



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 20 February 2019
at the Council Chambers, Nabawa
commencing at 9:00am.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

CONFIRMED MINUTES

FEBRUARY 2019

Shire's Vision

*'A thriving community, making the most of our coastline, ranges and rural settings to
support us to grow and prosper'*

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", is written over a large, light-colored circular scribble.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

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6.0 DISCLOSURE OF INTEREST

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

Section 5.60A:

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

Section 5.60B:

*"a person has a **proximity interest** in a matter if the matter concerns –
(a) a proposed change to a planning scheme affecting land that adjoins the person's land; or
(b) a proposed change to the zoning or use of land that adjoins the person's land; or
(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land."*

Regulation 34C (Impartiality):

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

Item No.	Member/Officers	Type of Interest	Nature of Interest

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1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The President, Cr Farrell welcomed Elected Members and Staff and declared the meeting open at 9.03am.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

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

3.1 Present

a. Councillors

Member
Cr Anthony Farrell (President)
Cr Kirrilee Warr (Deputy President)
Cr Nicole Batten
Cr Pauline Forrester
Cr Darrell Forth
Cr Peter Humphrey
Cr Ian Maluish

b. Staff

Officer	Position
Mr Maurice Battilana	Chief Executive Officer
Mr Simon Lancaster	Deputy Chief Executive Officer
Mrs Dianne Raymond	Manager of Finance & Corporate Services
Mrs Karen McKay	Executive Services Administrator (Minute Taker)

c. Visitors

Name	
Chad Butler Henderson	Item 10.1.1
Dave Duperouzal	Item 10.1.2

3.2 Apologies

Name
Cr Trevor Royce

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

Item No.	Member/Officers	Type of Interest	Nature of Interest
10.1.2	Cr Humphrey	Impartiality	Conflict of interest
15.1	Cr Farrell	Financial	Tender of trade grader
15.1	Cr Warr	Impartiality	Family member is State Manager for Komatsu Australia Pty Ltd

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

Nil

7.3 Deputations

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

COUNCIL RESOLUTION

MOVED: CR HUMPHREY

SECONDED: CR BATTEN

8.1 Ordinary Meeting of Council held on Wednesday 12 December 2018

That the minutes of the Ordinary Meeting of Council held Wednesday 12 December 2018 be confirmed as a true and accurate.

Voting 7/0

CARRIED

Minute Reference: 02/19-1

9.0 ITEMS TO BE DEALT WITH EN BLOC

COUNCIL RESOLUTION

MOVED: CR BATTEN

SECONDED: CR FORTH

That items 10.3.1, 10.3.2 and 10.3.3 be moved en-bloc.

Voting 7/0

CARRIED

Minute Reference: 02/19-2

10.0 OFFICERS REPORTS

10.1 Manager of Planning February 2019

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10.1 AGENDA ITEMS

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- 10.1.3 Proposed Subdivision, Lot 2462 White Peak Road, White Peak
- 10.1.4 Geraldton Alternative Settlement Agreement

AGENDA ITEM:	10.1.1
SUBJECT:	PROPOSED RELOCATION (EXPANSION) OF BUILDING ENVELOPE
PROPONENT:	C & M BUTLER-HENDERSON
SITE:	39 (LOT 322) WESTLAKE PLACE, WHITE PEAK
FILE REFERENCE:	A1828
PREVIOUS REFERENCE:	10/10-3
DATE:	12 FEBRUARY 2019
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.1(a)	Submitted Application	√	
10.1.1(b)	Received Submissions	√	
10.1.1(c)	Applicant's response to submissions	√	

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

Council is in receipt of an application to relocate (expand) the building envelope upon 39 (Lot 322) Westlake Place, White Peak. The application has been advertised for comment, and 2 objections were received. This report recommends approval of a revised site layout.

Figure 10.1.1(a) – Location Plan of 39 (Lot 322) Westlake Place, White Peak



COMMENT

Lot 322 is a vacant 7,820m² property with a curving 119.99m frontage along its northern boundary to Westlake Place and the Dolby Creek reserve along its rear/southern boundary.

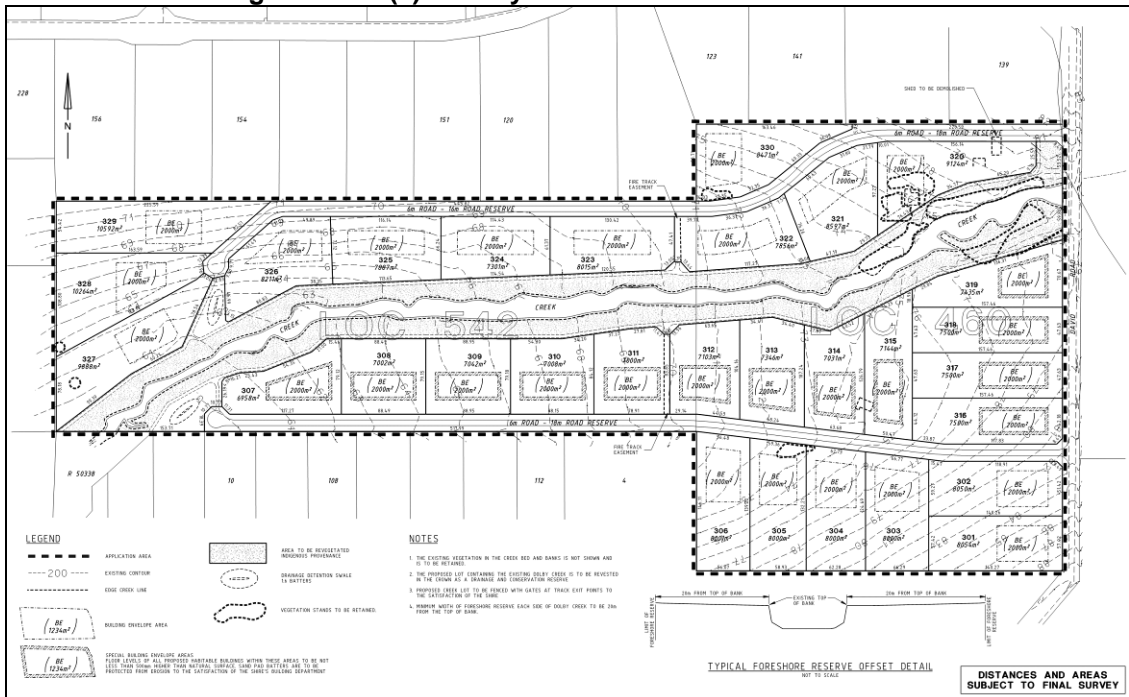
The property is cleared and slopes downwards from a 73½m contour at its eastern end to a 70½m contour at its western end. A gravel fire easement runs between Westlake Place and Dolby Creek inside the western boundary of Lot 322.

