separate Attachment 10.1.2(c)**.

A copy of the applicant's submission in response to the issues raised has been provided to Councillors as **separate Attachment 10.1.2(d)**.

The major source of complaint, both during the advertising period for this application and during the previous operation of an extractive industry upon Lot 13, relates to the issue of dust generated by trucks travelling along Urch Road.

Whilst trucks movements associated with extractive industry operations upon Lot 13 may have been contributing to the issue of dust along Urch Road it could not be reasonably stated that they were entirely responsible. Urch Road is utilised by a range of sized vehicles associated with farming activity (limesand, harvest, livestock) and also heavy vehicles travelling to other extractive industry sites (including Lot 12 operated by a separate landowner). Urch Road, similar to many roads throughout the Shire, is in an unsealed condition and will as a result give rise to some dust when travelled along in certain conditions.

The extractive industry approvals for Lots 12 & 13 were approved subject to dust mitigation measures but these are more commonly associated with the extractive industry site itself, although specific reference was made to procedures being introduced to minimise dust associated with truck movements but these would typically relate to actions such as wetting down of the access road and the wetting or covering of loads, rather than dust generated from travelling a public road, from which dust is generated by any travelling vehicle, whether a heavy vehicle or a smaller vehicle or a vehicle pulling a trailer.

It would be reasonable to conclude that given Urch Road is a public road approved to a RAV4 standard (27.5m vehicle length) that the most certain means of reducing dust emissions would be to seal the initial section of Urch Road. It is suggested that sealing a 2km length of Urch Road east from the Chapman Valley Road intersection should address the concerns of the landowners who have raised objection (it would appear that sealing the more winding subsequent 1.3km section to reach the extractive industry access points into Lot 12 & 13 should not be required).

Council has previously travelled this section of Urch Road at its 26 March 2013 Road Inspection following receipt of dust complaints relating truck movements associated with extractive industries on Urch Road.

Figure 10.1.2(f) – View of extractive industry vehicle travelling along Urch Road



The other major issue of complaint raised during the advertising period related to the proximity of the northern sand extractive industry sites, and the proposed access road alignment to service them, to the residence to the north.

The 'Northern Excavation Area B (Sand)' is located 415m from the residence to the north, and the 'Southern Excavation Area A (Sand)' is located 600m from the residence to the north. The 'Guidance for the assessment of environmental factors – separation distances between industrial and sensitive land uses' (EPA, 2005) prescribes a buffer distance of 300-500m for sand extraction dependant upon the size of the operation. Concern is raised with the proposed northern-most sand extractive area and proposed access road along the northern boundary of Lot 13 given that the typical strongest prevailing wind direction is for a south-southwesterly sea breeze on summer afternoons. It is noted that the southern proposed sand extractive site has a greater separation distance to the residence to the north and this includes a vegetated rise.

The other residence within 500m is located 440m and 480m from the two proposed sand extractive industry sites, although it is noted that this residence is to the north-west of the proposed sand extractive sites and this is not a typical wind direction for this area, and there is a line of established vegetation along the intervening property boundary. It is also noted that this neighbouring landowner was provided with the complete application documentation during the advertising period and did not lodge an objection to the proposal. However, it is still suggested that any approval for the application should be made conditional to adherence to the submitted Management Plan and Environmental Management Plan, and that in the event that objection is later received from the landowner to the north-west that Council impose a condition requiring installation of shade cloth or additional screening landscaping.

Figure 10.1.4(g) – Location of surrounding residences to both proposed northern extraction areas (sand)

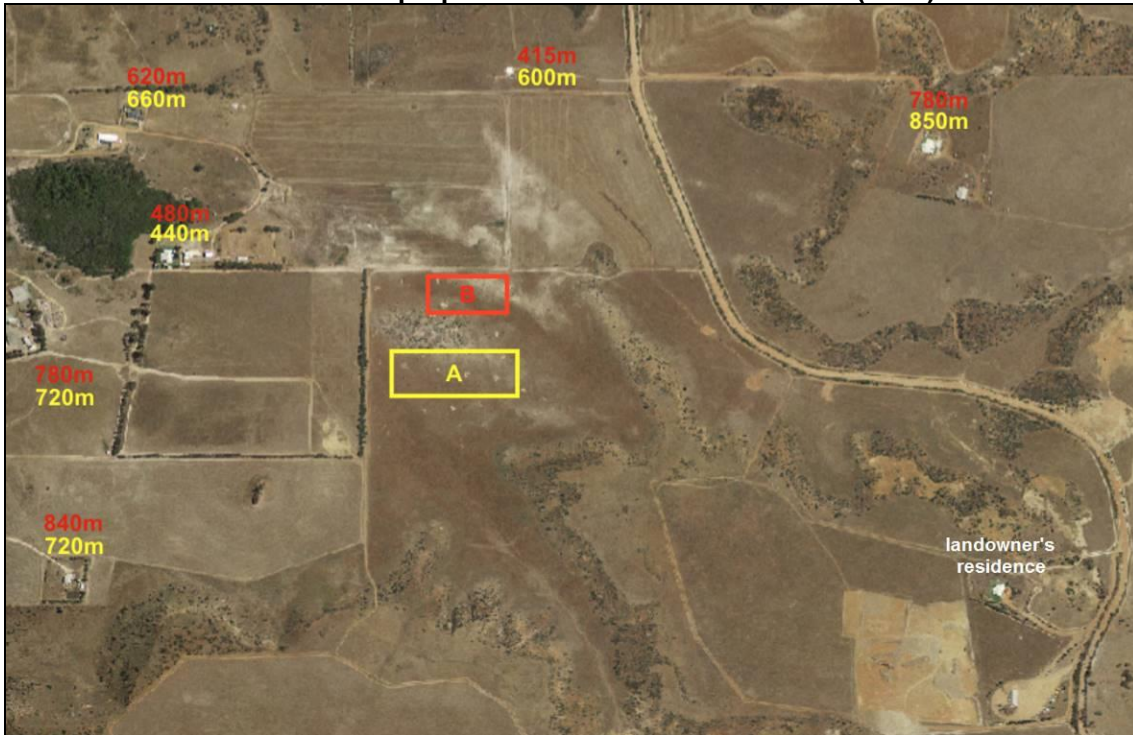


Figure 10.1.2(h) – View looking north from Lot 13 towards existing residence considered most likely to be impacted by proposed 'Northern Excavation Area B' and proposed access alignment along northern boundary of Lot 13



Figure 10.1.2(i) – View looking east towards Urch Road along proposed access alignment along northern boundary of Lot 13



The proposed gravel extractive site is located approximately 700m west of the nearest residence. The EPA Guidelines do not prescribe a buffer distance for extractive industries such as gravel that do not require blasting, instead deeming that buffer distances should be set on a case by case basis.

The closest residence to the proposed gravel extractive site has not lodged complaint concerning the proposal, or objected to the previous gravel extractive industry operations upon Lot 13 that was located 550m north of their residence. It is further noted that the complaints from other parties that were previously received relating to gravel extraction upon Lot 13 concerned dust emissions generated by vehicles travelling along an unsealed road, and were not complaints concerning dust emissions from the gravel extractive industry site itself.

Figure 10.1.4(j) – Proximity of residences to proposed southern extraction area (gravel)



RISK ASSESMENT

Not Applicable.

VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION

That Council:

- 1 Refuse the application for an extractive industry (sand) from 'Northern Excavation Area B' upon 320 (Lot 13) Urch Road, Narra Tarra as Council is not satisfied that noise and dust emissions, and visual amenity, can be adequately managed from this location.
- 2 Approve the application for an extractive industry (gravel) from 'Southern Excavation Area' and an extractive industry (sand) from 'Northern Excavation Area A' upon 320 (Lot 13) Urch Road, Narra Tarra subject to compliance with the following:

Conditions:

- (a) Development approval shall be in accordance with the submitted Management Plan, Noise Management Plan, Dust Management Plan and Environmental Management Plan 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.
- (b) Any additions to or change of use of any part of the land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- (c) The approval is valid for a period of 5 years (until 14 December 2021) after which time the application shall be returned to Council for its consideration as to any impacts arising from the operation of the development in its determination on whether to grant any extension to the approval period.
- (d) The development must access Urch Road at a single location that is the existing driveway location used for the residence and by the previously approved extractive industry (gravel) operations. Vehicle movements must not be along the northern property boundary of Lot 13. The internal access tracks, and crossover/access-point are required to be located, constructed and maintained to the approval of the local government, with all costs met by the applicant.
- (e) The applicant is responsible to ensure that no parking of vehicles associated with the development occurs within a public carriageway, including the road verge.
- (f) Landscaping is required to be installed and maintained in proximity to the western and northern perimeter of the 'Northern Excavation Area A' and the eastern perimeter of the 'Southern Excavation Area Gravel' to the approval of the local government for the purpose of softening the visual impact of the development and mitigating potential dust emissions.
- (g) The activities upon Lot 13 shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product, water or otherwise.
- (h) Procedures being undertaken to minimise dust associated with truck movements in accordance with the Environmental Protection Authority's dust control guidelines. This may include wetting down or covering of loads.
- (i) Repairing of any damage to Urch Road including the surface is required by reason of use of the road in connection with the development to the approval of the local government with all costs met by the applicant.

- (j) The installation of Advanced Warning and Trucks Entering signage along Chapman Valley Road to the requirements of Main Roads WA, with all costs met by the applicant.
- (k) The installation of Advanced Warning and Trucks Entering Signage along Urch Road to the requirements of the local government, with all costs met by the applicant.
- (l) No remnant vegetation shall be removed as part of this extractive industry operation.
- (m) No blasting of material is permitted as part of extraction operations.
- (n) The permitted hours of operation for the development, inclusive of the on-site operation of the extractive industry and all associated vehicle movements are:
 - Monday to Saturday – 7:00am to 6:00pm;
 - Sundays and Public Holidays - no operations.
- (o) The development must comply with the *Environmental Protection (Noise) Regulations 1997* and the *Environmental Protection Act 1986* in respect to noise emissions and should noise or dust monitoring be required in relation to the extractive operations as they take place upon Lot 13, all costs shall be met by the applicant.
- (p) The applicant must undertake post-closure rehabilitation of the development to the approval of the local government, and post-closure obligations shall have regard for the Department of Planning's 'Visual Landscape Planning in Western Australia' to ensure that the rehabilitation of the closed extractive industry site improves the visual and conservation values of the landscape.
- (q) Post closure requirements shall become applicable upon the earlier of the following events:
 - acknowledgement by the landowner that extractive activities are completed; or
 - the approval period for the development having expired.

Notes:

- (i) In relation to conditions (f) and (g) the local government may, in the event of complaint being received give direction for shade cloth fencing to be installed and maintained along the perimeter of sections of active extraction areas or stockpiling areas, and this shall be undertaken by the applicant at their expense, to the approval of the local government, for the purposes of dust suppression.
 - (ii) In relation to conditions (a), (h), (i) and (k) the applicant is advised that truck movements are required to comply with the conditions of Main Roads WA's RAV 4 network which includes at time of approval, a speed limit of 60km/hour along Urch Road.
 - (iii) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation including but not limited to the following where required, *Environmental Protection Act 1986* and the *Mines Safety and Inspection Act 1994*. It is the applicant's/landowner's responsibility to obtain any additional approvals required before the development/use lawfully commences.
 - (iv) The Department of Water have advised that the proposal is located within the Gascoyne groundwater area, as proclaimed under the *Rights in Water and Irrigation Act 1914*, and any use of groundwater for commercial purposes i.e. dust suppression is required to be licensed by the Department of Water. The applicant should contact the Department of Water to discuss this matter if it is intended to use groundwater for extractive activities.
 - (v) 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.
- 3 That Council request staff prepare a cost estimate for the sealing of the initial 2km length of Urch Road (east of the Chapman Valley Road intersection) for consideration at Council's 2017 Road Infrastructure Committee meeting. It must be noted that the preparation of a cost estimate should not be construed as confirmation that Council will include these works in its future Road Works Program, merely that it will be giving these works some further consideration.

COUNCIL RESOLUTION

That Council:

- 1 Refuse the application for an extractive industry (sand) from 'Northern Excavation Area B' upon 320 (Lot 13) Urch Road, Narra Tarra as Council is not satisfied that noise and dust emissions, and visual amenity, can be adequately managed from this location.
- 2 Approve the application for an extractive industry (gravel) from 'Southern Excavation Area' and an extractive industry (sand) from 'Northern Excavation Area A' upon 320 (Lot 13) Urch Road, Narra Tarra subject to compliance with the following:

Conditions:

- (a) Development approval shall be in accordance with the submitted Management Plan, Noise Management Plan, Dust Management Plan and Environmental Management Plan 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.
- (b) Any additions to or change of use of any part of the land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- (c) The approval is valid for a period of 5 years (until 14 December 2021) after which time the application shall be returned to Council for its consideration as to any impacts arising from the operation of the development in its determination on whether to grant any extension to the approval period.
- (d) The development must access Urch Road at a single location that is the existing driveway location used for the residence and by the previously approved extractive industry (gravel) operations. Vehicle movements must not be along the northern property boundary of Lot 13. The internal access tracks, and crossover/access-point are required to be located, constructed and maintained to the approval of the local government, with all costs met by the applicant.
- (e) The applicant is responsible to ensure that no parking of vehicles associated with the development occurs within a public carriageway, including the road verge.
- (f) Landscaping is required to be installed and maintained in proximity to the western and northern perimeter of the 'Northern Excavation Area A' and the eastern perimeter of the 'Southern Excavation Area Gravel' to the approval of the local government for the purpose of softening the visual impact of the development and mitigating potential dust emissions.
- (g) The activities upon Lot 13 shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product, water or otherwise.
- (h) Procedures being undertaken to minimise dust associated with truck movements in accordance with the Environmental Protection Authority's dust control guidelines. This may include wetting down or covering of loads.
- (i) Repairing of any damage to Urch Road including the surface is required by reason of use of the road in connection with the development to the approval of the local government with all costs met by the applicant.
- (j) The installation of Advanced Warning and Trucks Entering signage along Chapman Valley Road to the requirements of Main Roads WA, with all costs met by the applicant.
- (k) The installation of Advanced Warning and Trucks Entering Signage along Urch Road to the requirements of the local government, with all costs met by the applicant.
- (l) No remnant vegetation shall be removed as part of this extractive industry operation.

- (m) No blasting of material is permitted as part of extraction operations.
- (n) The permitted hours of operation for the development, inclusive of the on-site operation of the extractive industry and all associated vehicle movements are:
 - Monday to Saturday – 7:00am to 6:00pm;
 - Sundays and Public Holidays - no operations.
- (o) The development must comply with the *Environmental Protection (Noise) Regulations 1997* and the *Environmental Protection Act 1986* in respect to noise emissions and should noise or dust monitoring be required in relation to the extractive operations as they take place upon Lot 13, all costs shall be met by the applicant.
- (p) The applicant must undertake post-closure rehabilitation of the development to the approval of the local government, and post-closure obligations shall have regard for the Department of Planning's 'Visual Landscape Planning in Western Australia' to ensure that the rehabilitation of the closed extractive industry site improves the visual and conservation values of the landscape.
- (q) Post closure requirements shall become applicable upon the earlier of the following events:
 - acknowledgement by the landowner that extractive activities are completed; or
 - the approval period for the development having expired.

Notes:

- (i) In relation to conditions (f) and (g) the local government may, in the event of complaint being received give direction for shade cloth fencing to be installed and maintained along the perimeter of sections of active extraction areas or stockpiling areas, and this shall be undertaken by the applicant at their expense, to the approval of the local government, for the purposes of dust suppression.
 - (ii) In relation to conditions (a), (h), (i) and (k) the applicant is advised that truck movements are required to comply with the conditions of Main Roads WA's RAV 4 network which includes at time of approval, a speed limit of 60km/hour along Urch Road.
 - (iii) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation including but not limited to the following where required, *Environmental Protection Act 1986* and the *Mines Safety and Inspection Act 1994*. It is the applicant's/landowner's responsibility to obtain any additional approvals required before the development/use lawfully commences.
 - (iv) The Department of Water have advised that the proposal is located within the Gascoyne groundwater area, as proclaimed under the *Rights in Water and Irrigation Act 1914*, and any use of groundwater for commercial purposes i.e. dust suppression is required to be licensed by the Department of Water. The applicant should contact the Department of Water to discuss this matter if it is intended to use groundwater for extractive activities.
 - (v) 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.
- 3 Council request that staff place traffic counters on Urch Road, and that this information be provided for consideration at Council's 2017 Road Infrastructure Committee meeting. It must be noted that this action is to inform Council discussion only, and should not be construed as confirmation that Council will include works in its future 10 Year Road Works Program.

Voting 4/3

CARRIED

Minute Reference 12/16-3

Deviation to Staff Recommendation: To clarify Council is not committed any upgrade works on Urch Road.

FORESHADOWED MOTION

MOVED: CR FORRESTER

That Council:

- 1 Not accept the Staff Recommendation as Council is satisfied that noise and dust emissions, and visual amenity, can be adequately managed from this location.
- 2 Approve the application for an extractive industry (gravel) from 'Southern Excavation Area' and an extractive industry (sand) from 'Northern Excavation Area A' and Northern Execution Area B upon 320 (Lot 13) Urch Road, Narra Tarra subject to compliance with the following:

Conditions:

- (a) Development approval shall be in accordance with the submitted Management Plan, Noise Management Plan, Dust Management Plan and Environmental Management Plan 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.
- (b) Any additions to or change of use of any part of the land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- (c) The approval is valid for a period of 5 years (until 14 December 2021) after which time the application shall be returned to Council for its consideration as to any impacts arising from the operation of the development in its determination on whether to grant any extension to the approval period.
- (d) The development must access Urch Road at a single location that is the existing driveway location used for the residence and by the previously approved extractive industry (gravel) operations. Vehicle movements must not be along the northern property boundary of Lot 13. The internal access tracks, and crossover/access-point are required to be located, constructed and maintained to the approval of the local government, with all costs met by the applicant.
- (e) The applicant is responsible to ensure that no parking of vehicles associated with the development occurs within a public carriageway, including the road verge.
- (f) Landscaping is required to be installed and maintained in proximity to the western and northern perimeter of the 'Northern Excavation Area A' and the eastern perimeter of the 'Southern Excavation Area Gravel' to the approval of the local government for the purpose of softening the visual impact of the development and mitigating potential dust emissions.
- (g) The activities upon Lot 13 shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product, water or otherwise.
- (h) Procedures being undertaken to minimise dust associated with truck movements in accordance with the Environmental Protection Authority's dust control guidelines. This may include wetting down or covering of loads.
- (i) Repairing of any damage to Urch Road including the surface is required by reason of use of the road in connection with the development to the approval of the local government with all costs met by the applicant.
- (j) The installation of Advanced Warning and Trucks Entering signage along Chapman Valley Road to the requirements of Main Roads WA, with all costs met by the applicant.
- (k) The installation of Advanced Warning and Trucks Entering Signage along Urch Road to the requirements of the local government, with all costs met by the applicant.
- (l) No remnant vegetation shall be removed as part of this extractive industry operation.

- (m) No blasting of material is permitted as part of extraction operations.
- (n) The permitted hours of operation for the development, inclusive of the on-site operation of the extractive industry and all associated vehicle movements are:
 - Monday to Saturday – 7:00am to 6:00pm;
 - Sundays and Public Holidays - no operations.
- (o) The development must comply with the *Environmental Protection (Noise) Regulations 1997* and the *Environmental Protection Act 1986* in respect to noise emissions and should noise or dust monitoring be required in relation to the extractive operations as they take place upon Lot 13, all costs shall be met by the applicant.
- (p) The applicant must undertake post-closure rehabilitation of the development to the approval of the local government, and post-closure obligations shall have regard for the Department of Planning's 'Visual Landscape Planning in Western Australia' to ensure that the rehabilitation of the closed extractive industry site improves the visual and conservation values of the landscape.
- (q) Post closure requirements shall become applicable upon the earlier of the following events:
 - acknowledgement by the landowner that extractive activities are completed; or
 - the approval period for the development having expired.
- (r) Shadecloth screening fencing is required to be installed and maintained along the northern boundary of Northern Excavation Area B.
- (s) The overburden from Northern Excavation Area B to be stored in proximity to Northern Excavation Area A.