Figure 10.1.1(b) – Aerial photograph of 39 (Lot 322) Westlake Place, White Peak



Council adopted the Dolby Creek Estate Subdivision Guide Plan at its 20 October 2010 meeting that designated a 2,000m² building envelope for Lot 322 within which all development was required to be located to ensure adequate setback from the Dolby Creek Reserve. A copy of the Dolby Creek Estate Subdivision Guide Plan is provided as **Figure 10.1.1(c)**.

Figure 10.1.1(c) – Dolby Creek Subdivision Guide Plan



The applicant is seeking to construct a single storey residence upon Lot 322 that would be located entirely within the building envelope. The residence would be setback 15m from the front property boundary and would have weatherboard wall cladding (colour: Tranquil Retreat) and colorbond roof (colour: Monument).

The applicant is also seeking to construct a 103.968m² (3.6m wall height) shed 1m to the east of the residence. The outbuilding would be clad in Shale Grey colorbond wall cladding and Monument colorbond roof cladding to match the residence. The proposed outbuilding would be located half in-half out of the building envelope.

The applicant is also seeking to site an 8.69m diameter, 2.18m high (129kL) water tank 1m east of the outbuilding. The tank is proposed to match the wall and roof colours of the adjoining outbuilding. The proposed tank would be setback 8m from the eastern side property boundary and would be located entirely outside of the building envelope.

A copy of the applicant's submitted plans and supporting correspondence have been provided as **Attachment 10.1.1(a)** for Council's information.

Figure 10.1.1(d) – Panorama view of Lot 322 looking south from Westlake Place



Figure 10.1.1(e) – View of proposed building envelope encroachment area looking south



Figure 10.1.1(f) – View of Lot 322 looking east from fire easement entrance



Given the application proposes development outside of the building envelope for Lot 322 as shown upon the Dolby Creek Subdivision Guide Plan it exceeds the level of delegated authority established by the Shire of Chapman Valley Local Planning Policy 'Building Envelopes' and is presented to Council for its determination.

The application was advertised for comment and 2 objections were received, the applicant was subsequently invited to make comment upon the nature of the objections, and this is discussed in the Consultation section of this report.

STATUTORY ENVIRONMENT

39 (Lot 322) Westlake Place, White Peak is zoned 'Rural Residential 1' under Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme').

Section 4.2.4 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."*

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

- "1 Subdivision and land use shall be generally in accordance with a Structure Plan adopted by the Local Government and endorsed by the Western Australian Planning Commission.*
- 2 All dwellings shall be sited in accordance with the setback requirements specified in the Scheme for the Rural Residential Zone, except where for specific lots, building envelopes are shown on the Structure Plan. Where building envelopes are shown then all dwellings, associated structures and effluent disposal systems must be located within that envelope...*
- ...4 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 5.1 of the Scheme 'Variations to Site and Development Standards and Requirements' establishes the basis by which Council should consider relaxation or variation of its standard requirements:

- "5.5.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the Local Government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the Local Government thinks fit.*
- 5.5.2 In considering an application for planning approval under this clause, where, in the opinion of the Local Government, the variation is likely to affect any owner occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the Local Government is to:*
 - (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and*
 - (b) have regard to any expressed views prior to making its determination to grant the variation.*
- 5.5.3 The power conferred by this clause may only be exercised if the Local Government is satisfied that:*
 - (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and*
 - (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality."*

Section 5.11 of the Scheme states:

- "5.11 Building Envelopes*

- 5.11.1 *Where a building envelope is identified on a subdivision guide, structure or fire management plan, all development shall be contained within the designated envelope area.*
- 5.11.2 *No development of any structures shall occur within any area/s identified as 'Development Exclusion Area', 'Re-vegetation Area', 'Remnant Vegetation' or similar on the subdivision guide, structure or fire management plan;*
- 5.11.3 *Notwithstanding the requirements of Clause 9.1 of the Scheme, where a building envelope exists on a particular lot an application for planning approval to change or relocate the building envelope shall be accompanied by relevant building plans and information addressing visual amenity, privacy and screening, vegetation loss, access, and proximity to natural features.*
- 5.11.4 *In considering an application to relax the requirements of Clause 5.11.2 and 5.11.3 the Local Government shall, in addition to the general matters set out in Clause 5.5, give particular consideration to:*
 - (a) unacceptable visual clutter, especially in elevated areas of high landscape quality or visually exposed locations;*
 - (b) unnecessary clearing of remnant native vegetation;*
 - (c) visual obtrusiveness and/or impact on an adjoining property by way of privacy, noise, odour or light spill;*
 - (d) suitability for landscape screening using effective screening vegetation; and*
 - (e) compliance with the land-use, setback, building height, development exclusion, vegetation protection, bushfire requirements and other pertinent provisions of the Local Planning Scheme and associated Local Planning Policies."*

The Dolby Creek Subdivision Guide Plan was adopted by Council at its 20 October 2010 meeting and is therefore considered to form a Structure Plan as per Section 5.22.1 of Scheme No.2 (also referencing Part 9 Regulation 70 of the *Planning and Development (Local Planning Schemes) Regulations*) 2015:

"5.22.1 Interpretation...

- ...(c) 'structure plan' means a structure plan that has come into effect in accordance with clause 5.22.10 and includes any Outline Development Plan or Subdivision Guide Plan prepared and approved under the previous local planning scheme of the local government, where applicable to a structure planning area;*
- (d) 'structure planning area' is an area that requires structure planning and may be required in any zone"*

Section 10.2 of the Scheme lists the following relevant matters to be considered by Council 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

Part 2 of the Scheme allows for Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area. This application has been brought before Council for its consideration as it exceeds the delegated authority of Shire staff in relation to the 'Building Envelopes' Local Planning Policy.

The 'Building Envelopes' Local Planning Policy was adopted by Council in order to give guidance to landowners and staff when dealing with applications that requested the relocation and amendment of designated building envelopes.

The objectives of the 'Building Envelopes' Local Planning Policy are listed as:

- “3.1 To provide guidance with respect to the amendment of a building envelope (relocation, expansion) that will not lead to unacceptable impacts on surrounding properties.*
- 3.2 To provide criteria by which the amendment of a building envelope should be considered to assist in protecting the integrity of the application of building envelopes.*
- 3.3 To provide guidance in relation to the information required to be submitted as part of an application for the amendment of a building envelope.”*

Sections 4.3 & 4.4 of the 'Building Envelopes' Local Planning Policy state that:

- “4.3 In considering an application to relax the development standards pursuant to Section 5.5 of Local Planning Scheme No.2, the Council will give particular consideration to:
 - (a) justification for the proposed amendment;*
 - (b) the secondary nature of the development should the application be to site a building/s outside of the envelope (i.e. horse stables);*
 - (c) unacceptable visual clutter, especially in elevated areas of high landscape quality or visually exposed locations, such as the edge of hill or mesa tops within prominent parts of the Moresby Range;*
 - (d) unnecessary clearing of remnant native vegetation;*
 - (e) visual obtrusiveness and/or impact on an adjoining property by way over looking, noise, odour or light spill;*
 - (f) suitability for landscape screening using effective screening vegetation and the availability of a proven water supply for this purpose;*
 - (g) use of materials and colours to assist in softening any perceived visual impact;*
 - (h) compliance with the land-use, setback, building height, development exclusion, vegetation protection, bushfire requirements and other pertinent provisions of the Local Planning Scheme and associated Planning Policies.**
- 4.4 Building envelopes are generally imposed at the time of subdivision to provide an area in which buildings upon a property will be clustered and provides an understanding for surrounding landowners of the potential location of future built form. Whilst this Policy provides guidelines for an application to be submitted to amend a building envelope it should not be construed that approval will be granted with each application assessed on its individual merits.”*

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 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 was endorsed by Council at its 19 July 2017 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 primary reason for establishing building envelopes upon the Dolby Creek Subdivision Guide Plan was to ensure that development was located away from the Dolby Creek watercourse to reduce potential risk from flooding and away from the associated riparian vegetation to reduce fire risk. On this basis, when an application does not propose to site development closer to Dolby Creek, the modification of the building envelope is something Council may wish to give some consideration to.

Whilst the original role of the setting of building envelopes on the Dolby Creek Subdivision Guide Plan was intended to increase the setback distance to Dolby Creek it has also resulted in another, whether intended or not, consequence of providing purchasers into this area with a level of certainty on where future development may occur upon the neighbouring lots and the impact this may have on their western ocean and eastern range outlooks.

The relocation/expansion of building envelopes has the potential to impact on the views from surrounding properties. An adherence to building envelopes provides landowners buying into a subdivision a higher level of certainty as to the location of built development upon surrounding properties, which will assist in the decision-making process for the design of the use of their lot. 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'. However, when a subdivision exhibits opportunity for multiple lots to achieve a view then developers often put mechanisms in place to provide a level of protection for purchasers to increase the attractiveness of lots and drive sales. From a local government point of view this can be advantageous as this can maintain higher lot prices which can promote a higher standard of development within a locality.

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 15 November 2017 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Strategic Community Plan.

CONSULTATION

Section 4.1 of the Shire's 'Building Envelopes' Local Planning Policy notes that an application seeking to relocate, remove or expand a building envelope may be advertised to surrounding landowners prior to being placed before a meeting of Council for consideration.

Section 5.5 of the Scheme also notes that when considering an application for planning approval, where, in the opinion of the local government, the variation is likely to affect any owner occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to consult with the affected parties, and have regard to any expressed views prior to making its determination.

The Shire wrote to the 4 surrounding landowners on 3 January 2019 providing details of the application and inviting comment upon the proposal prior to 1 February 2019, a sign was also erected on-site to advise of the received application and the opportunity for comment.

At the conclusion of the advertising period 2 submissions had been received, from the Westlake Place landowners west of Lot 322, both in objection to the application, and a copy of the received submissions have been provided as **Attachment 10.1.1(b)**.

The applicant was provided with the opportunity to respond to the issues raised during the advertising period and a copy of their response has been provided as **Attachment 10.1.1(c)**.

Council may wish to consider one of the following options at this juncture:

Option A – Refusal

In the event that Council wish to refuse the application it may consider the following wording appropriate:

“That Council refuse the application for the relocation (expansion) of the building envelope upon 39 (Lot 322) Westlake Place, White Peak for the following reasons:

- 1 *The development is located outside of the building envelope as shown upon the Dolby Creek Subdivision Guide Plan.*

- 2 Council is not satisfied that sufficient justification has been provided to warrant a concession being granted in this instance to the requirements under Section 5.11 'Building Envelopes' and Schedule 11 'Rural Residential 1' of the Shire of Chapman Valley Local Planning Scheme No.2 and Section 4.3 of the Shire of Chapman Valley Local Planning Policy 'Building Envelopes'.
- 3 The submissions 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.

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."

Option B – Approval

In the event that Council consider that the application should be approved it may consider the following wording appropriate:

"That Council grant planning approval for the relocation (expansion) of the building envelope upon 39 (Lot 322) Westlake Place, White Peak as shown in Attachment 10.1.1(a)."