Notes:

- (i) In relation to conditions (f) and (g) the local government may, in the event of complaint being received give direction for shadecloth fencing to be installed and maintained along the perimeter of sections of active extraction areas or stockpiling areas, and this shall be undertaken by the applicant at their expense, to the approval of the local government, for the purposes of dust suppression.
 - (ii) In relation to conditions (a), (h), (i) and (k) the applicant is advised that truck movements are required to comply with the conditions of Main Roads WA's RAV 4 network which includes at time of approval, a speed limit of 60km/hour along Urch Road.
 - (iii) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation including but not limited to the following where required, *Environmental Protection Act 1986* and the *Mines Safety and Inspection Act 1994*. It is the applicant's/landowner's responsibility to obtain any additional approvals required before the development/use lawfully commences.
 - (iv) The Department of Water have advised that the proposal is located within the Gascoyne groundwater area, as proclaimed under the *Rights in Water and Irrigation Act 1914*, and any use of groundwater for commercial purposes i.e. dust suppression is required to be licensed by the Department of Water. The applicant should contact the Department of Water to discuss this matter if it is intended to use groundwater for extractive activities.
 - (v) 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.
- 3 Council request that staff place traffic counters on Urch Road, and that this information be provided for consideration at Council's 2017 Road Infrastructure Committee meeting. It must be noted that this action is to inform Council discussion only, and should not be construed as confirmation that Council will include works in its future 10 Year Road Works Program.

DUE TO SUBSTANTIVE MOTION BEING CARRIED THE FORESHADOWED MOTION LAPSED

Mrs Jackson left Chambers at 9.49am

Schedule of Submissions - Proposed Extractive Industry – 320 (Lot 13) Urch Road, Narra Tarra				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
1 (15/11/16)	Telstra (Locked Bag 2525 PERTH WA 6001)	No objection There is no Telstra plant in the vicinity of the proposed excavation areas.	No additional comment.	Note submission.
2 (21/11/16)	Main Roads WA (PO Box 1653 GERALDTON WA 6531)	No objection Heavy vehicles would join onto the MRWA network at the Chapman Valley Road and Urch Road intersection and head south onto Chapman Valley Road. It is noted that there is an existing level of heavy vehicle movements at the intersection from extractive developments on Lot 1, 12 and previously on Lot 31 Urch Road. Given the number of extractive developments proposed and currently using Urch Road for haulage it is considered by MRWA that signage should be erected on Chapman Valley Road to warn drivers of trucks entering and exiting the road. While MRWA has no objections to the proposed development given its scale and low number of vehicle movements generated, recommend the Shire impose a condition to erect Advanced Warning and Trucks Entering signage at appropriate locations on Chapman Valley Road to the approval of MRWA.	The applicant has advised that the extractive industry would involve 2 truck movements per day for smaller contracts (typically 1-2 days at a time) and 10 vehicle movements per day for larger contracts (potentially up to 2 weeks). Trucks would be either a 12 tonne, 6 wheeler truck or a 25 tonne capacity truck and trailer. The applicant was invited to make comment upon the issues raised in relation to their proposal and has provided the following: "Quadrio Earthmoving has no objection to a condition of planning approval requiring the installation of advanced warning signage to the requirements of Main Roads WA and the approval of the Shire of Chapman Valley."	Note submission and any that approval of the development be made conditional to the following: "The installation of Advanced Warning and Trucks Entering signage along Chapman Valley Road to the requirements of Main Roads WA, with all costs met by the applicant." "The installation of Advanced Warning and Trucks Entering Signage along Urch Road to the requirements of the local government, with all costs met by the applicant."
3 (22/11/16)	Department of Aboriginal Affairs (PO Box 3153 EAST PERTH WA 6892)	No objection Review of the area confirms there are no Aboriginal heritage places mapped on the DAA heritage database that intersect this area. It is reminded that all Aboriginal heritage sites, to which the <i>Aboriginal Heritage Act 1972</i> applies, are protected in WA, including those which have not yet been reported to the DAA.	The <i>Aboriginal Heritage Act 1972</i> addresses the requirements of the applicant in the event that an Aboriginal heritage site is discovered during the development's operation. A copy of DAA's submission has been provided to the applicant to ensure their awareness of their responsibilities under separate legislation.	Note submission.

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		Recommended that developers undertaking activities within the area are familiar with the State's Cultural Heritage Due Diligence Guidelines. These have been developed to assist proponents to identify any risks to Aboriginal heritage and to mitigate risk where heritage sites are present.	The applicant was invited to make comment upon the issues raised in relation to their proposal and has provided the following: "Quadrio Earthmoving will ensure that the recommendations of the Guidelines are adhered to and liaise with the Department of Aboriginal Affairs as necessary."	
4 (22/11/16)	P & S Ward (169 Urch Road NARRA TARRA WA 6532)	Support	No additional comment.	Note submission.
5 (23/11/16)	Department of Mines & Petroleum (100 Plain Street EAST PERTH WA 6004)	No objection Although extractive industry licences fall outside the Mining Act 1978 information on mineral resources including basic raw materials is of importance to the Geological Survey of WA, a division of the DMP. The information is used in our database which is a source of information for our state-wide resource mapping system. The locations and status of basic raw materials extraction sites are also valuable inputs to the Geological Survey's resource assessment and land use planning role. Our aim is for the database to be a comprehensive and up-to-date source of information on all mining activities throughout the state. It is a database that is used to inform other government agencies as well as the general public of the location of mines and mineral resources. A continuing supply of low-cost basic raw material is an important part of maintaining the lifestyle and infrastructure that all West Australians enjoy.	In the event that Council were to approve the application the Shire would advise the DMP to enable it to update the Geological Survey of WA.	Note submission.
6 (24/11/16)	Western Power (363 Wellington	No objection Proposed work is near energised electrical installations and powerlines. The person in control of the work site must ensure that no person, plant or material enters	A copy of Western Power's submission has been provided to the applicant to ensure their awareness of their responsibilities under separate legislation.	Note submission.

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7 (29/11/16)	Department of Agriculture & Food (PO Box 110 GERALDTON WA 6531)	<p>the "Danger Zone" of an overhead powerline or other electrical network assets. The "Danger Zone" is set out in <i>Western Australian Occupational Safety and Health Regulation 1996</i> - specifically Reg 3.64.</p> <p>Any information provided by Western Power should not be used in isolation and we recommend that you refer to the <i>Occupational Safety and Health Act 1984</i> and <i>Occupational Safety and Health Regulations 1996</i>. These documents outline WorkSafe WA requirements for working near electricity.</p> <p>To help plan works around Western Power's infrastructure, please view; Working Near Electricity; Dial Before You Dig. If you require information about Western Power's infrastructure including plans, please complete a request for Digital Data.</p> <p>If you require Western Power to complete work on your behalf, please complete the appropriate application form.</p> <p>Should the project involve any changes to existing ground levels around poles and structures, or involve working underneath power lines or around underground cables, please contact Western Power.</p> <p>Western Power are obliged to point out that any change to Western Power's network is the responsibility of the individual developer.</p> <p>No objection</p> <p>DAFWA has provided high quality agricultural land mapping to the Shire and outcomes of the study have identified that the site proposed for the extractive industry is part of the Moresby Range Agricultural Land Area. The nature and productivity of the soils in this area are quite varied. The land within the actual site proposed for sand and gravel extraction is on the footslopes of the Moresby Range, featuring a dominance of sandy duplex soils with sands and</p>	<p>The applicant's Environmental Management Plan notes the following in relation to dust:</p> <p>"Quarrying, crushing, grading, hauling and ground preparation will generate dust which has the potential to impact on native vegetation, reduce visibility and cause discomfort to employees. QEM have QEM_ENV_PP001 Dust Management procedures to help minimise the environmental impact of dust created by operations.</p>	<p>Note submission and require that any approval of the development be made conditional to the following:</p> <p>"Development approval shall be in accordance with the submitted</p>

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		<p>gravels also commonly occurring. The sandy and gravelly areas have lower capability for cropping and are generally used for grazing.</p> <p>DAFWA encourages the use of separation distances to minimise land use conflict in rural areas and supports their application in the proposal for the dwellings close to this activity.</p> <p>Disturbance of soils in exposed landscape positions will make them highly susceptible to wind erosion, especially to the strong southerly summer sea breezes. Dust suppression measures described in Section 7 of the Environmental Management Plan need to be maintained until the site is fully rehabilitated. DAFWA recommends regular monitoring of the re-establishment of surface cover is undertaken at each site after replanting to ensure adequate protection of soil particularly through drier months.</p> <p>Biosecurity standards need to be maintained throughout the life of the pits. Standards outlined on page 17 of the Environmental Management Plan provide the approach for managing biosecurity. This is important to ensure a minimal biosecurity risk for the landowner, the adjoining farms and along the transport route.</p>	<p>The Project Manager/Supervisors is responsible for ensuring that dust generation is monitored on an ongoing basis and control measures are implemented as per the procedures. The clients EMP may have site specific requirements for dust management.</p> <p>In the event that excessive dust is likely to impact safe work or the surrounding native vegetation, an appropriate method of dust control shall be implemented.</p> <p>This may include:</p> <ul style="list-style-type: none"> • Road watering of unsealed access roads and road verges of sealed roads • Watering of unsealed lay down areas • Water spraying of stockpiles or truck loads; and/or • Speed restrictions on roads • Deployment of an environmentally friendly dust minimisation chemical <p>Employees may minimize dust exposure by:</p> <ul style="list-style-type: none"> • Wearing PPE • Keeping the windows shut and running air conditioners in their equipment • Shutting doors to equipment when in the park up • Cleaning out their cabs by sweeping and dusting at the end of shift." <p>The applicant's Management Plan notes the following in relation to rehabilitation and decommissioning:</p> <p>"The rehabilitation of each excavation area will be undertaken progressively as the resource is removed from a section and is no longer required to be accessed.</p> <p>Rehabilitation and Decommissioning will include the following:</p> <p>Contours of the land</p>	<p>Management Plan, Noise Management Plan, Dust Management Plan and Environmental Management Plan 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."</p>

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8 (28/11/16)	P & J Williams (168 Urch Road NARRA TARRA WA 6532)	Objection Concerned regarding the 2 northern excavation sites and access route. Our lot has an area of only 19.7ha, our house is situated 415m from Site B and 600m from Site A.	<ul style="list-style-type: none"> All batters and faces to be re-contoured to a minimum of a 1:2 ratio All slopes to be stabilised <p>Stabilisation of the land</p> <ul style="list-style-type: none"> Topsoil to be progressively reinstated as an excavation section is exhausted of materials; & Topsoil to be seeded with pasture varieties to stabilise the land. <p>Revegetation of the land</p> <ul style="list-style-type: none"> Natural growth; Any removed vegetation to be track rolled and spread over the ground; No additional plantings are proposed. The landowner has indicated that at the end of the lifespan of the excavation areas that the land will continue to be used for agricultural purposes/pasture for livestock." <p>The applicant was invited to make comment upon the issues raised in relation to their proposal and has provided the following:</p> <p>"Quadrio Earthmoving will ensure that the Dust and Environmental Management Plans are adhered to as recommended by DAFWA.</p> <p>EPA sets the appropriate separation distances for sensitive premises and extractive industry with a recommendation of between 300-500m in this instance depending on the size of the quarry. Given the small scale of each pit, intermittent use and 'Rural' zoning of the property it is considered that a 300m separation is appropriate."</p> <p>The 'Northern Excavation Area B (Sand)' is located 415m south of the respondent's residence, and the 'Southern Excavation Area A (Sand)' is located 600m south of the respondent's residence.</p> <p>The 'Guidance for the assessment of environmental factors</p>	Note submission and recommend that Council refuse the application for an extractive industry (sand) from 'Northern Excavation Area B' upon

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		<p>The access route to those excavation sites runs along the northern boundary of Lot 13 and out house is flat with no established vegetation or structures to help minimise dust or noise from the access route or quarry sites proposed.</p> <p>Our property's eastern and northern boundaries border Urch Road which is part of the haulage route. If the proposed sites are approved that means we will have machinery and haulage vehicles travelling around 3 borders of our property. Considering our small property size and the location of our dwelling from Urch Road it doesn't matter which way the wind is blowing our property will be affected by the dust and noise.</p> <p>The EPA Guidelines recommend a separation distance of 300-500m our house falls within that distance. It is not satisfactory for us to be affected by the dust and noise this operation causes.</p> <p>In early September Quadrio Earthmoving were operating from the proposed access route and northern excavation sites for a week and a half. After a few days I had a conversation with the operator about noise and dust, I was advised by the operator they had approval. I contacted the Shire who informed me that they did not have approval in that location. I was not contacted back to update me on the outcome but a few days later operations ceased.</p>	<p>– separation distances between industrial and sensitive land uses' (EPA, 2005) prescribes a buffer distance of 300-500m for sand extraction dependent upon the size of the operation.</p> <p>Concern is raised with the proposed northern-most sand extractive area and proposed access road along the northern boundary of Lot 13 given that the typical strongest prevailing wind direction is for a south-southwesterly sea breeze on summer afternoons. It is noted that the southern proposed sand extractive site has a greater separation distance to the residence to the north and this includes a vegetated rise.</p>	<p>Lot 13 Urch Road as Council is not satisfied that noise and dust emissions, and visual amenity, can be adequately managed from this location.</p> <p>Recommend that Council approve the application for an extractive industry (gravel) from 'Southern Excavation Area' and an extractive industry (sand) from 'Northern Excavation Area A' upon Lot 13 Urch Road, subject to (amongst others) the following conditions:</p> <p>"The development must access Urch Road at a single location that is the existing driveway location used for the residence and by the previously approved extractive industry (gravel) operations. Vehicle movements must <u>not</u> be along the northern property boundary of Lot 13. The internal access tracks, and crossover/access-point are required to be located, constructed and</p>
			<p>On 8 September 2016 the Shire received a complaint concerning extraction of sand from an area close to the northern boundary of Lot 13 and associated truck movements along the northern boundary of Lot 13.</p> <p>Shire staff inspected Lot 13 and made contact with the applicant to advise that the previous extractive industry approval relating to the property had been for gravel only and from a pit to the south-west of the residence, not from elsewhere on the property.</p> <p>The applicant advised that 8 x 6-wheeler truck loads (approx. 9m³) had been taken from the site for a sand pad for their own residence that was to be constructed in Geraldton and not for wider commercial purposes. Landowner further advised that they would conduct a test sample of the sand and should it be of a suitable quality would make application to the Shire for an extractive industry.</p>	

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		<p>The applicant has provided pages of procedure and policies, it is just words on paper and not the factual way in which they handle their operations.</p> <p>We purchased our property in 2012, not long after we started building we were informed about the excavation site on Lot 13 that was approved in 2011. We were also informed about the complaints concerning noise, dust and breaches of the Shire Extractive Industry policy.</p> <p>Over the past couple of years we have witnessed these breaches:</p> <ul style="list-style-type: none"> - operated out of recommended operating hours; - exceeded amount of truck movements per day; - hauled double trailers on their big haulage trucks; - have never used a water cart; - exceeded the 60km/hour speed limit along Urch Road. <p>We never made a formal complaint to the Shire about these breaches as being new to the area we didn't want to start a relationship with our neighbours in a negative way. We were aware of the complaints the other surrounding landowners had made to the Shire with no action being taken.</p> <p>Knowing that the previous excavation site had an expiration date and depth we chose not to complain but to live with the unpleasant noise, dust and breaches to keep a cordial relationship with our neighbours. There have even been times where the haulage operations have dictated what times we get up, when we hang out our washing, and what jobs we</p>	<p>On 13 September 2016 the Shire wrote to the landowners of Lot 13 to advise that approval for extractive industry upon Lot 13 had been for gravel only, from one specific location, and this had expired on 29 April 2016.</p> <p>The major source of complaint, both during the advertising period for this application and during the previous operation of an extractive industry upon Lot 13, relates to the issue of dust generated by trucks travelling along Urch Road.</p> <p>Whilst trucks movements associated with extractive industry operations upon Lot 13 may have been contributing to the issue of dust along Urch Road it could not be reasonably stated that they were entirely responsible. Urch Road is utilised by a range of sized vehicles associated with farming activity (limesand, harvest, livestock) and also heavy vehicles travelling to other extractive industry sites (including Lot 12 operated by a separate landowner). Urch Road, similar to many roads throughout the Shire, is in an unsealed condition and will as a result give rise to some dust when travelled along in certain conditions.</p> <p>The extractive industry approvals for Lots 12 & 13 were approved subject to dust mitigation measures but these are more commonly associated with the extractive industry site itself, although specific reference was made to procedures being introduced to minimise dust associated with truck movements but these would typically relate to actions such as wetting down of the access road and the wetting or covering of loads, rather than dust generated from travelling a public road, from which dust is generated by any travelling vehicle, whether a heavy vehicle or a smaller vehicle or a vehicle pulling a trailer.</p> <p>It would be reasonable to conclude that given Urch Road is a public road approved to a RAV4 standard (27.5m vehicle length) that the most certain means of reducing dust emissions would be to seal the initial section of Urch Road. It is suggested that sealing a 2km length of Urch Road east</p>	<p>maintained to the approval of the local government, with all costs met by the applicant."</p> <p>"Landscaping is required to be installed and maintained in proximity to the western and northern perimeter of the Northern Excavation Area A' and the eastern perimeter of the Southern Excavation Area Gravel' to the approval of the local government for the purpose of softening the visual impact of the development and mitigating potential dust emissions."</p> <p>"Development approval shall be in accordance with the submitted Management Plan, Noise Management Plan, Dust Management Plan and Environmental Management Plan 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</p>

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		<p>can do outside or in our paddock. This year has been really bad with the amount of truck movements past our property with sometimes 4 truck movements every hour from sun up to sun down for weeks on end. So I plead with you when making your deliberations on the proposal please think of us surrounding properties. The effects the operations already had had and will have on us for the next 5 years.</p>	<p>from the Chapman Valley Road intersection should address the landowners who have raised objection (it would appear that sealing the more winding subsequent 1.3km section to reach the extractive industry access points into Lot 12 & 13 should not be required).</p> <p>Council has previously travelled this section of Urch Road at its 26 March 2013 Road Inspection following receipt of dust complaints relating to truck movements associated with extractive industries on Urch Road.</p> <p>The applicant was invited to make comment upon the issues raised in objection to their proposal and has provided the following:</p> <p>"It is assumed that on purchase of a property that the access to the property being from a gravel road and that each property being surrounded by land being used for a range of rural purposes that this would be sufficient notice to a potential landowner that the road is not sealed and has the capacity to generate dust.</p> <p>This is a rural and rural smallholding (rural lifestyle) area with other land uses producing dust, noise and emissions including the various vehicles that commute along Urch Road (private passenger vehicles, farm machinery, haulage trucks, livestock trucks), other operating quarries in the area, seeding, harvest and spraying practices, the keeping of livestock and soil disturbance, and bare/cleared unmanaged portions of properties being blown by the wind.</p> <p>With any of the raised objections Council is reminded that the subject property will not be used daily, with work only being carried out onsite as a contract requires.</p> <p>In the last 12 months, the southern excavation area has only been used at 5 different periods with a total of 20 days onsite.</p> <p>In relation to Northern Excavation Area A this has only been</p>	<p>without the prior written approval of the local government."</p> <p>"The permitted hours of operation for the development, inclusive of the on-site operation of the extractive industry and all associated vehicle movements are:</p> <ul style="list-style-type: none"> Monday to Saturday – 7:00am to 6:00pm; Sundays and Public Holidays - no operations." <p>Require that any approval of the development be made subject to the following advice note:</p> <p>"The applicant is advised that truck movements are required to comply with the conditions of Main Roads WA's RAV 4 network which includes at time of approval, a speed limit of 60km/hour along Urch Road."</p> <p>That Council request staff prepare a cost estimate for the sealing of the initial 2km length of Urch Road (east of</p>