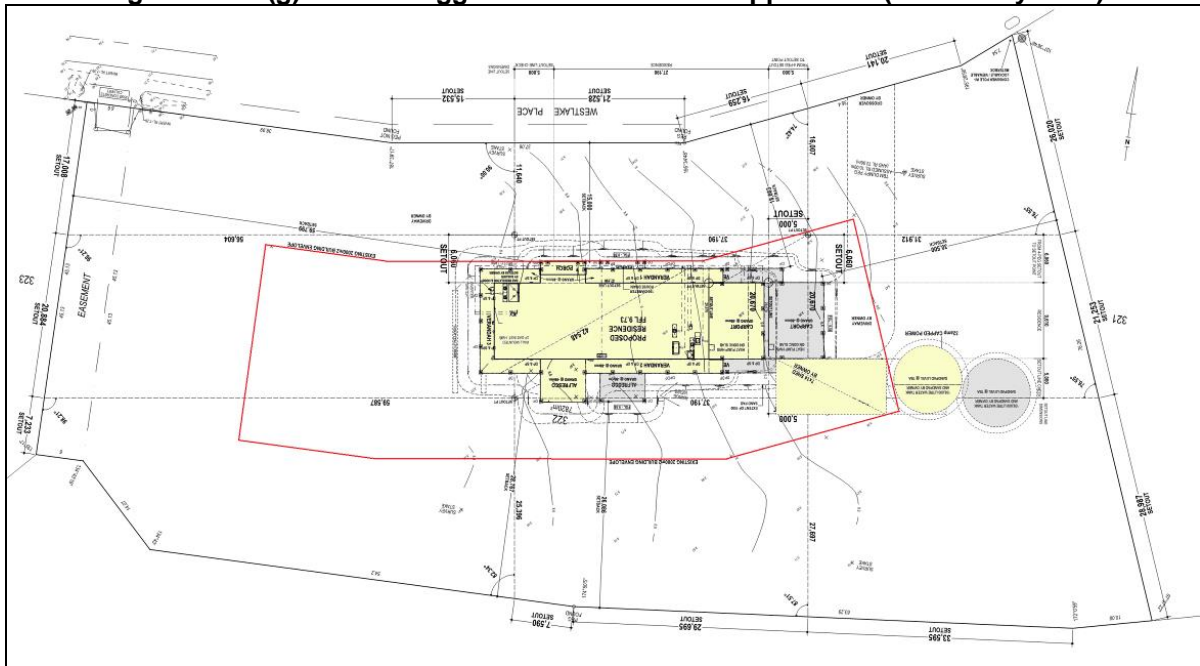
Option C – Approval of Amended Site Plan - **RECOMMENDED OPTION**

To respond in part to the aims of the applicant, and the issues raised by the objectors, Shire staff recommend approval of a revised site plan that locates the proposed residence and outbuilding approximately 7m west of the applicant's proposal, so that they are both within the building envelope. This would allow for the location of the water tank immediately outside/east of the building envelope, and also for it to be sited approximately 1.6m further forward/north so that it is in-line with the rear wall of the immediately adjacent outbuilding.

Figure 10.1.1(g) has been prepared to elaborate upon this suggested compromise solution with the proposed Shire location shown in yellow, overlaid upon the original proposed location shown in grey.

It is also recommended that the water tank and outbuilding be clad in colours complementary to the residence to the approval of the local government, and not contain zincalume cladding to address another issue raised in the received objections.

Figure 10.1.1(g) – Shire suggested amendment to application (shown in yellow)



Shire staff have recommended this amended/compromise proposal for the following reasons:

- the underlying intent behind the building envelopes was to protect development from any potential flooding or bushfire risk from the Dolby Creek reserve to the south and a minor expansion of the building envelope to the east would not conflict with this purpose;
- building envelopes are also intended to ensure development is clustered upon the property and the application upholds this intent by proposing to site the residence, outbuilding and water tank in close proximity;
- it is considered that the siting of half of the outbuilding and the entire water tank outside of the building envelope would be a significant variation to the building envelope but that the suggested amended plan as contained in **Figure 10.1.1(g)** could be considered more minor in nature and would give some regard for the issues raised in objection;
- Council has previously approved amendments to building envelopes upon the Dolby Creek Subdivision Guide Plan only where it was satisfied that no negative impacts would arise, for Lot 330 Westlake Place (directly opposite Lot 322) and Lot 316 Patten Place, both at the 16 December 2015 meeting and Lot 321 Westlake Place (directly east of Lot 322) at its 12 December 2018 meeting.

RISK ASSESSMENT

Rating 1 (Insignificant) Measures of Consequence – Risk Assessment and Acceptance Criteria

VOTING REQUIREMENTS

Simple majority required.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORTH

SECONDED: CR FORRESTER

That Council:

- 1 Refuse the submitted application for the relocation (expansion) of the building envelope upon 39 (Lot 322) Westlake Place, White Peak as shown in Attachment 10.1.1(a) as it is not satisfied that sufficient justification has been provided to warrant a concession being granted in this instance to the requirements under Section 5.11 'Building Envelopes' and Schedule 11 'Rural Residential 1' of the Shire of Chapman Valley Local Planning Scheme No.2 and Section 4.3 of the Shire of Chapman Valley Local Planning Policy 'Building Envelopes' and the submissions 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.

- 2 Approve a revised application for the relocation (expansion) of the building envelope upon 39 (Lot 322) Westlake Place, White Peak that locates the proposed residence and outbuilding within the building envelope and allows for the location of the water tank immediately outside/east of the building envelope, and subject to the water tank being sited so that it is in-line with the rear wall of, and not behind, the immediately adjacent outbuilding (as generally shown in Figure 10.1.1(g) to the Council Agenda report) and the water tank and outbuilding shall be clad in colours complementary to the residence to the approval of the local government, and shall not contain zincalume cladding.

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: 02/19-3**

Chad & Melissa Butler-Henderson
PO Box 3448
BLUFF POINT WA 6530

2nd January 2019

Chief Executive Officer
Shire of Chapman Valley
PO Box 1
NABAWA WA 6532

Dear Sir/Madam

RE: APPLICATION TO RELOCATE BUILDING ENVELOPE LOT 322, #39 WESTLAKE PLACE, WHITE PEAK

We, the owners of the abovementioned property, wish to formally request to apply for an extension of our building envelope to allow a planned outbuilding (shed) and water tank be constructed outside of the existing building envelope.

We purchased the block approximately five (5) years ago in the hopes of building our family home once we relocated to Geraldton.

The house is a custom design based upon the traditional station homestead, being long and rectangular with wide sweeping verandas. The house is designed with cross ventilation to be solar passive and allow natural cooling from any direction.