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			<p>used for 1 period with a total of 1 day onsite which only involved 6 truck loads being excavated.</p> <p>Northern Excavation Area B has never been used.</p> <p>The only other activity along the northern boundary was the installation of the northern access route to a compacted gravel standard which has now been completed with no further work proposed. The construction of internal access roads does not require the planning or building approval of a local government.</p> <p>The Shire's Local Planning Strategy supports the extraction of raw materials so long as appropriate controls are in place. It is considered that the intermittent use of the site, separation distances and lack of sight lines to habitable buildings, heavy grain profile of excavation materials and implementation of low speeds by vehicles that any potential dust and noise impacts are adequately addressed.</p> <p>Quadrio Earthmoving has in the past used double trailers for the haulage of materials but this is very rarely and generally only used when a large quantity of material (gravel) is being taken on a long haul to a remote construction location for Main Roads WA or Shire of Chapman Valley use. It should be noted that the road is approved by Main Roads as a RAV 4 network road and therefore long vehicles up to 87.5tonne in weight and 27.5m long are permitted. It should also be noted that with the use of larger capacity trucks equates to less traffic movements than the use of smaller capacity trucks and trailers for the same tonnages.</p> <p>The property is within Precinct 3 Chapman Valley of the Shire's Local Planning Strategy which states that this precinct is to facilitate "a diverse range of rural pursuits and incidental tourist developments that complement the sustainable use of agricultural resources" and that the land use of Extractive Industry/Mining is considered an appropriate land use for the area. In addition, objective 3.2.5 of the Strategy, states that</p>	<p>the Chapman Valley Road intersection) for consideration at Council's 2017 Road Infrastructure Committee meeting. It must be noted that the preparation of a cost estimate should not be construed as confirmation that Council will include these works in its future Road Works Program, merely that it will be giving these works some further consideration.</p>

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			<p>the extraction of raw materials in this area is supported with the appropriate planning and environment controls in place which this application is considered to achieve.</p> <p>DUST - NORTHERN ACCESS ROUTE</p> <p>With specific reference to the Northern Access route, given the terrain of this alignment trucks are generally only able to travel at a maximum speed of 10-15km/hour which is in addition to an internal speed limit of 20km/hour that is imposed by Quadrio Earthmoving on its employees and contractors. Any breach of prescribed speed limits has, and will continue to result in, instant dismissal of subcontractors or employees.</p> <p>At this speed, very little dust is generated and it ensures that the internal access way is maintained and not unnecessarily damaged. Of the small amount of dust that may be generated at this speed it would not be of a quantity to affect the use or enjoyment of land, especially over a distance of more than 400m with the dust dissipating quickly.</p> <p>An inspection of other existing internal roads within the property at any given time will clearly demonstrate that low speeds are maintained by employees with internal roads being in a great compacted gravel condition with no corrugations or holes.</p> <p>DUST – NORTHERN EXCAVATION AREAS</p> <p>Northern Excavation Area A is located between existing remnant vegetation to the north and west and the slope of the land to the south and east and therefore any dust generated during excavation and loading are not affecting any surrounding properties. The property in question is not visible from these areas and the ground is covered in dense crop or stubble all year around. Any dust would have to travel over a hill and through the ground coverage to reach this property and due to the heavy density of material and damp nature of material when removed from the ground due to the high-water table in this part of the lot it is nearly impossible for</p>	

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			<p>particles to reach the house in question on Lot 123.</p> <p>Northern Excavation Area B is located on the northern boundary of the property and therefore the only dwelling with a line of sight is the dwelling (dwelling is located on the inside of a rural shed-like structure) on Lot 123. During excavation and loading it is acknowledged that some dust is generated however it is not considered that this dust would impact the dwelling on Lot 123. Given the separation distance of over 400m and the product being excavated being construction sand which is a coarse, heavy grain sand it is not considered possible for the dust to reach this dwelling. Additionally, as the water table is quite high along the northern portion of the lot the sand that is excavated is damp in consistency which also assists with minimising any potential dust emissions.</p> <p>The ground within and around the excavation area is covered in crop or stubble all year around and it is proposed per the Management Plan that excavation would only occur in smaller cells. As each cell is depleted the land would be allowed rehabilitated to return to cropping land. Any potential dust would have to travel over 400m across a paddock to reach Lot 123. Due to the heavy density of material and damp nature of material when removed from the ground it is nearly impossible for particles to reach this house in question. The material is heavier and grainer than beach or dune sand, therefore not being susceptible to blow unless there are extreme wind conditions in which case excavation would not be permitted to be undertaken per the dust management measures of the Management Plan.</p> <p>However, should Council still consider that dust from this area be of concern Quadrio Earthmoving has no objection to the Shire requiring the installation of a 2m tall post and shade cloth fence being erected along the northern boundary for the extent of the excavation area.</p> <p>DUST - URCH ROAD This road has been of a gravel construction for many years</p>	

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9 (2/12/16)	G Gaunt (74 Urch Road NARRA TARRA WA 6532)	<p>Objection</p> <p>Application states there could be blasting. Totally opposed to any blasting, I have a rammed earth house which is not conducive to any blasting at all.</p> <p>My concern with dust is it covers the whole front of my block (have sheep and horses) when dust is generated from the trucks and any breeze blowing exacerbates the problem. In the past numerous residents complained about the dust situation and nothing was</p>	<p>and it should therefore be understood by landowners that any traffic travelling along Urch Road will produce dust until such time as this road is sealed. The Shire has used properties along Urch Road for a source of gravel for over 30 years and is well known for its gravel resources to local chapman valley residence including delivery of gravel for the construction of driveways to the properties that have lodged an objection to this proposal.</p> <p>Quadrio Earthmoving is aware that previous landowners have raised issue with dust emissions with the Shire relating to traffic travelling on Urch Road. As appropriate no actions were required of Quadrio Earthmoving. Quadrio Earthmoving limits its vehicles to 60 km per hour on Urch Road and has used water carts during peak carting times although this was not a mandatory requirement for the previous pit license but was enforced by Quadrio Earthmoving for the benefit of the local resident.</p> <p>NOISE & HOURS OF OPERATION</p> <p>All activity at the site has been undertaken within the permitted hours of the Shire. Quadrio Earthmovings workers are employed between 7am and 5pm departing daily from its depot on Horwood Road, Meru so it is not possible that excavation has occurred outside of these hours especially factoring in the commute time from the depot to Urch Road. Quadrio Earthmoving will continue to ensure that activity at the site is only undertaken during the permitted hours as prescribed by the Management Plan."</p> <p>It is not considered common practice for blasting to be required for gravel or sand extraction. However, should the application be approved recommended that a condition of approval be imposed specifically prohibiting blasting.</p> <p>The major source of complaint, both during the advertising period for this application and during the previous operation of an extractive industry upon Lot 13, relates to the issue of dust generated by trucks travelling along Urch Road.</p>	<p>Note submission and require that any approval of the development be made conditional to the following:</p> <p>"No blasting of material is permitted as part of extraction operations."</p>

Schedule of Submissions - Proposed Extractive Industry – 320 (Lot 13) Urch Road, Narra Tarra				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
		<p>done.</p> <p>In their submission it is stated that they will use water to alleviate the dust but they are only talking about their block, driveway and house, not everyone else's, and not Urch Road which is where the problem is.</p>	<p>Whilst trucks movements associated with extractive industry operations upon Lot 13 may have been contributing to the issue of dust along Urch Road it could not be reasonably stated that they were entirely responsible. Urch Road is utilised by a range of sized vehicles associated with farming activity (limesand, harvest, livestock) and also heavy vehicles travelling to other extractive industry sites (including Lot 12 operated by a separate landowner). Urch Road, similar to many roads throughout the Shire, is in an unsealed condition and will as a result give rise to some dust when travelled along in certain conditions.</p> <p>The extractive industry approvals for Lots 12 & 13 were approved subject to dust mitigation measures but these are more commonly associated with the extractive industry site itself, although specific reference was made to procedures being introduced to minimise dust associated with truck movements but these would typically relate to actions such as wetting down of the access road and the wetting or covering of loads, rather than dust generated from travelling a public road, from which dust is generated by any travelling vehicle, whether a heavy vehicle or a smaller vehicle or a vehicle pulling a trailer.</p> <p>It would be reasonable to conclude that given Urch Road is a public road approved to a RAV4 standard (27.5m vehicle length) that the most certain means of reducing dust emissions would be to seal the initial section of Urch Road. It is suggested that sealing a 2km length of Urch Road east from the Chapman Valley Road intersection should address the landowners who have raised objection (it would appear that sealing the more winding subsequent 1.3km section to reach the extractive industry access points into Lot 12 & 13 should not be required).</p> <p>Council has previously travelled this section of Urch Road at its 26 March 2013 Road Inspection following receipt of dust complaints relating to truck movements associated with extractive industries on Urch Road.</p>	<p>Require that any approval of the development be made subject to the following advice note:</p> <p>"The applicant is advised that truck movements are required to comply with the conditions of Main Roads WA's RAV 4 network which includes at time of approval, a speed limit of 60km/hour along Urch Road."</p> <p>That Council request staff prepare a cost estimate for the sealing of the initial 2km length of Urch Road (east of the Chapman Valley Road intersection) for consideration at Council's 2017 Road Infrastructure Committee meeting. It must be noted that the preparation of a cost estimate should not be construed as confirmation that Council will include these works in its future Road Works Program, merely that it will be giving these works some</p>

Schedule of Submissions - Proposed Extractive Industry – 320 (Lot 13) Urch Road, Narra Tarra				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
		<p>In relation to their drivers being instructed to slow down on Urch Road, this has happened over the last couple of weeks. But the 4 or so years previously it was definitely not the case. I know that when one resident complained about the dust some of the trucks seemed to deliberately travel faster past her place with the horn blasting just to annoy her further. When she complained to the Shire nothing was done. Not all the drivers are their drivers, so what do they intend to do about that?</p> <p>I would like to know what constitutes 1 truck movement, is it once down the road or is it up and back down the road. In the past there has definitely been 30+ truck movements in a day for many consecutive days. If they have more than the proposed 10 truck movements what happens?</p> <p>While I have these concerns I am opposed to the quarry. In addition I would like to point out that one of the reasons I never went ahead with a 'country camping ground' that I applied for a few years ago was that at the same time the Shire approved a 'trial' quarry (same place) and the dust generated by trucks was inundating the very area where I proposed the camping ground.</p> <p>I would like to suggest the dust problems could be alleviated by watering Urch Road or sealing the road.</p>	<p>The Shire has not received complaint of trucks sounding horns.</p> <p>The applicant was invited to make comment upon the issues raised in objection to their proposal and has provided the following:</p> <p>"At a separation distance of over 700m, existing built development on Lot 124 does not have a line of sight from any habitable buildings to the northern excavation areas or northern access route as it is located on the other side of an elevated portion of their own property.</p> <p>BLASTING The submitted Management Plan does not at all propose the undertaking of blasting.</p> <p>The use of blasting is not necessary for the extraction of sand and gravel that can simply be extracted with a loader.</p> <p>Due to the inexperience in quarrying from some surrounding landowners this issue has been raised previously with Quadrio Earthmoving's management. Quadrio Earthmoving cares about this issue and any raised concerns and has therefore explained the excavation process to the concerned parties and they are happy with the response, as well as gaining an understanding of the low impact and low disturbance the excavation this material causes.</p> <p>DUST – URCH ROAD With particular reference to Lot 124, as this property is located on the southern side of Urch Road, the prevailing southerly would push any dust generated from traffic on Urch Road to the north, away from this property and buildings. It is noted that this property owner has previously purchased gravel from Quadrio Earthmoving for use on his drive way and property."</p>	further consideration.

Schedule of Submissions - Proposed Extractive Industry – 320 (Lot 13) Urch Road, Narra Tarra				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
10 (2/12/16)	Department of Water (PO Box 73 GERALDTON WA 6531)	<p><i>No objection</i> There are no objections to the proposal, subject to the applicant being required by condition of approval to conduct all activities in accordance with their commitments in the submitted Management Plan.</p> <p>DoW requests that the applicant be advised that the proposal is located within the Gascoyne groundwater area, as proclaimed under the <i>Rights in Water and Irrigation Act 1914</i>, and any use of groundwater for commercial purposes i.e. dust suppression is required to be licensed by the DoW. The applicant should contact DoW to discuss this matter, if it is intended to use groundwater for extractive activities.</p>	<p>The applicant is proposing to use water tanks that are available on the property for dust suppression and emergency fire supply only as dewatering is not required.</p> <p>The applicant has advised that the process of excavation does not involve any processes or chemicals that would cause contamination of the groundwater supply.</p> <p>The Department of Water has responsibility for the protection of groundwater and watercourses, and licenses bores and oversees water use.</p> <p>A copy of DoW's submission has been provided to the applicant to ensure their awareness of their responsibilities under separate legislation.</p>	<p>Note submission and require that any approval of the development be made conditional to the following:</p> <p>"Development approval shall be in accordance with the submitted Management Plan, Noise Management Plan, Dust Management Plan and Environmental Management Plan 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."</p> <p>Require that any approval of the development be made subject to the following advice note:</p> <p>"The Department of Water have advised that the proposal is located within the Gascoyne groundwater area, as proclaimed under the <i>Rights in Water and</i></p>

Schedule of Submissions - Proposed Extractive Industry – 320 (Lot 13) Urch Road, Narra Tarra				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
11 (2/12/16)	J Collins & M Sorgiovanni (127 Urch Road NARRA TARRA WA 6532)	<p><i>Objection</i></p> <p>Whilst we are not against development in the area where this is away from residential buildings we do have some concerns regarding the application.</p> <p>We challenge the assumption that Urch Road is currently an acceptable rural haulage road. We request that a thorough investigation of the condition of this road be undertaken by Council's roadworks program irrespective of this application.</p> <p>In our view Urch Road has one extreme narrow point where light and heavy traffic interact at risk and sweeping corners that need improvement. Corrugations have eroded in parts down to the bedrock. In recent times the postal service has declined to deliver on the road due to the effect of the corrugations. Grading in the past has simply left heaps on the corners in fact blocking our driveway. We are fully supportive of the road being to the standard of haulage capacity, dust suppression would be ideal.</p> <p>We do not consider this to be at the applicant's expense rather reflecting management of a rural road under control of the Council.</p>	<p>The major source of complaint, both during the advertising period for this application and during the previous operation of an extractive industry upon Lot 13, relates to the issue of dust generated by trucks travelling along Urch Road.</p> <p>Whilst trucks movements associated with extractive industry operations upon Lot 13 may have been contributing to the issue of dust along Urch Road it could not be reasonably stated that they were entirely responsible. Urch Road is utilised by a range of sized vehicles associated with farming activity (limesand, harvest, livestock) and also heavy vehicles travelling to other extractive industry sites (including Lot 12 operated by a separate landowner). Urch Road, similar to many roads throughout the Shire, is in an unsealed condition and will as a result give rise to some dust when travelled along in certain conditions.</p> <p>The extractive industry approvals for Lots 12 & 13 were approved subject to dust mitigation measures but these are more commonly associated with the extractive industry site itself, although specific reference was made to procedures being introduced to minimise dust associated with truck movements but these would typically relate to actions such as wetting down of the access road and the wetting or covering of loads, rather than dust generated from travelling a public road, from which dust is generated by any travelling</p>	<p>Irrigation Act 1914, and any use of groundwater for commercial purposes i.e. dust suppression is required to be licensed by the Department of Water. The applicant should contact the Department of Water to discuss this matter if it is intended to use groundwater for extractive activities."</p> <p>Note submission and require that any approval of the development be made conditional to the following:</p> <p>"Development approval shall be in accordance with the submitted Management Plan, Noise Management Plan, Dust Management Plan and Environmental Management Plan 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."</p>

Schedule of Submissions - Proposed Extractive Industry – 320 (Lot 13) Urch Road, Narra Tarra				
Response No. & Date Received	Respondent & Affected Property	Nature of Submission	Comment	Recommendation
			<p>vehicle, whether a heavy vehicle or a smaller vehicle or a vehicle pulling a trailer.</p> <p>It would be reasonable to conclude that given Urch Road is a public road approved to a RAV4 standard (27.5m vehicle length) that the most certain means of reducing dust emissions would be to seal the initial section of Urch Road. It is suggested that sealing a 2km length of Urch Road east from the Chapman Valley Road intersection should address the landowners who have raised objection (it would appear that sealing the more winding subsequent 1.3km section to reach the extractive industry access points into Lot 12 & 13 should not be required).</p> <p>Council has previously travelled this section of Urch Road at its 26 March 2013 Road Inspection following receipt of dust complaints relating to truck movements associated with extractive industries on Urch Road.</p> <p>The objector's residence is located approximately 1km north-east of the northern most proposed extractive industry site.</p> <p>As per the comments in relation to Submission 8 it is recommended that the 'Northern Excavation Area B (Sand)' site not be approved, nor the proposed access alignment along the northern boundary of Lot 13. It is noted that the 'Southern Excavation Area A (Sand)' is located approximately 1.2km south-west from the objector's residence. The 'Guidance for the assessment of environmental factors – separation distances between industrial and sensitive land uses' (EPA, 2005) prescribes a buffer distance of 300-500m for sand extraction dependent upon the size of the operation.</p>	<p>Require that any approval of the development be made subject to the following advice note:</p> <p>"The applicant is advised that truck movements are required to comply with the conditions of Main Roads WA's RAV 4 network which includes at time of approval, a speed limit of 60km/hour along Urch Road."</p> <p>That Council request staff prepare a cost estimate for the sealing of the initial 2km length of Urch Road (east of the Chapman Valley Road intersection) for consideration at Council's 2017 Road Infrastructure Committee meeting. It must be noted that the preparation of a cost estimate should not be construed as confirmation that Council will include these works in its future Road Works Program, merely that it will be giving these works some further consideration.</p>
		<p>In relation to dust control from the pits will this be monitored, how and by whom. The current prevailing southerly winds do project that any dust issues will be directed in our vicinity.</p> <p>We currently receive the southerly winds having a dust effect off the road in its current condition directly onto our property now and have just accepted this a living on a gravel road, however, we only see this as getting progressively worse with deterioration of the road and increased traffic.</p> <p>We would seek some further assurance before removing our concerns.</p>		

AGENDA ITEM:	10.1.3
SUBJECT:	PROPOSED HOME BUSINESS (FITNESS STUDIO)
PROponent:	N CROFT
SITE:	38 (LOT 112) WOKARENA ROAD, BULLER
FILE REFERENCE:	A1864
PREVIOUS REFERENCE:	02/14-3
DATE:	5 DECEMBER 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

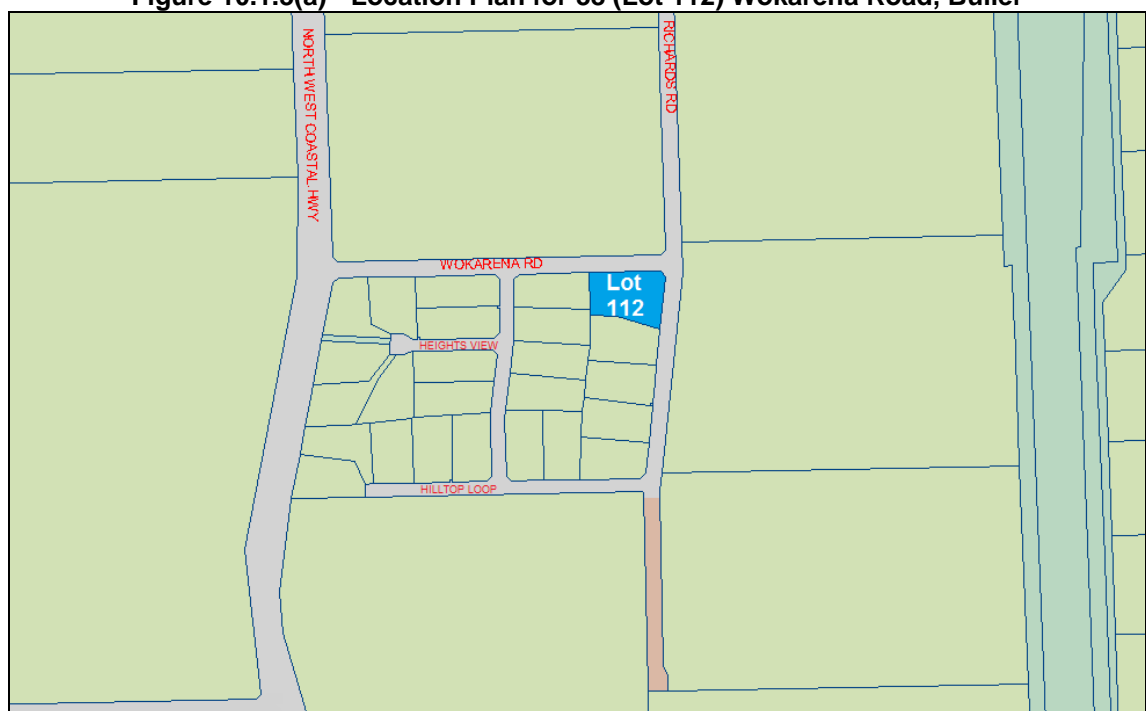
BACKGROUND

Council is in receipt of an application seeking to operate a home business (fitness studio) from 38 (Lot 112) Wokarena Road, Buller. The application has been advertised for comment and is now presented to Council for its consideration. This report recommends approval of the application.

COMMENT

Lot 112 is a 5,463m² property located on the south-western corner of the Wokarena Road and Richards Road intersection in the Wokarena Heights subdivision. The property contains a two storey rammed earth residence and associated outbuilding.

Figure 10.1.3(a) - Location Plan for 38 (Lot 112) Wokarena Road, Buller



The applicant is seeking to conduct group fitness classes and personal training sessions on weekdays between 6:00am and 7:00pm. The classes would be pre-booked and are anticipated to be 30-60 minutes in duration and held at 6:00am, mid-morning and 5:30pm with a maximum class size of 10 people.

The classes would generally be held within a 177m² room on the ground floor of the applicant's residence, with ability to also hold classes outside.

Visitors to the site would access the property via the existing crossover that is 50m west of the Wokarena Road and Richards Road intersection, and visitor car parking would be conducted on-site.

A copy of the application has been included as **Attachment 10.1.3**

Figure 10.1.3(b) – Aerial Photograph of 38 (Lot 112) Wokarena Road, Buller



Figure 10.1.3(c) – View of Lot 112 looking south from Wokarena Road



STATUTORY ENVIRONMENT

38 (Lot 112) Wokarena Road, Buller is zoned 'Residential R2.5' under Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme').

Section 4.2.1 of the Scheme lists the objectives of the 'Residential' zone as being:

- “(a) Provide for residential development to meet the needs of a range of household types;
and*
- (b) Provide for other land-uses compatible with a high level of residential amenity.”*

The proposed development would be considered a 'Home Business' which is defined under Schedule 1 of the Scheme as being:

“home business” means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

- (a) does not employ more than 2 people not members of the occupier’s household;*
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;*
- (c) does not occupy an area greater than 50 square metres;*
- (d) does not involve the retail sale, display or hire of goods of any nature;*
- (e) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight; and*
- (f) does not involve the use of an essential service of greater capacity than normally required in the zone.”*

‘Home Business’ is listed as an ‘A’ use under the Scheme for the ‘Residential’ zone, this being a use that is not permitted unless the local government has exercised its discretion by granting planning approval.

Section 10.2 of the Scheme lists the following relevant matters in considering this development application:

“The Local Government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the Local Government relevant to the use or development the subject of the application:

- (a) the aims and provisions of the Scheme;...*
- ...(f) any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;...*
- ...(i) the compatibility of a use or development with its setting;*
- (j) any social issues that have an effect on the amenity of the locality;...*
- ...(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;*
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
- ...(u) whether adequate provision has been made for access by disabled persons;...*
- ...(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.

Local Planning Policy ‘Home Occupation’ was adopted by Council to ensure that home based businesses do not compromise the amenity of the area and to ensure that they remain an ancillary use to the main dwelling or the principle land use on the property.

The ‘Home Occupation’ Local Planning Policy has the following general provisions:

- “(a) The Shire will generally not support an application where the proposed activity does not comply with the definition provided in Local Planning Scheme No.2 or the requirements of this Policy.*
- (b) An application will only be supported where the Council is satisfied that the proposal will not result in unacceptable environmental impacts as a result of noise, dust, light spill, odour or visual intrusion on the neighbouring and/or nearby residents, or the environment.*

- (c) *A business can either be attached or detached from the dwelling located on the site. If new, detached, buildings are being developed to accommodate the new use, they should generally be clustered with existing buildings on the site and appropriately constructed on materials so as to complement the existing development.*
- (d) *The parking of vehicles associated with a business are not permitted within a public carriageway, including the road verge.*
- (e) *In some instances planning consent may only be granted for a period of twelve (12) months upon which renewal of the application is required, including payment of all relevant fees."*

A local planning policy does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

In most circumstances Council would adhere to the standards prescribed in a local planning policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification is demonstrated and the variation granted will not set an undesirable precedent for future development.

FINANCIAL IMPLICATIONS

- **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:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting and reviewed and approved by Council at its 16 March 2016 meeting. The Plan lists utilising the land available in the area for a range of new businesses as an economic objective.

CONSULTATION

The Shire advertised the application from 7 November 2016 until 2 December 2016 with the following actions being undertaken inviting comment:

- placement of an advisory sign on-site;
- copy of the application documentation being made available for viewing at the Shire office/library;
- copy of the application documentation being sent to the 8 surrounding landowners.

At the conclusion of the advertising period no submissions had been received.

RISK ASSESMENT

Not applicable.

VOTING REQUIREMENTS

Simple majority required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR WOOD

SECONDED: CR WARR

That Council grant formal approval for a home business (fitness studio) from 38 (Lot 112) Wokarena Road, Buller subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plans dated 14 December 2016 and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 The approval is valid for a period of 1 year after which time the application shall be considered by the Shire CEO (under the delegated authority of Council) as to any impacts arising from the operation of the development in its determination on whether to grant any extension to the approval period.
- 3 The approval is issued only to the landowner making initial application and is not transferable to any other person or to any other land parcel. Should there be a change of land ownership in respect of which this planning approval is issued, this approval shall no longer be valid.
- 4 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.
- 5 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product, vehicle parking and manoeuvring or otherwise.
- 6 The permitted hours of operation for the development are:
 - Monday to Saturday – 6:00am to 7:00pm;
 - Sundays and Public Holidays - no operations.
- 7 The applicant/landowner shall possess current liability and indemnity insurance for the home business and its operations.
- 8 All parking of vehicles associated with the home business shall be provided for within the property boundary, and the street verge area shall be kept free of such vehicles.
- 9 This planning approval does not extend to signage for the development, for which a separate application will be required.
- 10 Prior to commencement of the proposed use, the property is required to be inspected by the local government to ensure compliance with relevant health and building legislation and standards.

Notes:

- (i) In relation to Condition 2, in the event that the initial 12 month trial period does not give rise to any negative impacts, and an extended or permanent further approval is considered by the Shire, it will be a requirement that the visitor toilet facility be modified to meet the requirements of a unisex/disabled toilet facility to achieve access and service compliance requirements. The applicant can obtain further information into these requirements by contacting the Shire's Environmental Health Officer.
- (ii) In relation to condition 6, in the event of the Shire receiving an author identified, written, substantial complaint concerning the home business operations Council may consider that the approved hours of operation should be reviewed.
- (iii) In relation to Condition 10 the applicant is advised that they are required to liaise with the Shire's Environmental Health Officer for the undertaking of the necessary property inspection.
- (iv) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation. It is the applicant's/landowner's responsibility to obtain any additional approvals required before the development/use lawfully commences.

- (v) 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.

**Voting 7/0
CARRIED
Minute Reference 12/16-4**

NICOLE CROFT – Application to operate a business from home

Along with the attached Application for Planning Approval I provide the following information:

Registered Business Name: Jump-To-It Fitness

Proposed Opening Date: January 2017

Business Operator: Nicole Croft

Qualifications: Cert III in Fitness

Group Fitness Instruction Specialisation

Currently completing Cert IV in Personal Training (expected to be completed November 2016).

First Aid Certificate - Provide First Aid (HLTAID003)

Experience: Conduct group fitness classes and personal training sessions for a fitness business in Wandina.

Insurance: Fitness Combined Liability Insurance – Policy FIT/16/102120

(public liability and professional indemnity)

Hours of Operation: Weekdays, 6am – 7pm. Only open for pre-booked group fitness classes and PT sessions. This is not a gym where people can come and go as they please.

Current proposed group session (30-60min duration) times are 6am, mid-morning and 5.30pm, subject to change depending on demand.

Class Size: maximum of 10 participants.

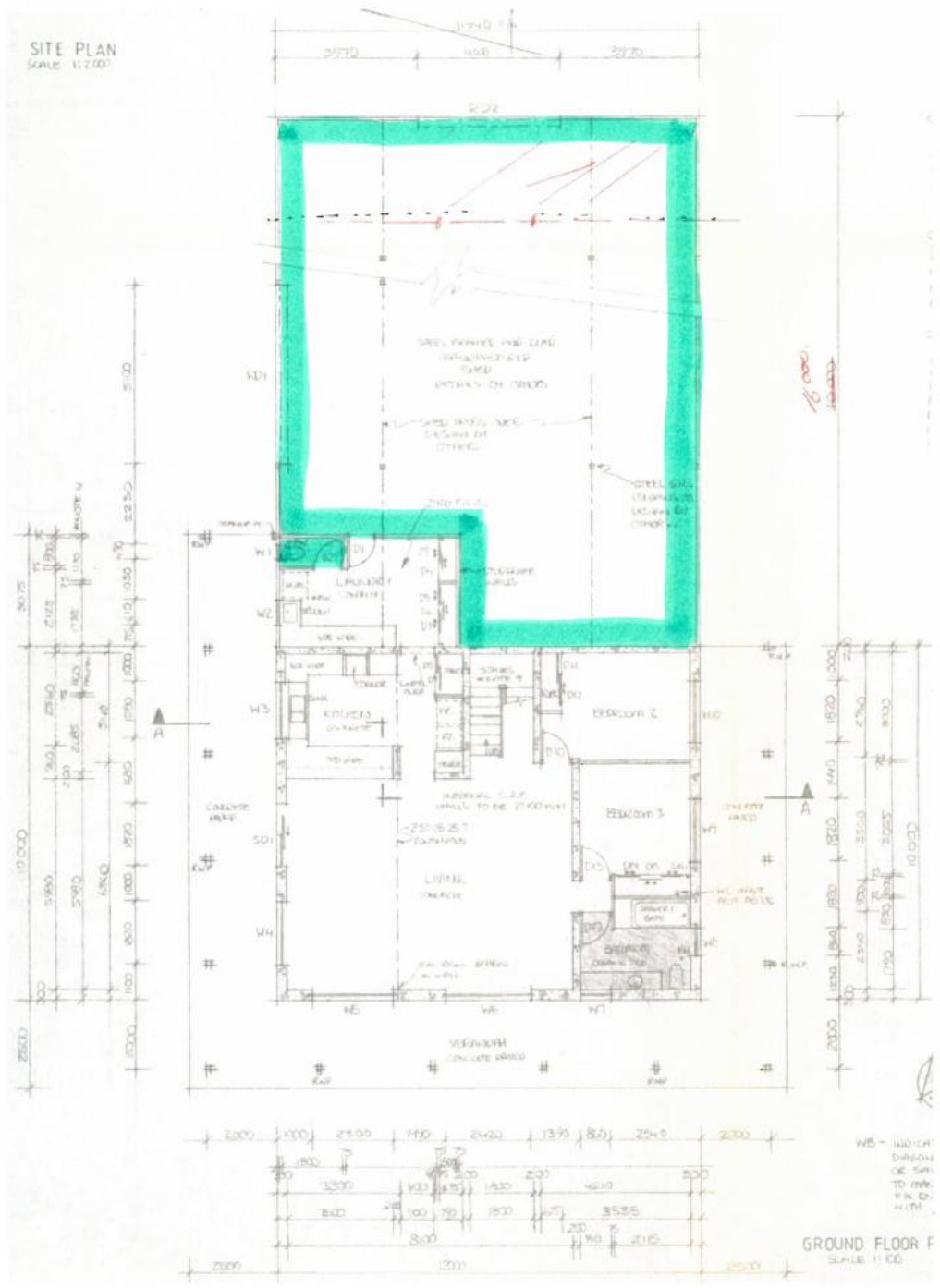
Noise Management: Majority of classes will be held indoors (building is rammed earth) so music will not be heard outside. If outdoors classes are conducted, music will be kept at a medium level – participants need to be able to hear me speak over the music level - and is unlikely to be heard outside the property.

On-site Car Parking: available as the space outlined on the attached site plan.

Toilet facilities: access to toilet and hand-washing facilities is available in the laundry area of the residence.



Car parking layout



AGENDA ITEM:	10.1.4
SUBJECT:	NANSON MUSEUM – DISPLAY STRUCTURE
PROPONENT:	CHAPMAN VALLEY HISTORICAL SOCIETY
SITE:	RESERVE 13226 EAST TERRACE, NANSON
FILE REFERENCE:	R13226
PREVIOUS REFERENCE:	07/16-5
DATE:	30 NOVEMBER 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council resolved at its 20 July 2016 meeting to support the Chapman Valley Historical Society ('the Society') in their request to develop a display structure at the Nanson Museum providing information on the soldiers from the Chapman Valley district who lost their lives in World War One and the community that they were drawn from.

The Society have now written to Council seeking to site the structure at an alternate location that would enable visitors to view the structure as they walk along the existing bitumen path. It is considered that the proposed new location provides a greater emphasis to the structure, gives greater purpose to the existing walk path, would reduce the costs of the project (by removing the need for a concrete slab) and is an improvement upon the original site. This report recommends that Council support the proposed new location.

Figure 10.1.4(a) – Proposed new location for the display structure looking east



COMMENT

The Society wrote to the Shire on 2 & 14 June & 6 & 9 July 2016 in relation to the proposed development of a 6m x 4m structure to be located between the main museum shed and the harbour. The structure would be constructed in materials and of a style complementary to the harbour and is intended to display material honouring the soldiers who served in World War One, and the community which they represented.

Council resolved at its 20 July 2016 meeting to support in principle the development of the display structure at the Nanson Museum as proposed within **Attachment 10.1.4(a)**.

After further consideration the Society have now written to the Shire on 28 November 2016 seeking Council's support for an alternative location, Copies of the received correspondence and the accompanying site plan have been provided as **Attachment 10.1.4(b)** for Council's consideration.

Figure 10.1.4(b) – Proposed new location for the display structure looking west



STATUTORY ENVIRONMENT

Reserve 13226 is zoned 'Public Purpose - Museum' under Shire of Chapman Valley Local Planning Scheme No.2. Section 3.4 of the Scheme requires that:

“3.4 Use and Development of Local Reserves

3.4.1 A person must not:

- (a) use a Local Reserve; or***
- (b) commence or carry out development on a Local Reserve, without first having obtained planning approval under Part 9 of the Scheme.***

3.4.2 In determining an application for planning approval the Local Government is to have due regard to:

- (a) the matters set out in clause 10.2; and***
- (b) the ultimate purpose intended for the Reserve.”***

Reserve 13226 East Terrace, Nanson is a 6,178m² parcel of Crown Land with the assigned purpose of 'Historical and Community' and a management order issued by the Department of Lands to the Shire of Chapman Valley with the power to sub lease.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The Society are not seeking a financial contribution from Council towards the project, rather Council support for the location of the structure (having previously received Council support for the purpose and design of the structure at the 20 July 2016 meeting).

Were the Society to seek financial support from Council for the structure they would be able to make application, along with other eligible parties, for consideration under the Shire's 2017 Community

Growth Fund (as per Corporate Management Procedure 067). The Society have previously advised that they will be pursuing other opportunities for external funding for the project.

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 proposed structure at Nanson Museum would require specific amendment to the Long Term Financial Plan, and the structure could be included in the Shire's overall asset register that will be used to inform the ongoing review of the Plan.

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Heritage Inventory (2012) notes that the buildings within the Nanson Museum grounds have considerable historic significance, and their use by the Society leads to them being highly valued by the local community, as well as contributing greatly to the Nanson streetscape. The structure is proposed to be built of complementary materials to the nearby harbour to reflect the heritage qualities of the existing museum buildings and the other historical buildings within the Nanson townsite.

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

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting and reviewed and approved by Council at its 16 March 2016 meeting. The Strategy lists developing community facilities to provide gathering places as a Community Strategy to achieve the outcome of stronger, inclusive communities across the Shire. The Museum serves as both a community hub for the Society to meet, work and grow but also as a means of recording and telling the community's story,

CONSULTATION

Representatives from the Society met with the Shire's Chief Executive Officer, Community Development Officer, and Building Surveyor/Project Officer on 9 June 2016 to discuss the proposed display structure.

The Society have also written to both the Northampton and Geraldton Return Services League sub-branches in regards to their proposal.

The Society have further discussed this development at its November meeting and unanimously supported the proposed new location.

RISK ASSESMENT

Nil

VOTING REQUIREMENTS

Simple majority required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORRESTER

SECONDED: CR WARR

Council advise the Chapman Valley Historical Society that it supports the location of a 'Tribute to the Fallen Soldiers of World War One' display structure at the Nanson Museum as proposed within Attachment 10.1.4(b).

**Voting 7/0
CARRIED
Minute Reference 12/16-5**



Chapman Valley Historical Society and Museum.
P.O. Box 3355,
Bluff Point WA 6530
Email: chapmanvallevhs@gmail.com

Mr. Maurice Battilana,
CEO Shire of Chapman Valley,
P.O. Box 1,
Nabawa WA 6532

Dear Maurice,

The Chapman Valley Historical Society wish to inform Council that the Society has a group of dedicated members working on an 'Anzac Centenary' project and plan to lodge an application for funding through Lotterywest and the DVA sometime this year.

Research has been undertaken on the 36 fallen soldiers who did not return from World War 1 to the Chapman Valley District. It is envisaged that a structure will be erected near the Arbour area at the Heritage precinct in Nanson. The structure will contain display boards providing whatever details and stories relating to each of the 'Fallen Soldiers' as can be researched. Family members that have contacted the person responsible for the research of the 36 'WW1 Fallen Soldiers', have been very grateful that this research is being undertaken and have indicated they would like to be present at an opening, should the project materialise.

A display board within the structure will provide more general information relevant to the effect World War 1 had on the district.

The Anzac Centenary project is to be a tribute to those men who enlisted from the Chapman Valley district and did not return to their families.

We will be writing to the RSL branches of Northampton and Geraldton seeking letters of support for the project, to assist with funding applications. It is also envisaged that the Men's Shed could be asked to be involved in the construction.

At the general meeting of the Society on the 25th May, members supported the project unanimously.

We trust this project meets with Council approval.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Pam Batten".

Pam Batten
Secretary
Chapman Valley Historical Society Inc
2nd June 2016



Chapman Valley Historical Society and Museum.
P.O. Box 3355,
Bluff Point WA 6530
Email: chapmanvalleyhs@gmail.com

Mr Maurice Battilana,
CEO Shire of Chapman Valley,
PO Box 1,
Nabawa WA 6532

Dear Maurice,

The Chapman Valley Historical Society Inc is writing to seek the Shire's approval to erect a structure on the Heritage Precinct in Nanson. The structure will house a display honouring the 36 soldiers from the Chapman Valley District who lost their lives fighting for their country in World War I. The structure (see attached concept plan) will be 6 metres in length and 4 metres wide, built after the style of the Arbour. Inside, along each side wall will be panels detailing each individual soldier's war record.

The Society decided last year to use the Anzac Centenary period to research the 36 soldiers whose names are on the War Memorial in the Nabawa Cemetery and tell their story as a significant tribute to them and to tell something of the Valley community as it was then. Each individual record will detail where the soldier was born, occupation, family ties as well as the war record, and a photo of the soldier.

A working party has been researching this project since last year and examined a number of possible tributes to honour our soldiers. This proposal was supported fully at our last meeting as being the most suitable in the context of the Centenary period. It honours each soldier's life and his connection to the Valley at that time. It gives not only information about the soldier and his role in the war, it also sheds light on the bustling, active community and the people who lived here then.

Once approval is given the working party will act in preparing grant applications to fund the proposal. Contact has already been made with several

funding bodies and the results have been encouraging. Our plans would be to have the building all completed in the middle of 2017 which is significant as 20 of the 36 soldiers lost their lives in 1917. The families we've been able to contact, have been fully supportive and wish to know when we will open the tribute, so they can be present.

The working party wish to thank the Shire staff for their support and interest in this project, especially the CEO, Maurice Battilana, Community Development Officer Nicole Batten and Anthony Abbott Building Surveyor/Project Officer.

Yours sincerely,

A handwritten signature in cursive script that reads "Pam Batten".

Pam Batten
Secretary
Chapman Valley Historical Society Inc
14th June 2016



Chapman Valley Historical Society and Museum.
P.O. Box 3355,
Bluff Point WA 6530
Email: chapmanvalleyhs@gmail.com

Mr Geoff Rob,
President
RSL Northampton,
Post Office Box 2467,
Geraldton WA 6531

Dear Geoff,

The Chapman Valley Historical Society Inc have undertaken a project to honour the 36 men that enlisted from the Chapman Valley District for WW1 and did not return home. We have named the project 'A Tribute to the Fallen Soldiers' and it is envisaged that a structure with display boards will be built at the Chapman Valley Museum.

At this stage the CVHS working group are planning to have the project completed for an official opening sometime during 2017. Twenty of the thirty six men who enlisted, lost their lives in 1917.