The location of house itself fits within the building envelope and has been chosen for several reasons:

- There are more established trees along the creek line at this location, providing a natural screen.
- This is the most level area allowing for reduced site works.
- The area proposed allows the house to sit on the highest level of the block, further reducing site works.
- Provides for an improved south western outlook.
- This block appears to be one of the lower points on Westlake Place and captures most of the road storm water which floods onto the property – designing house in higher part of lot allows additional security from possible floods.

The placement of the shed and rainwater tank, in relation to the house, has been chosen to be both practical and the most aesthetically pleasing for both ourselves, our neighbours and street appeal.

By moving the house further west, the natural curve of the building envelope would rotate the house on the property and cause the rainwater tank to protrude from the southern side of the building envelope and block our view of the ranges to the east.

Two further points for consideration, should the house be located at the north western point of our building envelope;

- This would likely cause the larger portion of ocean views for our neighbours at lot 321 and 330 to be blocked by the roof line of our house.
- Our neighbours at lot 323 have a horse paddock situated on their eastern boundary adjoining our property. The chosen location would reduce any impact from smell and flies from the horses.

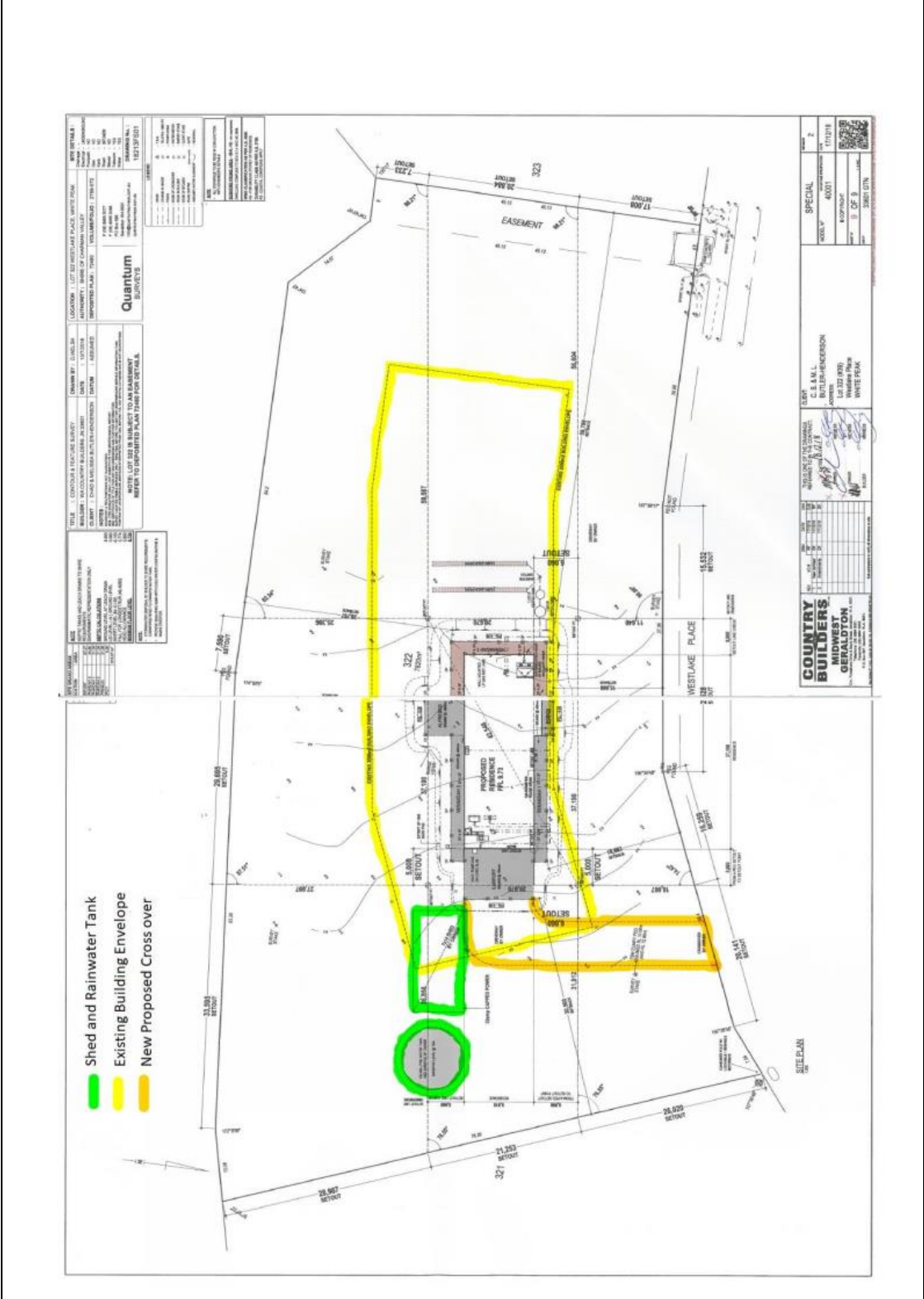
The eastern edge of the proposed shed (7.6 x 13.6m) and will be approximately 20 metres from the eastern boundary fence with the majority of the shed being within the building envelope. The 130L capacity rain water tank will be approximately 8 metres from the boundary fence. Both will be of colourbond steel construction and be similar colour scheme to the house, which will be weatherboard with colourbond roof.

The proposed shed and rain water tank positioning are integral to align with the design of our house and we cannot foresee any impediment of the neighbour's views of the south-west outlook nor present any conflict with the building envelopes intent to protect development from any potential flooding or bushfire risk from the Dolby Creek reserve to the south.

We are happy to address any concerns and answer any questions regarding this proposal.