The names that have been researched are the names that are on the WW1 War Memorial at the Nabawa Cemetery. It has never been the aim of this project to replace that Memorial in anyway.

The CVHS are unsure whether permission is needed from the RSL for such a project, hence the reason this letter has been written. We hope the RSL in Northampton is very happy for the Chapman Valley Historical Society to continue working towards this tribute.

It has been extremely rewarding for Jenny MacKay who has undertaken the research. Some family members have made contact with Jenny and have been

very pleased that the 36 soldiers 'Will be Remembered' again during this four year period of the centenary of WW1. Some of the families have also indicated they would like to be present when the 'Tribute' is officially opened.

We look forward to your favourable response for this very worthwhile project. We would also be very grateful if you are able to provide a letter of support for the project. This will assist with our endeavours for funding.

Yours sincerely,

Pam Batten
Secretary
Chapman Valley Historical Society Inc
11th June 2016



Chapman Valley Historical Society and Museum.
P.O. Box 3355,
Bluff Point WA 6530
Email: chapmanvalleyhs@gmail.com

President
RSL Geraldton,
Birdwood House,
Geraldton WA 6530

Dear President,

The Chapman Valley Historical Society Inc have undertaken a project to honour the 36 men that enlisted from the Chapman Valley District for WW1 and did not return home. We have named the project 'A Tribute to the Fallen Soldiers' and it is envisaged that a structure with display boards will be built at the Chapman Valley Museum.

At this stage the CVHS working group are planning to have the project completed for an official opening sometime during 2017. Twenty of the thirty six men who enlisted, lost their lives in 1917.

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year period of the centenary of WW1. Some of the families have also indicated they would like to be present when the 'Tribute' is officially opened.

We look forward to your favourable response for this very worthwhile project. We would also be very grateful if you are able to provide a letter of support for the project. This will assist with our endeavours for funding.

Yours sincerely,

Pam Batten
Secretary
Chapman Valley Historical Society Inc
11th June 2016





Chapman Valley Historical Society and Museum.
 P.O. Box 3355,
 Bluff Point WA 6530
 Email: chapmanvalleyhs@gmail.com

Mr Maurice Battilana,
 CEO Shire of Chapman Valley,
 P.O. Box 1,
 Nabawa W.A. 6532

Dear Maurice,

At the November meeting of the Chapman Valley Historical Society Inc the location of the 'Tribute to the Fallen Soldiers of WWI' structure was discussed. The realisation of this project is of course subject to the Society being successful with the grant application to Lotterywest,

The unanimous decision of the members was that the structure should be built over the new pathway which leads to the heritage listed Road Board building. In placing the tribute along this pathway there will be no need for a concrete pad, a saving of approximately \$1,000 to the project costs.

Since the project was initiated there have been two sites that have been considered. The members do not wish to have the structure built on the site, as per the aerial photograph presented to Council in July 2016.

We trust that it is just a matter of our decision being put in writing to Council, for this to be approved.

Yours sincerely,

A handwritten signature in cursive script that reads "Pam Batten".

Pam Batten
 Secretary
 Chapman Valley Historical Society Inc
 28th November 2016



Cr Maluish, Cr Warr and Cr Wood declared an impartiality interest in this item

AGENDA ITEM:	10.1.5
SUBJECT:	BILL HEMSLEY PARK
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	RESERVE 49641 ELIZA SHAW DRIVE, WHITE PEAK
FILE REFERENCE:	R49641
PREVIOUS REFERENCE:	09/09-11, 08/10-3, 04/11-4, 05/11-29, 12/11-3, 04/13-5, 06/13-25, 10/13-3, 02/14-10-13, 06/14-6, 08/14-5 & 11/14-7, 12/14-19-21, 02/15-13, 03/15-4-5, 06/15-9, 09/15-2-8, 11/15-9, 04/16-10-11 & 05/16-9-12, 06/16-1, 06/16-3-10, 07/16-6-9, 08/16-3-5 & 11/16-4-7
DATE:	30 NOVEMBER 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

A meeting of the Bill Hemsley Park Management Committee was held on 29 November 2016 and copy of the unconfirmed minutes from this meeting has been provided to Councillors as a **separate attachment**.

COMMENT

The advertising of the tender for construction of the Bill Hemsley Park Community Centre commenced on 22 October 2016 and concluded on 21 November 2016. The tenders received during this period were presented to the Bill Hemsley Park Management Committee for consideration and formulation of a recommendation to Council as per its 17 August 2016 resolution.

A copy of the tender evaluation report has been provided to Councillors as a **separate attachment** and must be treated as a **confidential item**.

The Management Committee minutes also provide updates on the following items:

- the revised scope of works that will be the basis for inviting quotes on the nature playground construction;
- groundwater testing at 2 locations and the lodgement of a grant application for groundwater servicing of the park; &
- lodgement of a grant application for building fit-out.

STATUTORY ENVIRONMENT

The tender for construction of the community centre at Bill Hemsley Park was conducted as per statutory requirements.

The legal agreement between the developer of the Parkfalls Estate and the Shire provided the terms for the transfer of the park and payment of funds by the developer to the Shire to be held in trust for expenditure on the park.

The Management Committee Agreement establishes the process by which recommendations to Council on the expenditure of the trust funds must be made.

Part 3 of the Management Agreement states:

"3 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."

Part 4 of the Management Agreement states:

"4.1 Use of Trust Payment

The Shire covenants and agrees to deposit the Trust Payment into a trust fund in accordance with the provisions of the Local Government Act 1995, and to only use such funds for construction and development upon the Recreation Site.

4.2 Acknowledgement

The parties covenant and agree that the expenditure of the trust fund can only be approved by the Council of the Shire based on the recommendations of the Management Committee provided such expenditure is for construction and development upon the Recreation Site."

The Management Committee at its 5 August 2016 meeting endorsed the proposed expenditure from the Bill Hemsley Park Trust Account as contained within the 2016/2017 Council budget, and this Management Committee endorsement, along with its 10 November 2015 endorsement, satisfies Part 4 of the Management Agreement and enables expenditure of the trust funds.

POLICY IMPLICATIONS

Section 5.70 of the Shire of Chapman Valley Policy Manual 2015/2016 notes that 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 for trust accounts.

FINANCIAL IMPLICATIONS

Council's 2016/2017 budget contains the following allocations relevant to Bill Hemsley Park.

Bill Hemsley Park Project - Account No.2834, Job: CHEM			
	Expenditure	Income	Funding Source
Nature Playground	\$120,000	\$100,000	Lotterywest Grant
		\$20,000	PRA Trust Funds
Building Component	\$462,300	\$132,200	SoCV Build Res - Office Component COA GL 1315
		\$100,000	SoCV - Municipal Fund C/Fwd
		\$230,100	PRA Trust Funds
Drafting & Design Teakle & Lalor c/fwd	\$17,490	\$17,490	PRA Trust Funds
Associated Components i.e. Headworks Contingency, Road Surface, Carpark, Plants, Furnishings, Garden Design & species supply, Entrance Wall, Audits, etc.	\$210,440	\$10,440	PRA Trust Funds
		\$200,000	Loan/Grant Funds & in-kind
Totals	\$810,230	\$810,230	

Contribution Summary	
Lotterywest Grant	\$100,000
PRA Trust	\$278,030
Loan/Grants/In-Kind	\$200,000
Shire (Municipal \$100,000/Building Reserve \$132,200)	\$ 232,200
Total	\$810,230

The 2016/2017 budget also includes an allocation of \$20,000 for groundwater testing funded from the Shire's own resources (Account 1522).

The Management Committee are monitoring opportunities to leverage funds in the 'Associated Components' budget allocation with external funds through grant applications, for eligible components of the Bill Hemsley Park project (this might include rainwater tanks, pumps, garden design and planting, foot/cycle paths, building fit-out etc.).

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan received by Council at its 18 September 2013 meeting identifies this as a major project to be determined by the Management Committee.

STRATEGIC IMPLICATIONS

The Bill Hemsley Park project is contained within the Capital Building Works Program, as reviewed by the Building & Disability Services Committee and endorsed by Council at its 20 April 2016 meeting.

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

The Shire of Chapman Valley Strategic Community Plan was adopted by Council at its 19 June 2013 meeting, and reviewed and approved by Council at its 16 March 2016 meeting. The Plan lists developing community facilities to provide gathering places as a Community Strategy to achieve the outcome of stronger, inclusive communities across the Shire.

CONSULTATION

The preparation of the Bill Hemsley Park Concept Plan was informed by a community survey undertaken by the Parkfalls Residents Association of 215 White Peak landowners that sought to ascertain what facilities the community wanted, and did not want, to see developed upon the park site. 62 surveys were returned (29% response rate) and the results of the community survey were presented to the Management Committee at its 15 August 2013 meeting.

Council resolved at the 20 August 2014 meeting to accept the Bill Hemsley Park preliminary concept plan (which included all the preferences listed in the community survey, and a meeting room and public toilets to cater for expected demand) and prepare a draft concept plan to send out to all landowners in the Parkfalls Estate seeking feedback.

The draft Bill Hemsley Park Concept Plan was advertised from 30 June 2015 until 24 July 2015 and the consultation period included the following actions:

- direct mail-out of the concept plan to all landowners in the Parkfalls Estate;
- placement of the concept plan on the Shire website;
- placement of a notice in the Shire E-News;
- placement of a sign on-site; &
- placement of a notice on the Parkfalls Estate noticeboard.

There were 222 lots in the Parkfalls Estate owned by 211 landowners at the time of advertising and at the conclusion of the consultation period 42 submissions had been received, representing a response rate of 18.96% (this percentage figure discounts 1 of the 2 supporting submissions that were received from the same address, and 1 supporting submission from the Parkfalls Residents Association).

Following its advertising, Council resolved at its 16 September 2015 meeting to adopt the Bill Hemsley Park Concept Plan.

Council resolved at its 18 November 2015 meeting to endorse the Management Committee's recommendation that the following items be considered priorities for the development of the Bill Hemsley Park:

- Bore, tank, power, scheme water connection;
- Community Building/Pavilion/Viewing Decks (meeting room/toilets) (concept plan legend no.8, 9);
- Nature Playground (concept plan legend no.12, 17, 18, 19, 20);
- Walk Trail around Nature Playground (concept plan legend no.3);
- Turfed Play Area and BBQ/Shelter (concept plan legend no.11, 22, 15);
- Car Park (concept plan legend no.14);
- Entry Statement/Sign & Mrs Hemsley's Tree (concept plan legend no.7).

Council also resolved at its 18 November 2015 meeting to endorse the Management Committee's recommendation that funds from the Bill Hemsley Park trust account be referenced as a matching contribution in any external funding or Shire financial contribution for these items, and instruct Shire staff to seek external funding (matched from the Bill Hemsley Park trust account) for these items.

RISK ASSESMENT

Not Applicable.

VOTING REQUIREMENTS

Simple Majority required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR MALUISH

SECONDED: CR WOOD

That Council:

- 1 Receive the 29 November 2016 minutes of the Bill Hemsley Park Management Committee.
- 2 Accept AK Homes as the preferred tenderer for the construction of the Bill Hemsley Park Community Centre (Option B i.e. with retaining wall component).
- 3 Council arrange for a contract to be prepared detailing the required construction works, project management and timeframes.
- 4 Council use internal and contract project management services throughout the building stage of the project and external contract costs be derived from surplus funds available from Expenditure COA 2834 Job: CHEM (Building Component).

**Voting 7/0
CARRIED**

Minute Reference: 12/16-6

Cr Warr thanked the Bill Hemsley Park Committee and Staff for their efforts in investigating and finding the water requirements for the park.

10.2

Finance

December 2016

Contents

10.2 AGENDA ITEMS

10.2.1 Financial Reports for November 2016

10.2.2 Budget Variation – Nabawa Oval

10.2.3 Budget Variation – Chapman Valley Agricultural Society

Mrs Raymond entered Chambers at 10.04am

Cr Warr left Chambers at 10.07am

Cr Warr re-entered Chambers at 10.08am

AGENDA ITEM:	10.2.1
SUBJECT:	FINANCIAL REPORTS FOR NOVEMBER 2016
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	307.04
PREVIOUS REFERENCE:	N/A
DATE:	14 DECEMBER 2016
AUTHOR:	DIANNE RAYMOND

DISCLOSURE OF INTEREST

Nil

BACKGROUND

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

COMMENT

The monthly financial statements for November 2016 have been provided as a **separate attachment** for Council's review.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

POLICY IMPLICATIONS

CP-023 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 November 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

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR HUMPHREY

SECONDED: CR WOOD

That Council receives the financial report supplied under separate attachment for the months of November 2016 comprising the following:

- Statement of Financial Activities with notes
- Note 1 – Significant Accounting Policies
- Note 2 – Explanation of Material Variances
- Note 3 – Net Current Funding Position
- Note 4 – Cash & Investments
- Note 5 – Budget Amendments
- Note 6 – Receivables
- Note 7 – Cash Backed Reserves
- Note 8 – Capital Disposals
- Note 9 – Rating Information
- Note 10 – Information on Borrowings
- Note 11 – Grants & Contributions
- Note 12 – Trust
- Note 13 – Capital Acquisitions
- Appendix A – Budget by Program
- Summary of Payments
- Bank Reconciliation
- Credit Card Statement

Voting 7/0

CARRIED

Minute Reference: 12/16-7

AGENDA ITEM:	10.2.2
SUBJECT:	BUDGET VARIATION NABAWA OVAL
PROPONENT:	MANAGER WORKS SERVICES
SITE:	3320 (LOT 3) CHAPMAN VALLEY ROAD
FILE REFERENCE:	A1327
PREVIOUS REFERENCE:	MINUTE REFERENCE SC 07/16-1
DATE:	14TH DECEMBER 2016
AUTHOR:	DI RAYMOND, MANAGER FINANCE & CORPORATE SERVICES

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council's adopted budget at times will need variations made to reflect changes which occur after the budget has been formally adopted.

During the budget process works was identified, and a quote provided, for upgrading the reticulation and ground maintenance of Nabawa Oval. Council, at budget adoption, resolved to allow expenditure of \$10,200 for this works to be done in 2016/2017. Subsequent to budget adoption an issue detrimental to the health of the oval lawn required a contractor to be engaged to provide verticutting of the entire oval at a cost of \$6,759. As this process requires specialized equipment not available to the Shire gardening staff it was thought prudent to engage a contractor to provide this service.

COMMENT

The purpose of this report is to seek Council's endorsement for an amendment to the original budget to allow for the unbudgeted expense associated with the contract works to verticut the Nabawa Oval. Also to increase the funds required for the budgeted reticulation and ground maintenance works to include a further \$2,679 cost incurred when contractors extended this work further along the reticulation system as far as Nabawa Tennis Courts. This request is being made post event as these works have already been carried out along with the upgrade to the reticulation system servicing Nabawa Oval, Community and Recreational Centre's. These further funds tallying \$9,438 are being requested from the additional opening surplus, as identified in the final audit process and as yet unallocated.

<i>COA GL</i>	<i>COA Description</i>	<i>2016/2017 Adopted Budget</i>	<i>2016/2017 Amended Budget</i>	<i>Variation</i>
<i>114820</i>	<i>Sporting Clubs Expenses</i>	<i>\$69,840</i>	<i>\$79,278</i>	<i>\$9,438</i>
<i>Opening Surplus</i>	<i>Additional Funds Available at 1/7/16 compared to Budgeted Forecast EOY Surplus</i>	<i>\$61,015</i>	<i>\$51,577</i>	<i>-\$9,438</i>
<i>Total budget impact</i>				<i>\$0</i>

Manager Works Services Comments

At the time of approving the orders, the quote for the reticulation system was 10,000 and the quote for the verticutting was \$5,000. The budget for the oval was \$15,000. The lawn on the oval was in poor health and it was identified by the shire's gardener, Trevor Hipper, that verticutting was needed to bring the oval back to good health. As the verticutting has a small time frame in which to do it, the decision had to be made before seeking approval from council. At the time I believed I could get it done within

the budget but would need to request more money at the budget review to keep up repairs to the oval sprinkling system.

Verticutting is meant to be performed every year, we have not done it for at least 5 years. As a result the thatching that verticutting removes was very thick and it took the contractor twice as long to complete the job. Cricket season was about to start so leaving the job half done was not an option. The contractor was instructed to complete the job.

The installation of the reticulation system at the tennis courts and community centre went over budget due to a miscommunication between our gardener and the contractors in regards to the areas needing watering. As the intent of installing the reticulation system was to save gardeners hours by not having them return to Nabawa and move sprinklers around, the benefits of having the reticulation system would be negated with the gardener coming back to move a small amount of sprinklers. Also the cost of completing the job with all the machinery there was nearly as much as the mobilisation costs to get everything out again to complete a small section. While going over budget the intent was to save the shire money and give the gardeners time to concentrate on other parts of the shire.

STATUTORY ENVIRONMENT

In accordance with legislative requirements of the Local Government Act, 1995, Section 6.8(1)(b) Council is required to resolve by **Absolute Majority** to incur expenditure from its municipal fund for an additional purpose that is not identified in the Adopted Budget i.e.

Local Government Act (1995) – Section 6.8. - Expenditure from municipal fund not included in annual budget

(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:

- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
- (b) is authorised in advance by resolution*; or
- (c) is authorised in advance by the mayor or president in an emergency.

* Absolute majority required.

(1a) In subsection (1):

additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget

(2) Where expenditure has been incurred by a local government —

- (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
- (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

POLICY IMPLICATIONS

No existing policy affected or relevant

FINANCIAL IMPLICATIONS

The Staff Recommendation is requesting the additional allocation of funds from the excess 2016/2017 Opening surplus identified post annual audit review.

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

Nil affect.

STRATEGIC IMPLICATIONS

No significant effect on strategic planning of the Shire.

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

Allocation of funds as recommended will assist in achieving the following outcomes of Council's Strategic Community Plan:

Objectives	Strategy	Outcome
Community: Maintaining and Growing the Population		
We need good services to support our development as a Shire	Maintain and improve existing services and facilities and look at what additional services the community require	Essential services help us to grow and prosper as a community

CONSULTATION

Consultation with the Chief Executive Officer, Manager Works Services and relevant staff.

RISK ASSESSMENT

Risk Rating Level is rated as Minor - According to the Councils risk policy this will classify the risk as low against the risk matrix areas of finance, reputation and property.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies

VOTING REQUIREMENTS

Absolute Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR HUMPHREY

SECONDED: CR WOOD

Council endorses the following variations to the 2016/2017 Budget:

COA GL	COA Description	2016/2017 Adopted Budget	2016/2017 Amended Budget	Variation
114820	Sporting Clubs Expenses	\$69,840	\$79,278	\$9,438
Opening Surplus	Additional Funds Available at 1/7/16 compared to Budgeted Forecast EOY Surplus	\$61,015	\$51,577	-\$9,438
Total budget impact				\$0

**Voting 7/0
CARRIED
Minute Reference: 12/16-8**

AGENDA ITEM:	10.2.3
SUBJECT:	BUDGET VARIATION
PROPONENT:	CHIEF EXECUTIVE OFFICER
SITE:	RESERVE 52196
FILE REFERENCE:	309.05
PREVIOUS REFERENCE:	MINUTE REFERENCE SC 07/16-1
DATE:	14TH DECEMBER 2016
AUTHOR:	DI RAYMOND, MANAGER FINANCE & CORPORATE SERVICES

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council's adopted budget at times will need variations made to reflect changes which occur after the budget has been formally adopted.

During the budget development Chapman Valley Agricultural Society (CVAS) were in the process of applying for Mid-West Development Commission (MWDC) Community Chest Funds for a shade shelter structure at Nanson Showgrounds. Council, at budget adoption, resolved to provide financial assistance of \$10,000 to the CVAS in their endeavours to gain grant funding from the MWDC to erect a shade structure for equestrian users and patrons attending the annual Chapman Valley Show. Subsequent to budget adoption a submitted grant funding application has been successful in obtaining \$33,500 from MWDC in grant funds to purchase & erect this structure.

At the time the Budget was developed and endorsed it was thought the shade shelter project was to be undertaken by the CVAS (if the grant application was successful) and the Shire would simply make a contribution of \$10,000 to the overall cost of the project. Hence the one expenditure budget item \$10,000 being included. This supposition was incorrect and the application was lodged with the Shire as proponent (at the request of the MWDC) so as the whole of project expenditure and income must come through the Shire of Chapman Valley. This was a condition of grant funding approval imposed by the MWDC.

COMMENT

The purpose of this report is to seek Council's endorsement for an amendment to the original budget to allow for the full project costs associated with the shade shelter structure expenditure and revenue offset from grant funds and stakeholder commitments. The original application although submitted in May 2016 was not endorsed by the MWDC until 7th November 2016 with the Shire of Chapman Valley as the proponent. The Shire being the recipient of funds will be the responsible project managers of these funds, not CVAS. The original proposed budget submitted with this application is listed below with income & expenditure outlined separately.

	BUDGET	ACTUAL	VARIANCE
INCOME (exclusive of GST)	\$	\$	\$
MID WEST COMMUNITY CHEST FUND	\$33,500		-\$33,500
OTHER CASH SOURCES (please list in spaces below, insert more lines if necessary)			
Shire of Chapman Valley	\$10,027		-\$10,027
Chapman Valley Agricultural Society	\$12,700		-\$12,700
Greenough Western Riding School	\$1,500		-\$1,500
TOTAL CASH INCOME	\$57,727	\$0	-\$57,727
IN-KIND SOURCES			
Chapman Valley Agricultural Society	\$3,000		-\$3,000
TOTAL IN-KIND INCOME	\$3,000	\$0	-\$3,000
TOTAL INCOME	\$60,727	\$0	-\$60,727

EXPENSES (exclusive of GST)			
CASH FUNDS EXPENDED (please list types of expenses in spaces below, insert more lines if necessary)			
*Shed Kit Form	\$45,027		-\$45,027
Installation (travel, plant hire, crane hire, concrete)	\$11,500		-\$11,500
Building Permits & Supervision	\$1,200		-\$1,200
TOTAL CASH EXPENSES	\$57,727	\$0	-\$57,727
IN KIND EXPENDITURE			
Freight	\$3,000		-\$3,000
TOTAL IN-KIND EXPENSES	\$3,000	\$0	-\$3,000
TOTAL EXPENSES	\$60,727	\$0	-\$60,727
NET SURPLUS/(DEFICIT) (Total income less total expenses)	\$0	\$0	\$0

Due to time delays (and independent audit not allowed for) a variation is now sought for the updated project budget to reflect all income & estimated expenditure allocated with this project and grant funding approval as listed below. New quotes obtained as per Procurement Policy have increased the expenditure for the shed kit, also an independent audit is required for all grant funding approval over \$20,000 which was not accounted for in the original expenditure table above.

ESTIMATED BUDGET INCOME AND EXPENDITURE	
	BUDGET \$
INCOME (exclusive of GST)	
MID WEST COMMUNITY CHEST FUND	\$33,500
OTHER CASH SOURCES (please list in spaces below, insert more lines if necessary)	
Shire of Chapman Valley	\$10,000
Chapman Valley Agricultural Society	\$12,727
Greenough Western Riding School	\$1,500
Additional funds required	\$3,418
TOTAL CASH INCOME	\$61,145
IN-KIND SOURCES	
Chapman Valley Agricultural Society	\$3,000
TOTAL IN-KIND INCOME	\$3,000
TOTAL INCOME	\$64,145
EXPENSES (exclusive of GST)	
CASH FUNDS EXPENDED (please list types of expenses in spaces below, insert more lines if necessary)	
*Shed Kit Form	\$48,445
Installation (travel, plant hire, crane hire, concrete) Note: Footing concrete estimate only until final engineers design is received	\$11,500
Building Permits & Supervision	\$1,200
Independent Audit for Acquittal	\$660
TOTAL CASH EXPENSES	\$61,145
IN KIND EXPENDITURE	
Freight	\$3,000
TOTAL IN-KIND EXPENSES	\$3,000
TOTAL EXPENSES	\$64,145
NET SURPLUS/(DEFICIT) (Total income less total expenses)	\$0

The issue now arises as to where these additional funds will be obtained. Does council wish to allocate a further \$3,418 from its Municipal funds or is the expectation the stakeholder shall incur these costs? If additional funds are sourced from the Shire what current expenditure is appropriate to relinquish? This Capital expenditure sits under Programme 11 Recreation and Culture - Sub Programme 32 Public Halls, Civic Centres. With no other projects in this area to relinquish funds from it would seem appropriate to require this shortfall to be covered by CVAS in the first instance and this is reflected in Staff Recommendation 1. The alternative recommendation is to reduce an allocation in a Programme not linked to Recreation & Culture during the budget review process in February 2017.

STATUTORY ENVIRONMENT

In accordance with legislative requirements of the Local Government Act, 1995, Section 6.8(1)(b) Council is required to resolve by **Absolute Majority** to incur expenditure from its municipal fund for an additional purpose that is not identified in the Adopted Budget i.e.

Local Government Act (1995) – Section 6.8. - Expenditure from municipal fund not included in annual budget

(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:

- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
- (b) is authorised in advance by resolution*; or
- (c) is authorised in advance by the mayor or president in an emergency.

* Absolute majority required.

(1a) In subsection (1):

additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.

(2) Where expenditure has been incurred by a local government —

- (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
- (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

POLICY IMPLICATIONS

Purchasing Policy CP-024 is relevant to this project and requires three (3) written quotes to be obtained as the value of the project exceeds \$50,000. Shire Building/Project Officer has sourced updated quotes for this project to comply with council policy.

POLICY NO	CP-024
POLICY	PURCHASING
RESPONSIBLE DIRECTORATE	FINANCE
PREVIOUS POLICY No.	5.90
LEGISLATION	LOCAL GOVERNMENT ACT, 1995 LOCAL GOVERNMENT (FUNCTIONS & GENERAL) REGULATIONS, 1996
RELEVANT DELEGATIONS	DELEGATION No. 3004

OBJECTIVES:

- To provide compliance with the **Local Government Act 1995** and the **Local Government (Functions and General) Regulations 1996**.
- To deliver best practice approach and internal purchasing processes for the Shire of Chapman Valley.
- To ensure consistency for all purchasing activities within the Shire of Chapman Valley.

	Amount of Purchase	Purchase Conditions	Recording Conditions
Standard Purchases			
A	Up to \$5,000	Direct purchase from suppliers	Standard Purchase Order
B	\$5,001 - \$15,000	Obtain two verbal quotations.	Endorse Purchase Order verbal quotes obtained
C	\$15,001 - \$40,000	Obtain at least three verbal or written quotations.	Verbal - Endorse Purchase Order verbal quotes obtained; or Written Quotes – Copies Attached to Purchase Order
D	\$40,001 - \$50,000	Obtain at least three written quotations.	Written Quotes – Copies Attached to Purchase Order
E	\$50,001 - \$149,999	Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations).	Written Quotes – Copies Attached to Purchase Order
F	\$150,000 and above	Conduct a public tender process or use the WALGA Preferred Suppliers process.	Tender Register Requirements & Filing of Tender Documents

FINANCIAL IMPLICATIONS

The Staff Recommendation 1 is requesting the allocation of funds, yet with no increase in total expenditure across the 2016/2017 budget. Staff Recommendation 2 is requesting the allocations of funds with an additional impact on expenditure of \$3,418 derived from the additional end of year surplus, resulting a nil effect.

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

Nil affect

STRATEGIC IMPLICATIONS

No significant effect on strategic planning of the Shire.

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

Allocation of funds as recommended will assist in achieving the following outcomes of Council's Strategic Community Plan:

Objectives	Strategy	Outcome
Economic: Business Development and Attraction		
We want to be able to spend our money locally and encourage others to do the same	Ensure planning and procedures are in place to promote the establishment of retail outlets are established at strategic locations within the Shire	We can help to grow the local economy
	Ensure planning and procedures are in place to promote and develop tourism in the Shire, including cottage industries, caravan park and events	Showcasing our attractions increases the number of people visiting our area

CONSULTATION

Consultation with the Chief Executive Officer, relevant staff, CVAS and grant funding body was undertaken to determine appropriateness of applying for the 2016 Community Chest funds.

RISK ASSESSMENT

Risk Rating Level is rated as Minor - The Shire is the fund recipient for this project, not CVAS and the Building/Projects Officer has been appointed as the Project Manager to ensure the project is monitored and tracked with controls, policy and procedure. According to the Councils risk policy this will classify the risk as low against the risk matrix areas of finance and reputation.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies

VOTING REQUIREMENTS

Absolute Majority

STAFF RECOMMENDATION - Option 1

Council endorses the following variations to the 2016/2017 Budget with the shortfall being covered by the Chapman Valley Agricultural Society resulting in a nil effect on the Shire's 2016/2017 Budget:

COA/Job No.	COA / Job Description	Adopted Budget	Revised Budget	Effect on Budget
134230 Job - New Project	Grant Income Community Buildings	0	(51,145)	(51,145)
126440 - Job 1132	Capital Expenditure - Land & Buildings	10,000	61,145	51,145
Total Effect on Budget				0.00

COUNCIL RESOLUTION / STAFF RECOMMENDATION - Option 2

MOVED: CR WARR

SECONDED: CR WOOD

Council endorses an increase expenditure to the 2016/2017 Budget by \$3,418 to be offset by these funds being allocated from the additional end of year surplus resulting in a nil effect on the Shire's 2016/2017 Budget:

COA/Job No.	COA / Job Description	Adopted Budget	Revised Budget	Effect on Budget
134230 Job - New Project	Grant Income Community Buildings	0	(47,727)	(47,727)
126440 - Job 1132	Capital Expenditure - Land & Buildings	10,000	61,145	51,145
Opening Surplus	Additional Funds Available at 1/7/16 compared to Budgeted Forecast EOY Surplus	51,577	48,159	(3,418)
Total Effect on Budget				0.00

Voting 7/0
CARRIED
Minute Reference 12/16-9

10.3

Chief Executive Officer

December 2016

Contents

10.3 AGENDA ITEMS

10.3.1 2015/2016 Annual Report and Annual General Meeting of Electors

10.3.2 Tourism & Events Working Group – Australia Day Awards

10.3.3 Internal Audit

10.3.4 Management Licence – Chapman Valley Tennis Club

10.3.5 Management Licence – Chapman Valley Historical Society Inc.

AGENDA ITEM:	10.3.1
SUBJECT:	2015/2016 ANNUAL REPORT AND ANNUAL GENERAL MEETING OF ELECTORS
PROPONENT:	CHIEF EXECUTIVE OFFICER
SITE:	WHOLE OF SHIRE
FILE REFERENCE:	413.01
PREVIOUS REFERENCE:	NA
DATE:	14th DECEMBER 2016
AUTHOR:	MAURICE BATTILANA

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The purpose of this item is to accept the Shire of Chapman Valley 2015/2016 Annual Report, receive the Auditors Report and Management Letter and set a date/time for the Annual General Meeting of Electors (**Note: The Annual Report is provided under separate cover**).

When considering setting a date for the Annual General Meeting of Electors it is a requirement of s5.27 'Electors General Meeting' of the *Local Government Act 1995* this meeting can be no later than 56 days after accepting the Annual Report (i.e. 7th February 2016).

The Shire of Chapman Valley last held the Annual General Meeting of Electors for 2014/2015 financial year on the 2nd February 2016 at the Council Chambers, Nabawa. This meeting commenced at 6.00pm.

COMMENT

The Staff Recommendation below is suggesting the date, time and location to hold the Annual General Meeting of Electors as being:

- ~ **Thursday 2nd February 2017**
- ~ **Commencing at 6.00pm**
- ~ **Council Chambers, Nabawa**

Bearing in mind the Act stipulates the Annual General Meeting of Electors must be held not more than 56 days after the local government accepts the annual report for the previous financial year. Therefore the latest date the meeting could be held is the 7th February 2015.

It is important to maximise attendances at the Annual General Meeting of Electors by constituents, hence the Staff Recommendation has suggested a date and time, which is after the harvest and school holiday periods.

STATUTORY ENVIRONMENT

Local Government Act 1995

The Local Government Act 1995 states the following;

"5.27. Electors' general meetings

- (1) *A general meeting of the electors of a district is to be held once every financial year.*
- (2) *A general meeting is to be held on a day selected by the local government but not **more than 56 days after the local government accepts the annual report** for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed."*

5.29. Convening electors' meetings

- (1) *The CEO is to convene an electors' meeting by giving —*
 - (a) *at least 14 days' local public notice; and*
 - (b) *each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.*
- (2) *The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.*

5.32. Minutes of electors' meetings

The CEO is to —

- (a) *cause minutes of the proceedings at an electors' meeting to be kept and preserved; and*
- (b) *ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.*

5.33. Decisions made at electors' meetings

- (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, whichever 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.*

5.54. Acceptance of annual reports

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government **no later than 31 December after that financial year.***

** Absolute majority required.*

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

POLICY IMPLICATIONS

No existing Policy/procedure relevant.

FINANCIAL IMPLICATIONS

Nil affect

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

Nil affect

STRATEGIC IMPLICATIONS

It is considered appropriate to conduct the Annual General Meeting of Electors to retain open and accountable governance and communication with the Shire's constituents

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

Nil affect

CONSULTATION

The Shire President, relevant staff and the Shire's Auditors have been consulted and had input into the development of the 2015/2016 Annual Report.

RISK ASSESSMENT

- Low level risk of non-compliance with legislation to complete this activity in accordance with the Local Government Act and associated Regulations.
- Low level risk of not conducting the Annual General Meeting of Electors at an appropriate time/date to provide constituents to opportunity to attend.

VOTING REQUIREMENTS

Staff Recommendation 1 - **Absolute Majority**

Staff Recommendation 2 – **Simple Majority**

COUNCIL RESOLUTION / STAFF RECOMMENDATION 1

MOVED: CR ROYCE

SECONDED: CR MALUISH

Council:

- 1 Accepts the Annual Report for the 2015/2016 Financial Year as required by s5.54 of the *Local Government Act 1995*. (Absolute Majority Vote Required);

Voting 7/0

CARRIED

Minute Reference: 12/16-10

COUNCIL RESOLUTION / STAFF RECOMMENDATION 2

MOVED: CR WOOD

SECONDED: CR HUMPHREY

Council:

- 1 Receives and accepts the Auditors Report for 2015/2016;
- 2 Receives and accepts the Auditors Management Letter 2015/2016;
- 3 Sets the date for the Annual General Meeting of Electors for Thursday 2nd February 2017 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 2015/2016 Annual Report to the Director General of the Department of Local Government.

Voting 7/0

CARRIED

Minute Reference: 12/16-11

AGENDA ITEM:	10.3.2
SUBJECT:	TOURISM & EVENTS WORKING GROUP – AUSTRALIA DAY AWARDS
PROPONENT:	TOURISM & EVENTS WORKING GROUP
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	403.04
PREVIOUS REFERENCE:	NIL
DATE:	14 th DECEMBER 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Tourism & Events Working Group (TEWG) met on the 7 December 2016. Minutes from this meeting have been provided under separate cover due to the **need to keep the Australia Day Award nominations and recommended recipients confidential until they are announced** at the Australia Day Event to be held on the 26th January 2016.

Councillors and Staff are therefore requested to treat the TEWG Minutes as CONFIDENTIAL.

COMMENT

The TEWG met to discuss:

- 2016 Australia Day Awards;
- 2016 Australia Day Event;

Due to the need for confidentiality this Report and the Staff Recommendation will not mention the recommended Australia Day Award recipients.

STATUTORY ENVIRONMENT

Not applicable.

POLICY IMPLICATIONS

MANAGEMENT PROCEDURE No.	CMP-033
MANAGEMENT PROCEDURE	HONOUR AWARDS
RESPONSIBLE DIRECTORATE	ADMINISTRATION
RESPONSIBLE OFFICER	CHIEF EXECUTIVE OFFICER
PREVIOUS POLICY No.	9.120
RELEVANT DELEGATIONS	

OBJECTIVES:

Set conditions, guidelines and processes for bestowing awards upon recipients.

MANAGEMENT PROCEDURE STATEMENT/S:

The Chief Executive Officer is to present an Agenda item at the appropriate time each year requesting Council consideration for awards to be presented in accordance with this Operational Procedure.

Citizenship Ceremonies

Citizenship ceremony be conducted at an event as considered appropriate by the Chief Executive Officer (in consultation with the President) and a native plant be given to the recipients.

Shire of Chapman Valley – Freeman of the Shire

A member of our Community may be honoured by the Shire with the title "Honorary Freeman of the Shire".

An Honorary Freeman of the Shire must have served the community of the Shire of Chapman Valley in an outstanding and meritorious manner that stands above the contributions of most other persons, and whose activities have contributed significantly to the wellbeing of the Shire's residents.

The Shire of Chapman Valley Freeman of the Shire Award recognises the outstanding achievements and dedicated service to the community by a person. The Freeman of the Shire Award is the highest honour the Shire of Chapman Valley can give to a community member.

Council may also consider conferring of the title of 'Posthumous Freeman of the Municipality'. In this case, the eligibility criteria would still apply.

Eligibility Criteria

To be eligible for nomination, a person does not have to currently reside within the Shire or have served on Council.

Nominees will be assessed on their record of service to the local and broader community against the following criteria:

1. Length of service in a field (or fields) of activity;
2. Level of commitment to the field (or fields) of activity;
3. Personal leadership qualities;
4. Benefits to the community of the Shire of Chapman Valley and/or to the State of Western Australia and/or to the nation resulting from the nominee's work; and
5. Special achievements of the nominee.

Exclusions

- A current Council Elected Member with the Shire of Chapman Valley cannot be nominated for the award.

Nomination Procedure

- Nominations for the Award may be made by Elected Members, individuals or organisations and are to be sponsored by an Elected Member of the Shire of Chapman Valley;
- They are to be submitted to the Chief Executive Officer in written format addressing the Eligibility Criteria;
- Nominations are to be made in the strictest confidence without the knowledge of the nominee;
- On receipt of a nomination the Chief Executive Officer is to present the nomination to Council as a Confidential Agenda Item for consideration;
- Council is to consider the item behind closed doors;
- Once a nomination has been accepted by Council, the nominee and any person(s) or organisation(s) involved in the nomination are to be informed of the decision and nominee is to be contact to confirm their acceptance of the honour;
- Should the nomination be supported by Council and accepted by the nominee the award shall be presented to the nominee at a function considered appropriate by the President.

Number of Freeman within the Shire

There is no limit on the number of persons upon which the title of Freeman of the Shire of Chapman Valley may be conveyed.

Entitlements

Any person upon whom the title 'Honorary Freeman of Shire' has been conferred may designate him/herself 'Honorary Freeman of the Shire of Chapman Valley'.

The recipient shall be presented with a special badge, which identifies them as 'Honorary Freeman of the Shire' along with a certificate to commemorate receiving the award.

Any Honorary Freeman of the Shire shall be invited to all subsequent formal Civic functions conducted by the Shire.

Revocation of Title of Freeman or Honorary Freeman

Council, by resolution, shall also have the ability to revoke the title bestowed upon a person, if;

- A criminal matter, for which the Freeman in question was found guilty of, or for any other matter, was considered by Council to have caused embarrassment to the municipality or that the ongoing recognition of such a title on this person by the Shire was inappropriate.
- The removal of the name from Honour Boards and other places and any other such items will be at the discretion of Council and conducted through liaison with the Chief Executive Officer.

WALGA Honour Awards

As detailed by the WALGA Awards Guidelines

Elected Members eligible due to length of service are to be automatically nominated by the Chief Executive Office.

All other award types are to be determined by Council.

Shire of Chapman Valley - Certificate of Appreciation

For personal commitment, eminent service and contribution to the Shire of Chapman Valley as an Elected Members, Community Members or Staff Member

Automatically given to Elected Members who have retired from Council or are the recipient of a Department of Local Government Certificate of Recognition.

All others as determined by Council.

Annual Agenda Item to discuss suitable nominations.

Elected Members

Presented at Annual Council Dinner/Function

Community Members

Certificate of Appreciation issued at an Annual Council Dinner/Function.

Recipient & partner invited to attend.

Shire of Chapman Valley Australia Day Awards and Function

For personal commitment, service and contribution to the community of the Shire of Chapman Valley

Nominations called in October and close in November (or as determined by the Australia Day Council).

The Council appointed Working Group shall:

- Evaluate annual Australia Day Award Nominations and submitting these to Council in readiness for presenting the awards at the Shire's annual Australia Day Function;
- Assist with coordinating the annual Australia Day function(s);
- Discuss all other item(s) referred to them by Council in the areas of tourism and events.

Dept. Local Government & Community Services Awards

As detailed by the Department's Awards Guidelines

Elected Members eligible due to length of service are to be automatically nominated by the Chief Executive Office.

All other award types are to be determined by Council.