Kind Regards,

Chad and Mel Butler-Henderson



ELEVATION 1
1:100

ELEVATION 2
1:100

COUNTRY BUILDERS MIDWEST GERALDTON <small>City, Farnborough Drive & Bassy Street, Geraldton, W.A. 6531. Telephone: (08) 9584 5001 Facsimile: (08) 9584 5002 P.O. Box 547, Geraldton, W.A. 6531.</small>	REV	VD #	DRN	DATE	CHK	THIS IS ONE OF THE DRAWINGS REFERRED TO IN THE CONTRACT. DATED:	CLIENT: C. S. & M. L. BUTLER-HENDERSON ADDRESS: Lot 322 (#39) Westlake Place WHITE PEAK	SPECIAL		REVISION		
	1	1	RP	11/15/18	DJB			MODEL N°	40001	ADJUSTAGE/DEFINITION	DATE	17/12/18
	2	2	Amendments	11/15/18	DK			© COPYRIGHT	2 OF 9	3. AND		
					Sub-contractors to verify all dimensions on site.			JOB N°	33601 GTN			

ELEVATION 3
1:100

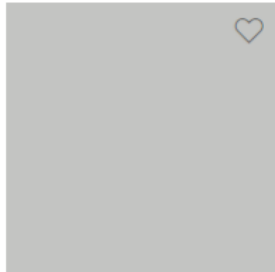
ELEVATION 4
1:100

COUNTRY BUILDERS MIDWEST GERALDTON <small>City, Farnborough Drive & Bassy Street, Geraldton, W.A. 6531. Telephone: (08) 9584 5001 Facsimile: (08) 9584 5002 P.O. Box 547, Geraldton, W.A. 6531.</small>	REV	VD #	DRN	DATE	CHK	THIS IS ONE OF THE DRAWINGS REFERRED TO IN THE CONTRACT. DATED:	CLIENT: C. S. & M. L. BUTLER-HENDERSON ADDRESS: Lot 322 (#39) Westlake Place WHITE PEAK	SPECIAL		REVISION		
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	2	2	Amendments	11/15/18	DK			© COPYRIGHT	3 OF 9	3. AND		
					Sub-contractors to verify all dimensions on site.			JOB N°	33601 GTN			

Residence

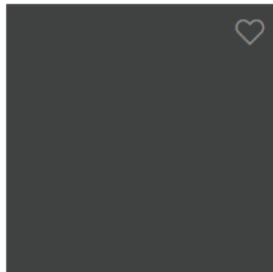
Weatherboard Panel

Dulux Tranquil Retreat



Roof, Gutters, Flashing

Colorbond Monument



Proposed Shed

Colorbond Shale Grey



Shed Roof, Gutters, Flashing

Colorbond Monument



Proposed Water Tank

Colorbond Shale Grey

(if available)



Water Tank Roof

Colorbond Monument

(if available)



An example of colours on a residence :



Shoreline Outdoor World

66 Flores Road
 Po Box 3223 Geraldton WA 6530
 Tel (08) 99 212151 or (08) 99 644447
 Fax (08) 99 217119

Quotation Ref 6958

Date 8-Nov-18

Mr/Mrs Mel Butlet-Henderson
 Post to Geraldton

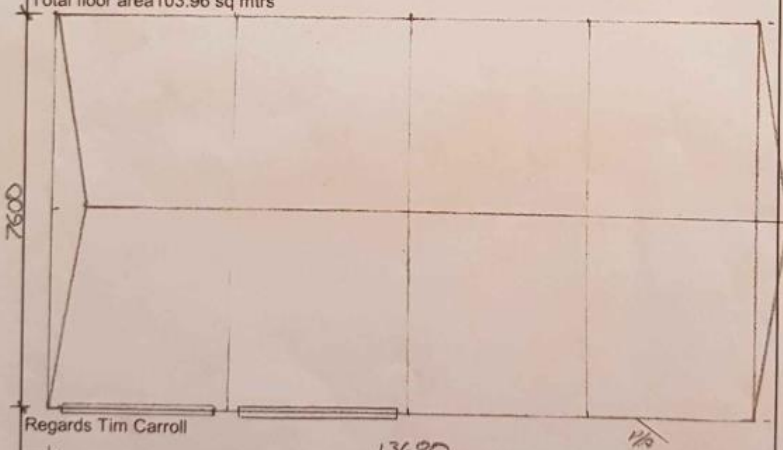
Job Address

Phone [redacted]
 email
 Fax

Quote Valid 30 Days

To supply only Ex our yard a Shoreline Outdoor World manufactured shed measuring 7600 wide X 13680 long X 3600 high at gutter This consists of
 Mono clad .42 colourbond roof and walls
 Easline commercial gutter no down pipes
 Two roller doors R1F 3040 wide X 2930 high clear opening
 One larnec 650/37 personal access door
 75x75x3 shs columns
 50x50x1.6 shs wall girts and welded A frame trusses 10 deg pitch
 25x25x1.6 shs roof and wall bracing where required
 100 1.0 Z purlins roof only
 Base rail (acts as bottom wall girt ,form work for floor and vermin proofing).
 Total floor area 103.96 sq mtrs

\$ 15,765.30



Regards Tim Carroll

Terms : FULL PAYMENT DUE WITHIN 7 DAYS OF COMPLETION

Sub Total	\$ 15,765.30
G S T	\$ 1,576.53
Total	\$ 17,341.83

Deposit required to proceed \$ 1,127.00

Balance on installation \$ 16,214.83

Total \$ 17,341.83

Unless stated otherwise ,(if required) all site costs will be extra to the quote . This includes bobcat and fill , bad access to the site , hard digging ie rock , tree roots etc.
 Down pipes are to ground level only -ALL STORM WATER DISPOSAL IS BY OTHERS .

SITE PREPARATION



Before a Pioneer water tank can be installed, a stable Tank pad foundation must be prepared. There are several important steps to consider when selecting your tank site and preparing the pad:



- 1 The Tank pad must be level, stable and constructed using clean inert sand** that is free of any debris.
- 2 The tank pad must be at least one meter larger than the diameter of your tank. It is also important to make sure that there are no nearby obstructions***, for when our installers come and assemble your new Pioneer Water Tank.
- 3 For sloping tank sites, ensure adequate drainage to divert water run-off away from the tank wall.
- 4 A non-corrosive aggregate must be placed around the base perimeter of the tank, once it has been installed. This aggregate helps to prevent the tank pad from eroding away, and keeps your tank in place.
- 5 A retaining wall may be required to maintain pad integrity, with sloping/uneven sites**.
- 6 Once your tank has been installed, it is important to fill it with the amount of water specified in the table below. This initial fill acts as an anchor weight, to help prevent movement from occurring in high wind/stormy areas.