(Note: All other Awards such as Australia Day Citizen of Year, Bushfire Brigade Service, etc, will only be dealt with by Council if nomination is initiated from within the community or by a Council resolution).

FINANCIAL IMPLICATIONS

No financial implications are envisaged at this stage as the costs for Australia Day Awards/Event has been budgeted for as per previous years and it not expected to exceed this amount.

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

No adverse affect of the LTFP envisaged.

STRATEGIC IMPLICATIONS

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

Objective	Strategy	Outcome	Partners
We want to be able to spend our money locally and encourage others to do the same	Develop tourism in the Shire, including cottage industries, caravan park and events	Showcasing our attractions increases the number of people visiting the area	Chapman Valley business community Shire of Chapman Valley

CONSULTATION

The TEWG met with staff to determine a recommendation to Council for award recipients.

RISK ASSESSMENT

No risk envisaged.

VOTING REQUIREMENTS

Simple majority

WORKING GROUP RECOMMENDATIONS

Council endorses:

1. The Working Group's recommended recipients of the 2017 Australia Day Awards;
2. The 2017 Australia Day function to be held at Coronation Beach.

COUNCIL RESOLUTION

MOVED: CR WARR

SECONDED: CR FORRESTER

Council endorses:

1. The Working Group's recommended recipients of the 2017 Australia Day Awards;
2. The 2017 Australia Day function to be held at Coronation Beach.
3. The criteria be amended to ensure that there is only one nomination per form.

Voting 7/0

CARRIED

Minute Reference: 12/16-12

Deviation to Staff Recommendation: Clarification required during nomination process.

The meeting be adjourned at 10.25am

The meeting recommenced at 10.31am

AGENDA ITEM:	10.3.3
SUBJECT:	INTERNAL AUDIT
PROPONENT:	CHIEF EXECUTIVE OFFICER
SITE:	WHOLE OF SHIRE
FILE REFERENCE:	305.00
PREVIOUS REFERENCE:	NA
DATE:	14th DECEMBER 2016
AUTHOR:	MAURICE BATTILANA

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The State Government gazetted new legislation in February 2013 under Clause 17 of the *Local Government (Audit) Regulations, 1996*, which requires a local government authority to undertake internal control audit at least once every two years, with the first of these audits to be completed by the 31st December 2014.

COMMENT

The Local Government Act 1995 (the Act) requires all local governments to establish an audit committee. An audit committee plays a key role in assisting a local government to fulfil its governance and oversight responsibilities in relation to financial reporting, internal control structure, risk management systems, legislative compliance, ethical accountability and the internal and external audit functions.

The CEO is required to provide biennial reviews of the appropriateness and effectiveness of the Shire's systems and procedures in regard to risk management, internal control and legislative compliance to the Audit Committee, who will review this along with the results of the annual Compliance Audit Return.

The biennial review will require an internal audit carried out by a person who is not involved in the operational management of the Shire or the functions being audited. Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

The reporting tool is designed to assist local governments to assess and report on their internal environment, functions and procedures for inclusion in the CEO biennial review, and to support organisational development and continuous improvement.

Marg Hemsley (Risk ID) was contracted to undertake the independent Internal Audit Report in November 2016 to address the legislative requirements of Regulation 17 of *Local Government (Audit) Regulations, 1996*. A copy of this Report is provided under separate cover.

The intention of this Agenda Item is to advise Council the internal audit has been completed and will be presented to the Finance & Audit Committee in early 2017 for review and report back to Council on any items or issues considered necessary for further action. This timing was considered appropriate as the internal audit review can be considered by the Finance & Audit Committee at the same time the Committee considers the annual Compliance Audit Return.

STATUTORY ENVIRONMENT

Local Government (Audit) Regulations, 1996

17. CEO to review certain systems and procedures
 - (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —
 - (a) risk management; and

- (b) internal control; and
- (c) legislative compliance.
- (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.
- (3) The CEO is to report to the audit committee the results of that review.

[Regulation 17 inserted in Gazette 8 Feb 2013 p. 868.]

POLICY IMPLICATIONS

No existing policy/procedure affected.

FINANCIAL IMPLICATIONS

Nil affect

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

Nil affect

CONSULTATION

Relevant staff have been consulted and had input into the development of the Internal Audit Report

RISK ASSESSMENT

Based upon the adopted *Risk Assessment and Acceptance Criteria* for the Shire's Risk Management Policy & Procedures the risk level considered relevant:

- ***Insignificant/Minor Risk*** in the areas of *Financial Impact, Compliance and Reputation*.

STRATEGIC IMPLICATIONS

It is sound practice to undertake an internal review of operations to ensure maximum compliance and efficiencies are in place and adhered to.

- **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 and procedures that enable good: governance, development, services and growth

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR MALUISH

SECONDED: CR WOOD

Council receives the Internal Audit Report as presented and request the Chief Executive Officer present this to the Finance & Audit Committee in accordance with Clause 17 (3) of the *Local Government (Audit) Regulations, 1996* for review, comments and if necessary provide recommendations to back to Council for consideration.

Voting 7/0

CARRIED

Minute Reference: 12/16-13

AGENDA ITEM:	10.3.4
SUBJECT:	MANAGEMENT LICENCE – CHAPMAN VALLEY TENNIS CLUB
PROPONENT:	CHAPMAN VALLEY TENNIS CLUB
SITE:	LOT 29 TUART AVENUE, NABAWA
FILE REFERENCE:	803.10
PREVIOUS REFERENCE:	NIL
DATE:	14th DECEMBER 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

I have been working with the CV Tennis Club members on a Management Licence for the use of the existing Club facilities located on Lot 29 Tuart Avenue, Nabawa with a copy of the *Draft Management Licence* provided at **Attachment 1**.

COMMENT

It will be noted the Draft Licence has been established by using the standard template developed by staff in collaboration and consultation with Council legal advisors (McLeod's Barristers & Solicitors).

It also will be noted at Item 5 of the Schedule attached to the Licence the Licence Fee has been set at the current annual amount set in the 2016/2017 Budget (i.e.\$340.00 GST Exclusive) for the CV Tennis Club's use of the facilities.

A Smart Meter has recently been attached to the CV Tennis Club, which will allow the Shire to determine actual power consumption used at this precinct.

It should also be noted at Clauses 3.9 and 4.1 within the Licence the insurance obligations of each party. This has not changed from the current situation.

It must be stressed the Licence presented is a Draft only and Council can amend the documents as they see fit and present this back to the CV Tennis Club members for further discussion and negotiation as often as required until a consensus has been reached.

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

The following Management Procedure currently exists in regards to the Chapman Valley Tennis Club:

MANAGEMENT PROCEDURE No.	CMP-007
MANAGEMENT PROCEDURE	NABAWA AND YUNA TENNIS CLUB
RESPONSIBLE DIRECTORATE	LAND & BUILDINGS
RESPONSIBLE OFFICER	BUILDING SURVEYOR/PROJECTS OFFICER
PREVIOUS POLICY No.	4.20
RELEVANT DELEGATIONS	

OBJECTIVES:

Clarify the responsibilities of the various clubs & organisation and the Shire of Chapman Valley in regards to the use of building and facilities at the Nabawa & Yuna Tennis Club precincts.

MANAGEMENT PROCEDURE STATEMENT/S:

CARE, CONTROL AND MANAGEMENT

- (a) *Tennis Club to be responsible for care and maintenance of the playing surface and surrounding fences.*
- (b) *Tennis Club to be responsible for nets, poles and the painting of lines etc.*
- (c) *The Tennis Club to have first call on the use of the courts at all times.*
- (d) *School children are allowed to use the courts, free of charge, during school hours whilst under proper supervision when courts are not required for the Tennis Club.*
- (e) *The residents of the Shire are able to use the courts when not required by the Tennis Club Members.*
- (f) *Club may charge hire for the use of its own equipment to local organisations but not for the use of the courts.*
- (g) *Anybody outside the district wishing to hire the courts must apply to the Shire.*
- (h) *Tennis Club is responsible for the cleaning of club house, viewing areas, etc.*

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 ongoing process of developing Management Licences for the various land/facilities under the Shire ownership or control will incorporate some of these Policies/Procedures and remove these from policy/procedures.

FINANCIAL IMPLICATIONS

The recurrent cost to Council in accordance with the Management Licence (e.g. insurance, annual inspections, pest & etc.) will be incorporate into future operational budgets of the Shire.

As mentioned, the installation of a sub-meter will allow the Shire to recoup electricity consumption costs if this is required at any time.

- **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.

3.6 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 4.4 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 Licensee' 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 Draft Management Licence for the CV Tennis Club facilities has been through a consultation process with the CV Tennis Club members.

In addition there has been significant prior consultation with Council's legal advisors (McLeod's Barristers & Solicitors) to develop a Management Licence Template to use as a basis for establishing Licences with users of other Shire controlled/owned facilities in the future.

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

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORRESTER

SECONDED: CR HUMPHREY

Council endorses the "*Management Licence for the use of Portion of Lot 29 Tuart Avenue* between the Shire of Chapman Valley and the Chapman Valley Tennis Club as presented and authorise the Chief Executive Officer to finalise the Licence and implement the conditions to be effective immediately

Voting 7/0

CARRIED

Minute Reference: 12/16-14

Management Licence for use of portion of Lot 29 Tuart Avenue, Nabawa

Shire of Chapman Valley

Chapman Valley Tennis Club



McLEODS

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | XXXXX WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: mcleods@mcleods.com.au

Ref: TF:CHAP 33687.1

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Details

Parties

Shire of Chapman Valley

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

Chapman Valley Tennis Club

PO Box 42, Nabawa, Western Australia, 6532
(Club)

Background

The Shire is the owner and management body of the Lot 29 Tuart Avenue, Nabawa, upon which the Chapman Valley Tennis Club is located.

- A The Shire has agreed to grant to the Club a licence to use that part of Lot 29, Tuart Avenue, Nabawa, described in **Item 1** of the schedule (**Licensed Area**), together with any additional rights that are specified in this Licence.
- B In addition, if the Shire considers it necessary, the Shire and the Club may agree to form a Management Committee, with other users of the Nabawa Recreational facilities, to deal with the day to day management of the facilities.
- C 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 Chapman Valley Tennis Club to which this licence is granted;

CEO means the Chief Executive Officer of the Shire;

Commencement Date means the date that the Licence commences (see Item 2 of the Schedule);

Common Area means any part of Lot 3 Chapman Valley Road, Nabawa, not listed as *Licensed Areas* or *Other Amenities* the Club is permitted to use in conjunction with other users as stated in Item 4 of the Schedule and as indicated on the sketch annexed hereto as **Annexure 1**;

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 area that the Club is permitted to use in accordance with the terms of this Licence, as specified in **Item 1** of the Schedule and as indicated on the sketch annexed hereto as **Annexure 1**;

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

Management Committee means the management committee established pursuant to **clause 5** of this Agreement;

Other Amenities means any part of Lot 29 not listed as *Licensed Areas* that the Club is permitted to use in conjunction with the other users of the area, as specified in **Item 4** of the Schedule and as indicated on the sketch annexed hereto as **Annexure 1**;

Outgoings means

- (a) local government rubbish collection charges for the Licensed Areas, Other Amenities and Common Use Areas (only if applicable);
- (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges (only if applicable);
- (c) electricity, other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring connection;
- (d) premiums and other costs arising from the insurance obtained by the Shire pursuant to **clause 4.1** (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 Licensed Areas, Other Amenities and Common Use Areas; and
- (e) any other consumption charge or cost, statutory impost or other obligation incurred or payable by the Shire in respect of the Licensed Areas, Other Amenities and Common Use Areas, yet does not include equipment.

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. Grant of Licence

2.1 Use of Licensed Area

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.

2.2 Use of Other Amenities

The Licence includes the right to use the Other Amenities subject to prior approval by the Shire.

2.3 Common Use Areas

All areas (other than identified *Licensed Areas* and *Other Amenities*) are to be considered Common Use located on Lot 3, Chapman Valley Road, Nabawa.

2.4 Agreed Hours

- (1) The Club is to use the Licensed Areas, Other Amenities and Common Use Areas only on days and during the Agreed Hours. Conditional upon the Shire being able to authorise use of these areas by others at their discretion;
- (2) The Club must advise the Shire in writing of their preferred hours of use prior to the Club's forthcoming season in each year of the term for use of the Licensed Areas, Other Amenities and Common Use Areas.

3. Club's Obligations

3.1 Licence Fee for Licensed Areas

- (1) The Club must pay annually in advance the Licence Fee for the Licensed Area.
- (2) Unless otherwise determined 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 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.

3.2 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 and Common Use Areas used.

3.3 Permitted Purpose of Licensed Areas and Common Use Areas

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

3.4 Condition of Licensed Areas and Common Areas

The Licensed Area, Other Amenities and Common Areas are made available to the Club initially in the condition that they are in at the Commencement Date and at the beginning of each of the Club's forthcoming seasons thereafter.

3.5 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 Licensed Areas, Other Amenities and Common Use Areas.

3.6 No alterations Capital Upgrades and/or Replacement

- (1) The Shire is not obliged to make any alterations to the Licensed Areas, Other Amenities and Common Use Areas 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 must have prior Shire approval and will be at the sole cost of the Club (see Clause 4.4 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.

3.7 Security of Licensed Area Other Amenities and Common Areas and its contents

The Club agrees to ensure at all times that the Licensed Area, Other Amenities and Common Areas used 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, Other Amenities and Common Areas used.

3.8 Indemnity

- (1) The Club agrees to indemnify the Shire from and against all claims, demands, writs, actions and suits of any kind which may be brought or made against the Shire as a result of the Club's use of the Licensed Area, Other Amenities and Common Areas used.
- (2) The Club agrees that the Shire 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 Licensed Area, Other Amenities and Common Areas as a result of the Club's use of the facilities.

3.9 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 Common Area 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 Areas, Other Amenities or the Common Area 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 Licensed Areas, Other Amenities or the Common Area generally.

3.10 Entry and Inspection

The Club must permit the Shire to enter the Licensed Areas, Other Amenities or the Common Area generally 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.

3.11 Outgoings

- (1) The Shire will be responsible to pay all Outgoings for the Licensed Areas, Other Amenities and Common Use Areas.
- (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 Club in regards to its use of the Licensed Area, Other Amenities and Common Areas used on the basis of an appropriate apportionment determined by the Shire acting reasonably;
 - (b) where an outgoing is incurred due to the Club's specific use of the Licensed Areas, Other Amenities or the Common Area generally, the Shire will seek (where appropriate) for the Club 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.

3.12 Maintenance and Cleaning

- (1) The Club agrees during the Term to maintain, replace, repair, clean and keep the Licensed Area, Other Amenities and Common Areas used clean and in Good Repair.
- (2) The Club must keep the Licensed Area, Other Amenities and Common Areas used clean, tidy and free from rubbish.

- (3) The Club must leave the Licensed Area, Other Amenities and Common Areas used at the end of each event and period of use in the condition those areas were in at the beginning of the event and period of use.
- (4) The Shire will take all reasonable steps to ensure that any third party leaves the Licensed Area, Other Amenities and Common Areas used at the end of each period of use in the condition those areas were in at the beginning of the period of use.
- (5) Maintenance for the purposes of Licensed Area, Other Amenities and Common Areas used referred to in 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 (yet not necessarily limited to):
 - (a) ensure the Perimeter Fence and all attachments to the fence are maintained and repaired to a standard required by the Chief Executive Officer;
 - (b) Ensure buildings, structures and attachment to these areas be maintained and repaired to a standard as determined by the Chief Executive Officer;
 - (c) general building repairs and maintenance; and
 - (d) the ongoing repair and replacement of all fixtures and fittings relevant to the Club's use.

3.13 Subletting, Assignment or Hire

- (1) The Club will not assign, hire or sublet the Licensed Areas, Other Amenities and Common Areas.

3.14 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.

4. Shire's Obligations

4.1 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 Licensed Area, Other Amenities and Common Areas and buildings owned by the Shire located within these areas.

4.2 Shire maintenance responsibilities

The Shire will maintain the Licensed Areas, Other Amenities and Common Areas in accordance with the Shire's maintenance standards.

4.3 Shire responsible for Outgoings

Subject to **clause 3.11**, the Shire agrees to be responsible for the Outgoings for the Licensed Areas, Other Amenities and Common Areas.

4.4 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 Areas, Other Amenities and Common Areas.

5. Management Committee

5.1 Establishment

If considered necessary by the Shire, the parties shall establish a Management Committee to advise and assist the Shire in the management of the Licensed Areas, Other Amenities and Common Areas.

In the event a Management Committee is established the balance of Clause 5 of this Licence is to be used to establish and operate this Management Committee i.e.

5.2 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 Licensed Areas, Other Amenities and Common Areas;
- (b) development of the Licensed Areas, Other Amenities and Common Areas;
- (c) the use of the Licensed Areas, Other Amenities and Common Areas, including the grant of leases, licences and management agreements over parts of the Licensed Areas, Other Amenities and Common Areas; and
- (d) rules and regulations in relation hire of the Licensed Areas, Other Amenities and Common Areas.

5.3 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; and
 - (c) any other representative(s) from other user groups appointed pursuant to **clause 5.4**.
- (2) A Party may change its nominated Committee Member by written notice to the Shire.
- (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.

5.4 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.

5.5 Voting

Each Committee Member will have one vote.

5.6 Timing of Meeting

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

5.7 Attendance

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

5.8 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.

5.9 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 5.9(a).

5.10 Reporting

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

5.11 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.

6. 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.

7. 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 Licenced Areas, Other Amenities and Common Use Areas.
- (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.

8. Acknowledgements

The Club acknowledges and agrees that:

- (a) it only has use of the Licensed Area, Other Amenities and Common Areas during the Agreed Hours and that other users of these areas may be permitted to use the Complex;
- (b) the Club must book in advance its use of Licensed Area, Other Amenities and Common Areas through the Shire's booking system;
- (c) the Agreed Hours may for the use of the Licensed Area, Other Amenities and Common Areas 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 Shire tenure over the Licensed Area, Other Amenities and Common Areas is distinguished;
- (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, Other Amenities and Common Areas;
- (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 Licensed Area, Other Amenities and Common Areas if requested to do so by the Shire.

9. General Provisions

9.1 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.

9.2 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.

9.3 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.

9.4 Variation

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

9.5 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.

9.6 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.

9.7 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 group 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 a 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) Club Rooms;
- (ii) Outdoor Surrounds Area (within the perimeter fences);
- (iii) Tennis Courts
- (iv) Court Lights
- (v) Water Tank
- (vi) Perimeter Fences;

located at Lot 29 Tuart Avenue, Nabawa, known as the Chapman Valley Tennis and generally labelled on the sketch annexed hereto as **Annexure 1**.

Item 2 Commencement Date

_____ 2016

Item 3 Term

20 years commencing on _____ 2016 and expiring on _____ 2036.

Item 4 Other Amenities

- (i) Public Toilets (as shown on the sketch annexed hereto as **Annexure 1**);

Common Use Areas

All other area not listed as *Licensed Areas* or *Other Amenities* located at Lot 3, Chapman Valley Road, Nabawa, known as the Nabawa Recreational Facilities on the sketch annexed hereto as **Annexure 1**.

Item 5 Licence Fee

An annual fee set at a commencement amount of \$340 (GST Exclusive) to be review annually at the time Council considers its Budget for the forthcoming year.

Item 6 Permitted purpose

Tennis related recreational purposes and uses reasonably ancillary thereto only.

Item 7 Licence Fee Review Dates

At least annually at the time Council considers its Budget for the forthcoming financial year.

Item 8 Agreed Hours

The Club may use the Licensed Areas and Other Amenities in accordance with the requirements of this Licence by providing prior written notice of hours required.

The Common Use Area can only be used at times agreed by the Shire in writing and booked through the Shire as required.

The Club may be required to use the Licenced Areas, Other Amenities and Common Use Areas generally in common with other members of the public at times when the areas are open to the public.

Signing page

EXECUTED

2016

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 **Chapman Valley Tennis Club**

was hereunto affixed pursuant to the constitution of the Chapman Valley Tennis Club 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 Chapman Valley Tennis Club indicated under his or her name-

Office Holder Signature

Name:

Address:

Office Held:

Office Holder Signature

Name:

Address:

Office Held:

Annexure 1 - Sketch of Licensed Area, Other Amenities & Common Use Areas



LICENCED AREAS

OTHER AMENITIES

(Note: unmarked areas are to be considered *Common Areas*)

AGENDA ITEM:	10.3.5
SUBJECT:	MANAGEMENT LICENCE – CHAPMAN VALLEY HISTORICAL SOCIETY INC.
PROPONENT:	CHAPMAN VALLEY HISTORICAL SOCIETY INC.
SITE:	LOT 500, RESERVE 13226, EAST TERRACE, NANSON
FILE REFERENCE:	803.04
PREVIOUS REFERENCE:	NIL
DATE:	14th DECEMBER 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

I have been working with the CV Historical Society Inc. (CVHS) members on a Management Licence for the use of the existing facilities located on Lot 500, Reserve 13226, East Terrace, Nanson with a copy of the *Draft Management Licence* provided at **Attachment 1**.