* Check with your local distributor to see if they can provide this additional service. If not, you will need to make sure this is appropriately applied after installation yourself.
** For all 3 ring tanks (0.24M High), Pioneer recommends using a 150mm crusher dust base rather than using clean inert sand.
*** Please ensure that there is a space of at least 1 meter allowed for, between the tank wall, and any objects within the proposed tank pad vicinity.

Following the above process will help to ensure that your tank pad is prepared correctly. However in some areas where clean inert sand** is not easily sourced, Pioneer recommends also installing a geotextile membrane for additional liner protection.

Before you start preparing your site for installation of your water tank, Pioneer Water Tanks also recommends you contact your local shire to see if there are any regulations or restrictions in place.



MODEL	GROSS CAPACITY		TANK DIMENSIONS		TANK PAD PREPARATION DETAILS			
	Litres	Gallons	Diameter	Height	Tank Pad Size (Diameter x Depth)	Min. Clean Sand** Required	Aggregate Required	Water Required After Build
GT 500**	500,659	110,129	14.04 m	3.24 m	15.04 m X 150 mm	30.30 m ³	2.21 m ³	14,000 L
GT 410**	409,836	90,151	12.70 m	3.24 m	13.70 m X 150 mm	25.46 m ³	2.00 m ³	12,900 L
GT 370**	367,831	80,911	12.03 m	3.24 m	13.03 m X 150 mm	23.20 m ³	1.89 m ³	11,400 L
GT 330**	328,096	72,171	11.36 m	3.24 m	12.36 m X 150 mm	21.04 m ³	1.79 m ³	10,200 L
GT 290**	290,632	63,930	10.70 m	3.24 m	11.70 m X 150 mm	18.99 m ³	1.68 m ³	9,000 L
GT 280	276,180	60,751	12.70 m	2.18 m	13.70 m X 100 mm	16.97 m ³	2.00 m ³	12,900 L
GT 250	247,874	54,525	12.03 m	2.18 m	13.03 m X 100 mm	15.46 m ³	1.89 m ³	11,400 L
GT 220	221,797	48,635	11.36 m	2.18 m	12.36 m X 100 mm	14.03 m ³	1.79 m ³	10,200 L
GT 200	195,851	43,081	10.70 m	2.18 m	11.70 m X 100 mm	12.66 m ³	1.68 m ³	9,000 L
GT 170	172,134	37,864	10.03 m	2.18 m	11.03 m X 100 mm	11.36 m ³	1.58 m ³	7,900 L
GT 150	149,948	32,984	9.36 m	2.18 m	10.36 m X 100 mm	10.13 m ³	1.47 m ³	7,000 L
GT 130	129,292	28,440	8.69 m	2.18 m	9.69 m X 100 mm	8.97 m ³	1.37 m ³	6,000 L
GT 110	110,166	24,233	8.02 m	2.18 m	9.02 m X 100 mm	7.89 m ³	1.26 m ³	5,050 L
GT 90	92,570	20,363	7.35 m	2.18 m	8.35 m X 100 mm	6.87 m ³	1.16 m ³	4,350 L
GT 80	76,504	16,829	6.68 m	2.18 m	7.68 m X 100 mm	5.92 m ³	1.05 m ³	3,550 L
GT 60	61,968	13,631	6.02 m	2.18 m	7.02 m X 100 mm	5.05 m ³	0.95 m ³	2,900 L
GT 50	48,963	10,770	5.35 m	2.18 m	6.35 m X 100 mm	4.24 m ³	0.84 m ³	2,300 L
GT 40	37,487	8,246	4.68 m	2.18 m	5.68 m X 100 mm	3.50 m ³	0.74 m ³	1,750 L
GT 30	27,542	6,058	4.01 m	2.18 m	5.01 m X 100 mm	2.84 m ³	0.63 m ³	1,300 L
GT 20	19,126	4,207	3.34 m	2.18 m	4.34 m X 100 mm	2.24 m ³	0.53 m ³	950 L
GT 10	12,241	2,693	2.67 m	2.18 m	3.67 m X 100 mm	1.72 m ³	0.42 m ³	600 L

Note: This table provides necessary information about the area, and minimum volume of clean inert sand** required to correctly prepare a tank pad, for your Pioneer Water Tank.

Tanks that are located in high wind or cyclonic regions may require a concrete ring beam.

Allowance must be made for an air gap and pipe work positioning, to establish a usable tank volume (Effective Capacity).

OTHER PIONEER TANK SIZES AVAILABLE UPON REQUEST. CONTACT US AT 1800 999 599 FOR MORE INFORMATION.

From: Harris, Wayne
Sent: Thursday, 31 January 2019 12:03 PM
To: Customer Service <cso@chapmanvalley.wa.gov.au>
Cc: Robyne Condon
Subject: CR1913667 - FW: Application to relocate (expand) building envelope - 39 (Lot 322) Westlake Place White Peak (Your Reference A1828)

Dear Simon

After reviewing the application we would like to lodge an objection.

We purchased our home based on the documented building envelopes of our own and adjoining properties. We focused particularly on our western neighbours as the view to the ocean was of prime importance to us.

We do not believe there is any justification for the proposed alterations to the building envelope, there is ample room to move the house to the west or alternatively move the shed and tank to the western side of the house and retain the original site entry. We are firmly of the opinion that approval of this application will adversely impact on the value of our property and the western view to the ocean.

The comments that "The placement of the shed and rainwater tank, in relation to the house, has been chosen to be both practical and the most aesthetically pleasing for both ourselves, our neighbours and street appeal" is a very subjective statement that is not accurate. We are neighbours and this will impact on our outlook to the west. We have not been consulted by the applicants and as a result they have no idea of what our thoughts and opinions are.

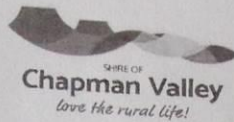
We urge you to work with the applicant to change their plans to move the shed and the tank to the western end of the building envelop as there is ample room to place them and retain their views.