COMMENT

It will be noted the Draft Licence has been established by using the standard template developed by staff in collaboration and consultation with Council legal advisors (McLeod's Barristers & Solicitors).

It will also be noted at Item 5 of the Schedule attached to the Licence where the Licence Fee has been set at *Peppercorn (only on demand)* for the CVHS's use of the facilities.

It should also be noted at Clauses 4.8 and 5.1 within the Licence the insurance obligations of each party. This has not changed from the current situation and reflects the Council Management Procedure CMP-020 for the Shire to cover insurance premium costs incurred by the CVHS.

It must be stressed the Licence presented is a Draft only and Council can amend the documents as they see fit and present this back to the CVHS members for further discussion and negotiation as often as required until a consensus has been reached.

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

The following Management Procedure is directly affected and has been incorporated into the *Draft Management Licence*:

MANAGEMENT PROCEDURE No.	CMP-020
MANAGEMENT PROCEDURE	CHAPMAN VALLEY HISTORICAL SOCIETY – INSURANCE COVERAGE/ELECTRICITY
RESPONSIBLE DIRECTORATE	LAND & BUILDINGS
RESPONSIBLE OFFICER	CHIEF EXECUTIVE OFFICER
PREVIOUS POLICY No.	5.80
RELEVANT DELEGATIONS	

OBJECTIVES:

MANAGEMENT PROCEDURE STATEMENT/S:

That Council pays the annual insurance premiums for the Chapman Valley Historical Society for the following insurance: -

- Public Liability
- Property
- Contents
- Personal Accident for Volunteers
- Council meet the electricity costs associated with the Chapman Valley Historical Society Building in Nanson.

Management Procedure CMP-018 has also been incorporated within the *Draft Management Licence* i.e.

MANAGEMENT PROCEDURE No.	CMP-018
MANAGEMENT PROCEDURE	CHAPMAN VALLEY HISTORICAL SOCIETY
RESPONSIBLE DIRECTORATE	ADMINISTRATION
RESPONSIBLE OFFICER	CHIEF EXECUTIVE OFFICER
PREVIOUS POLICY No.	4.140
RELEVANT DELEGATIONS	

OBJECTIVES:

Clarify use of land upon which the Chapman Valley Historical Society is placed.

MANAGEMENT PROCEDURE STATEMENT/S:

Be granted the use of Lot 500 East Terrace, Nanson (Reserve 13226) and the structures upon it.

Management Procedures CMP-018 and CMP-020 will become superfluous when the Management Licence is finalised.

Council has a number of other Policies/Procedures, which deal with specific conditions associated with the use of properties under the control/ownership of the Shire. It is anticipated the ongoing process of developing Management Licences for the various land/facilities under the Shire ownership or control will incorporate some of these Policies/Procedures and remove these from policy/procedures.

FINANCIAL IMPLICATIONS

The recurrent cost to Council in accordance with the Management Licence (e.g. insurance, annual inspections, pest maintenance, etc.) will be incorporate into future operational budgets of the Shire.

- **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.

4.5 No alterations Capital Upgrades and/or Replacement

- (2) *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 Licensee will be at the sole cost of the Licensee (see Clause 5.3 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 Licensee 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 Licensee'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 Licensee 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 Draft Management Licence for the CVHS facilities has been through a consultation process with the CVHS members.

In addition there has been significant prior consultation with Council's legal advisors (McLeod's Barristers & Solicitors) to develop a Management Licence Template to use as a basis for establishing Licences with users of other Shire controlled/owned facilities in the future.

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

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORRESTER

SECONDED: CR WOOD

Council:

1. Endorses the "Management Licence for the use of Lot 500, Reserve 13226, East Terrace, Nanson" between the Shire of Chapman Valley and the Chapman Valley Historical Society Incorporated as presented and authorise the Chief Executive Officer to finalise the Licence and implement the conditions to be effective immediately;
2. Remove Management Procedures CMP-018 and CMP-020 from the Management Procedures Manual.

**Voting 7/0
CARRIED**

Minute Reference: 12/16-15

DRAFT

Management Licence for use of Lot 500, Reserve 13226 East Terrace, Nanson

Shire of Chapman Valley

and

Chapman Valley Historical Society Incorporated



McLEODS

Barristers & Solicitors

Stirling Law Chambers | 220-222 Stirling Highway | XXXXX WA 6010

Tel: (08) 9383 3133 | Fax: (08) 9383 4935

Email: mcleods@mcleods.com.au

Ref: TF:CHAP 33687.1

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DRAFT

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Details

Parties

Shire of Chapman Valley

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

Chapman Valley Historical Society Incorporated

of PO Box 3355, Bluff Point, WA 6530
(Licensee)

Background

- A The Shire is the management body of Lot 500, Reserve 13226 East Terrace, Nanson, known as the land (**Land**).
- B The Shire has agreed to grant to the Licensee a licence to use the Land, described in **Item 1** of the schedule (**Licensed Area**), together with any additional rights that are specified in this Licence.
- C The Shire and the Licensee 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;

Licensee means the Chapman Valley Historical Society 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 Land that the Licensee 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;

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*;

Outgoings means

- (a) local government rubbish collection charges for the Land (only if applicable);
- (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges (only if applicable);
- (c) 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 Land; and
- (e) any other consumption charge or cost, statutory impost or other obligation incurred or payable by the Shire in respect of the Land.

Land means Lot 500, Reserve 13226, East Terrace, Nanson;

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; and

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 Licensee to use, under the terms and conditions provided for in this agreement, the Licensed Area for the Term.

3.2 Agreed Days/Hours

- (1) The Licensee is to use the Licensed Area only on agreed days and during the agreed hours.

4. Licensee's Obligations

4.1 Licence Fee for Licensed Areas

- (1) The Licensee must pay annually in advance the Licence Fee for the Licensed Area.
- (2) Unless otherwise determined by the Shire, the Licence Fee will be reviewed on the dates specified in **Item 7** of the Schedule by CPI. A rent review based on CPI may (at the Shire's discretion) increase the amount of Rent 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 Rent Review Date as the case may be and the quarterly CPI published immediately prior to the relevant Rent Review Date. If there is a decrease in CPI having regard to the relevant CPI publications the Rent payable from the relevant Rent Review Date will be the same as the Rent 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 Licensee must pay that GST.

4.2 Permitted Purpose of Licensed Area

- (1) The Licensee agrees to ensure that the use of the Licensed Area and the Land is at all times consistent with the Permitted Purpose.
- (2) The Licensee agrees that it must not permit the Licensed Area or Land to be used as a residence or sleeping place, unless otherwise approved by the Shire.

4.3 Condition of Land and Licensed Area

The Licensed Area are made available to the Licensee in the condition that they are in at the Commencement Date.

4.4 Compliance with Legislation

The Licensee 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 Licensee's use of any part of the Land.

4.5 No Alterations, Capital Upgrades and/or Replacement

- (1) The Shire is not obliged to make any alterations to the Licensed Area 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 Licensee will be at the sole cost of the Licensee. (see Clause 5.3 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 Licensee 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 Licensee 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 Licensee on demand and recoverable in a Court of competent jurisdiction.

4.6 Security of Licensed Area and its contents

The Licensee 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.

4.7 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 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.

4.8 Insurance

- (1) The Licensee 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 Licensee for any public liability claim that arises out of, or is connected in any way with, the Licensee's use of the Licensed Area or the Land 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 Licensee must not do anything in the Licensed Area or the Land generally that may affect any insurance taken out by the Shire, or render any such insurance void.
- (5) The Shire agrees to cover the annual insurance premium for the following policies taken out by the Licensee with an insurer approved by the Shire:
 - i. Public Liability
 - ii. Property
 - iii. Contents
 - iv. Personal Accident for Volunteers

(Note: See Clause 5.1 regarding Building Insurance)

- (6) The Licensee may request from the Shire details of annual costs incurred by the Shire on behalf of the Licensee for insurance premium (or any other) expenditure.

4.9 Entry and Inspection

The Licensee 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 (if applicable) or to rectify any breach of the conditions of this Licence.

4.10 Outgoings

- (1) The Shire will be responsible to pay all Outgoings for the Land
- (2) In the event any excessive Outgoings are incurred by the Shire, the Shire will be entitled to invoice and recover any amount from users of the Land, including the Licensee.
- (3) In respect of the recovery of any costs pursuant to paragraph (2) above, the parties agree as follows:
 - (a) the Shire will seek to recover such costs from users of the Land (including the Licensee) on the basis of an appropriate apportionment determined by the Shire acting reasonably;
 - (b) where an outgoing is incurred due to a user(s) specific use of the Land, the Shire may seek (where appropriate) for that user(s) to pay that outgoing; and
 - (c) the Licensee must pay any invoice issued by the Shire pursuant to paragraph (2) within 28 days of receipt.

4.11 Maintenance and Cleaning

- (1) The Licensee agrees during the Term to maintain, replace, repair, clean and keep the Licensed Area clean and in Good Repair.
- (2) The Licensee must keep the Licensed Area clean, tidy and free from rubbish.
- (3) The Licensee must leave the Licensed Area at the end of each period of use in the condition those areas were in at the beginning of the period of use.
- (4) The Shire will take all reasonable steps to ensure that any third party leaves the Licensed Area at the end of each period of use in the condition those areas were in at the beginning of the period of use.

4.12 Subletting, Assignment or Hire

- (1) The Licensee will not assign or sublet the Licensed Area, without the prior consent of the Shire.
- (2) The Licensee may only hire the Licensed Area, with the prior consent of the Shire.

4.13 Licensee's equipment and possessions

The Licensee 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 Licensee'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 Land and buildings located on the Land including, without limitation, insurance for buildings comprising the Licensed Area.

5.2 Shire responsible for Licenced Area

- (1) The Shire will maintain the Land and the Licensed Area as it considers appropriate and in accordance with the Shire's maintenance standards.
- (2) The standard of the maintenance and the frequency of the repairs and replacements identified in paragraph (1) above will be dependent on the Shire's general maintenance program and budgetary considerations and may vary from time to time.

5.3 Consider request for financial assistance

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

5.4 Clarrie Milne Collection

Both parties acknowledge and understand the 'Clarrie Milne Collection' items are recorded as belonging to the Shire of Chapman Valley. However, the obligation is on the Licensee to ensure the safety, security and integrity of all listed items within this collection is maintained at all times.

6. Default

- (1) This Licence is granted subject to the terms and conditions in this agreement and any failure by the Licensee 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 Licensee a written notice stipulating the default and requiring the Licensee 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 Licensee 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.

- (5) In the event the Licensee's organisation dissolves the Shire agrees to accept management and control of all buildings and items within the Licenced Area with the understanding:
 - i. All displayed items loaned or donated to the Licensee will be offered back to the donor in the first instance before any disbursement is considered;
 - ii. All display items owned by the Shire or offered to the Shire by donors can be disbursed as the Shire considers appropriate (e.g. to other Museums).

7. Dispute Resolution

- (1) Any dispute between the Licensee 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 Licensee, appointed for that purpose, and the officer of the Shire responsible for administering the Land.
- (2) If the dispute cannot be resolved, in a manner that is satisfactory to both parties through such a meeting, the Licensee 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.

8. Acknowledgements

The Licensee acknowledges and agrees that:

- (a) it only has use of the Land, the Licensed Area during the Agreed Hours and that other users of the Land may be permitted to use the Land (at other times);
- (b) the Agreed Hours may be modified from time to time provided any proposed modification is agreed in advance with the Shire;
- (c) this Licence will automatically terminate if the management order the Shire holds over the Land under is changed;
- (d) if the Licence is terminated in accordance pursuant to paragraph (c) above the Licensee will not be entitled to any form of compensation or damages as a result of the termination; and
- (e) the Licensee must not obstruct any person or other organisation from using the Land approved by the Shire Chief Executive Officer.

9. General Provisions

9.1 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.

9.2 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.

9.3 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.

9.4 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.

9.5 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.

9.6 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.

9.7 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 group 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 Licensee 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 Licensee; 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) Lot 500, Reserve 13226, East Terrace, Nanson located on the Land and generally labelled on the sketch annexed hereto as **Annexure 1**.

Item 2 Commencement Date

.....

Item 3 Term

20 years commencing on 2016 and expiring on 2036 with an option a further 20 years.

Item 4 Other Amenities

Nil

Item 5 Licence Fee

Peppercorn (only on demand)

Item 6 Permitted purpose

Chapman Valley Historical Society Incorporated activities and uses reasonably ancillary thereto.

Item 7 Licence Fee Review Dates

As determined by Concil.

Item 8 Agreed Days/Hours

Unrestricted, unless otherwise determined by Council

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 **Chapman Valley Historical Society Incorporated** was hereunto affixed pursuant to the constitution of the Chapman Valley Historical Society 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 Chapman Valley Historical Society Incorporated indicated under his or her name-

Office Holder Sign

Name:

Address:

Office Held:

Minister for Lands Consent

Office Holder Sign

Name:

Address:

Office Held:

Annexure 1 – Sketch of Licensed Area



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Mrs Raymond left Chambers at 10.33am

11.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING COUNCIL RESOLUTION

MOVED: CR HUMPHREY

SECONDED: CR WOOD

That late item 12.1 – Public Health Act 2016 – Delegations be dealt with at this meeting.

**Voting 7/0
CARRIED**

Minute Reference: 12/16-16

LATE AGENDA ITEM:	12.1
SUBJECT:	PUBLIC HEALTH ACT - 2016 - DELEGATIONS
PROPONENT:	CHIEF EXECUTIVE OFFICER & CONTRACT ENVIRONMENTAL HEALTH OFFICER
SITE:	WHOLE OF SHIRE
FILE REFERENCE:	501.00
PREVIOUS REFERENCE:	NIL
DATE:	16th DECEMBER 2016
AUTHORS:	GLENN BANGAY, CONTRACT ENVIRONMENTAL HEALTH OFFICER MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Note: The comments within this report are from Glenn Bangay, Principal Environmental Health Officer, with the Shire of Northampton from where this Shire obtains its environmental health services.

The gazettal of the *Public Health Act 2016* represents a significant update and change to the implementation of environmental health legislation, replacing the *Health Act 1911*. As there is a significant amount of work required to transition to the new regulatory framework, the Department of Health (WA) has advised that implementation is to occur in a staged manner over the next 3 to 5 years.

The old *Health Act 1911* (which will be known as the *Health (Miscellaneous Provisions) Act 1911*), and all regulations made under the *Health Act*, will continue to be the main enforcement tool used by the Shire's Environmental Health Officers until the provisions of the new Act are proclaimed over the coming years.

There are five (5) stages of implementation, of which Stages 1 and 2 are already in effect and have no practical implications for local government. Stage 3 involves key elements of the administrative framework provided by Part 2 of the *Public Health Act 2016* coming into operation to replace the equivalent administrative framework provided by Part II of the *Health Act 1911*. This includes gazettal of Environmental Health Officers to enforce the provisions of the Act within their local government authority and annual reporting requirements. Stage 3 is expected to occur on 24th January 2017, with works needed to be undertaken to effect this transition within the Shire of Chapman Valley.

Stage 4 will adopt changes to the *Public Health Act 2016* relating to notifiable infectious diseases and related conditions, prescribed conditions of health, serious public health incident powers and public health emergencies. Date for commencement is yet to be determined. No action by local government is expected during this implementation stage.

Stage 5 will be the most significant stage of implementation for enforcement agencies as it represents the point at which they move from the framework provided by the *Health (Miscellaneous Provisions) Act 1911* to the *Public Health Act 2016*. The development of new regulations under the *Public Health Act 2016* relating to environmental health matters will commence, and feature provisions for:

- the built environment
- water
- body art and personal appearances
- pests and vectors.

Equivalent provisions in the *Health (Miscellaneous Provisions) Act 1911* and regulations and by-laws made under that Act will be repealed.

The following provisions will also commence with the enforcement provisions:

- Public Health Planning
- Public Health Assessments and
- Registration and licensing

Stage 5 will require substantial works by local government to implement this stage. The Department of Health has advised that it will be working closely with Local Government Authorities in the lead up to this stage, including consultation on the development of the required regulations.

All currently employed Environmental Health Officers will automatically be authorised officers and will continue to enforce both the new and the old public health legislation as the transition continues. However, implementation of Stage 3 requires that they must be provided a certificate of authority, to be produced on request. The Shire's authorised delegate is required to sign the certificate.

Using section 21(1)(b)(i) Part 2 of the new Public Health Act 2016, Council may delegate the powers and duties conferred on it to the Chief Executive Officer or an authorised officer of the Local Government. At this time, the effect of the delegation being sought is minor (sign the certificate), however as further provisions are gazetted to expand the powers of the *Public Health Act 2016*, this delegation will provide for the smooth implementation of these provisions as they are implemented.

Precedent for this is already in place for the Health Act (Delegation 30) which enables the CEO to act on behalf of Council in respect to the Act and associated Regulations. This includes initiating legal action on behalf of the Shire for breaches of the *Health Act 1911*. The current delegation will need to remain in place during the transition to the new *Public Health Act 2016*.

COMMENT

The designation of authorised officers and the appointment of EHOs is now the responsibility of Local Government (enforcement agency). The Department of Health no longer has a role in the designation or appointment of EHOs/authorised officers.

Once Stage 3 comes into effect, all designations must be made under the Public Health Act 2016, and no longer under the Health Act 1911 (to be renamed the Health (Miscellaneous Provisions) Act 1911)

Section 17 of the new Public Health Act 2016, provides Council the ability to appoint Environmental Health Officers/Authorised Officers without the need to apply for approval from the Health Department of WA. As such Council will need to provide delegation to the CEO to carry out this new function.

Section 24 of the new Public Health Act 2016 provides Council the ability to designate a person or class of persons as Authorised Officers and to issue authority cards to those officers. This function was previously carried out by the Health Department of WA. Council will now need to provide delegation to the CEO to carry this new function.

STATUTORY ENVIRONMENT

Public Health Act 2016

POLICY IMPLICATIONS

No existing Policy or Procedure affected.

FINANCIAL IMPLICATIONS

There are no additional financial implications.

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

No effect on LTFP

STRATEGIC IMPLICATIONS

No change to current arrangements.

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

Objective	Strategy	Actions
We need good services to support our development as a Shire	Maintain and improve existing services and facilities and look at what additional services the community require	Provide environmental health services to protect public health

CONSULTATION

Consultation has occurred with the Contract Principal Environmental Health Officer.

RISK ASSESSMENT

Based upon the adopted *Risk Assessment and Acceptance Criteria* for the Shire's Risk Management Policy & Procedures the following risk level is considered relevant:

- ***Insignificant/Minor Risk*** in the areas of *Financial Impact, Compliance and Reputation*.

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR HUMPHREY

SECONDED: CR FORRESTER

Council pursuant to Section 21(1)(b)(i) Part 2 of the Public Health Act 2016 resolves to delegate all the powers and duties conferred or imposed on the Shire of Chapman Valley by the Public Health Act 2016 to the Chief Executive Officer.

**Voting 7/0
CARRIED**

Minute Reference: 12/16-17

13.0 DELEGATES REPORTS

Cr Collingwood advised that he and Cr Warr attended the Telstra opening of the 4 mobile phone towers held on 13 December in Chambers.

Cr Collingwood and Cr Warr attended the presentation of certificate by Shane Love MLA for the Chapman Valley Agricultural Society – shed shelter.

Cr Collingwood advised also that he had attended both school presentation evenings.

Cr Wood advised that the Parkfalls Management Committee held their Christmas function in the Bill Hemsley Park and thanked Esky Kelly and the Shire for use of the fire truck.

Cr Forrester requested that congratulations be passed onto gardening staff as the grounds are looking great.

14.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The President expressed the need for Elected Members to attend as many community events as possible. It is understood Elected Members cannot attend all events; however, he felt there had been minimal of representation of late.

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

Nil

16.0 CLOSURE

The Chairman thanked the Elected Members and Staff for their attendance and wished everyone a Merry Christmas and safe New Year and closed the meeting at 10.42am.