If you have any questions please give me a call

Regards

Wayne and Robyne

1 Westlake Place
White Peak



DEVELOPMENT APPLICATION SUBMISSION FORM

Shire Reference: A1828

APPLICATION TO RELOCATE BUILDING ENVELOPE 39 (LOT 322) WESTLAKE PACE, WHITE PEAK

Name: Mark and Natalie Bradley

Postal Address: 1 DREW ST SPAULDING GERALDTON

Phone Number: [REDACTED]

SUBMISSION: Support Object Indifferent

Give in full your comments and any arguments supporting your comments (if insufficient space, please attach additional sheets) -

23-01-19

We Mark and Natalie Bradley of
LOT 321 31 Westlake Place White Peak
would like to thank the shire of
Chapman Valley for advising us on
the owners of LOT 322 39
Westlake Place White Peak are
seeking application to relocate
expansion of their building envelope
for shed and water tank. "Cont pages"

Signature: *M Bradley* Date: 23-01-19

Please return to: Chief Executive Officer or cso@chapmanvalley.wa.gov.au
Shire of Chapman Valley
PO Box 1 or (fax) 9920 5155
NABAWA WA 6532

NOTE: The local government in determining the application will take into account the submissions received but is not obliged to support those views.

Submissions Close: 4:00pm Friday 1 February 2019

We purchased our property for the reason of Ocean Views to the West and have located our house situated as far North-East in our envelope as possible being to maximise our Views.

We also have plans of a shed that was 3 metres out of our envelope and was granted by council, which was discuss and advised by our neighbours of Lot 320 Westlake Place, that he had no objections to our shed as long as the opening doors to the shed were not facing his view into his West direction.

We have given our neighbours that consideration in facing our shed doors to the North roadside direction, Also continuing colour bond panel fencing from the shed to Screening our backyard side of the house area from our neighbours giving both of us Privacy and to keep our dogs in and the snakes and rabbits out.

As we have been invited to comment about the relocation of an extension of the envelope of Lot 322 to accommodate their Shed and Water Tank, we do feel strongly about the shed doors and carport opening being completely open without any screening or privacy. We do NOT find this pleasing or practical to be facing into our neighbours area of recreational activities. This would be very disappointing and compromising as our privacy and peace of mind is the reasons for choosing this area to retire.

We have spent a considerable amount of monies in site works to raise our house pad and house design to fit into that specific area, along with growing our now established trees for 4 years along our fence roadside for natural screening and greening landscapes to attract birdlife with native vegetation.

We have no objection to where their house and driveways are located in their envelope, but we do have an Objection of the shed to be reconsidered to be repositioned in the North/South direction to create a screening of Privacy from their opening carport or entertaining area and with the shed doors facing West and not North or East. We have no objection to the position of the water tank.

However, being as close as it is to our shared fence line boundaries. We would have an Objection to request that our neighbours of Lot 322 would consider not having a Zincalume Steel Water Tank or a Zincalume tank top cover. The reason being the amount of glare caused by sun and reflection throughout the day onto any Zincalume.

We highly value our good neighbours and have enjoyed meeting and talking on a few occasions and are both excited to build our houses.

So without further delay we, Mark and Natalie Bradley, would like to submit our objections and reasoning for screening of Privacy and the Shed positioning for this application.

Thank you kindly,
Mark and Natalie Bradley.

Chad & Melissa Butler-Henderson
PO Box 3448
BLUFF POINT WA 6530

6 January 2019

Chief Executive Officer
Shire of Chapman Valley
PO Box 1
NABAWA WA 6532

Dear Sir

**RE: RELOCATE (EXPAND) THE BUILDING ENVELOPE – LOT 322 (#39) WESTLAKE PLACE, WHITE PEAK
– RESPONSE TO OBJECTIONS**

We, the owners would like to respond to the objections received regarding relocating our building envelope.

We purchased this block of land approximately 5 years ago and specifically custom designed the house for this block to be solar passive and energy efficient. The original outlook was for the front of the house to be rotated slightly more to the north east, however the building envelope provided to greater restriction on the placement of the shed and the current outlook was chosen so the majority of the shed was to be contained within the envelope.

An understanding that the location for the building envelope is for maximum separation from the water course (river and vegetation) for the 1 in 200 year flood or fire hazard, and not specifically for inhabitable buildings. The shed is not a habitable structure. By bringing the rainwater tank closer it could further assist in fighting any fire.

To Address Mr Harris's concerns I have looked at alternative options for placements of the shed and rainwater tank. Mr Harris makes mention of an impact to the value of his property however he has failed to identify how this application will reduce the value of his property.

I am unable to identify specific reasons for Mr Harris's objections aside from the impact of his outlook to the west. The alternative's I provide below will have a greater impact to his westerly views, making the original application more aesthetically pleasing to Mr Harris's views.

Mr Harris also complains that he was not consulted for which I must apologise to Mr Harris as I understood this process was the consultation period.

We have discussed our intentions for this application with our immediate neighbours to the west, Mr and Mrs Bradley at 31 Westlake Place, however did not specify the house design.

Although the carport attached to the house is within the building envelope and is not subject to this application, I can assure Mr and Mrs Bradley our area of recreational activities is to the south of our house, again not subject of this application, however the location of the shed is designed to provide privacy for our entertaining area and a future pool and will by no means encroach on their privacy. The placement of the east facing carport is critical to the solar passive design.

Mr & Mrs Bradley's do raise the concern regarding the shed doors. In the current design the shed doors are north opening, similar to their own. By repositioning the shed in a north/south direction would remove access to the carport and eliminate the solar passive design principals of the house.

I can confirm the shed and rainwater tank will be of colourbond construction and not zincalume. We are endeavouring to match the shed and rainwater tank to the house and, provided availability, we will use the colourbond colour "Shale Grey" on the walls and "Monument" on the roof, gutters and flashings.

We have given consideration to alternative designs and come up with two alternatives.

Firstly we move the house, shed and rainwater tank 7 metres to the west. This will result in the house and shed being contained within the building envelope, with only the rainwater tank remaining outside the envelope, still requiring council approval.

The second alternative is to slide the house and shed 7 metres to the west to be contained within the envelope, and relocate the rainwater tank to the west of the residence on the northern building envelope boundary.

Both alternatives do not address the concerns of either residents at 1 and 31 Westlake Place. Attached Landgate images highlight the westerly views of both residents would be further impacted by both of these alternatives. The rainwater tank would be in an unsightly position by being closer to the roadway on the western side of the house.

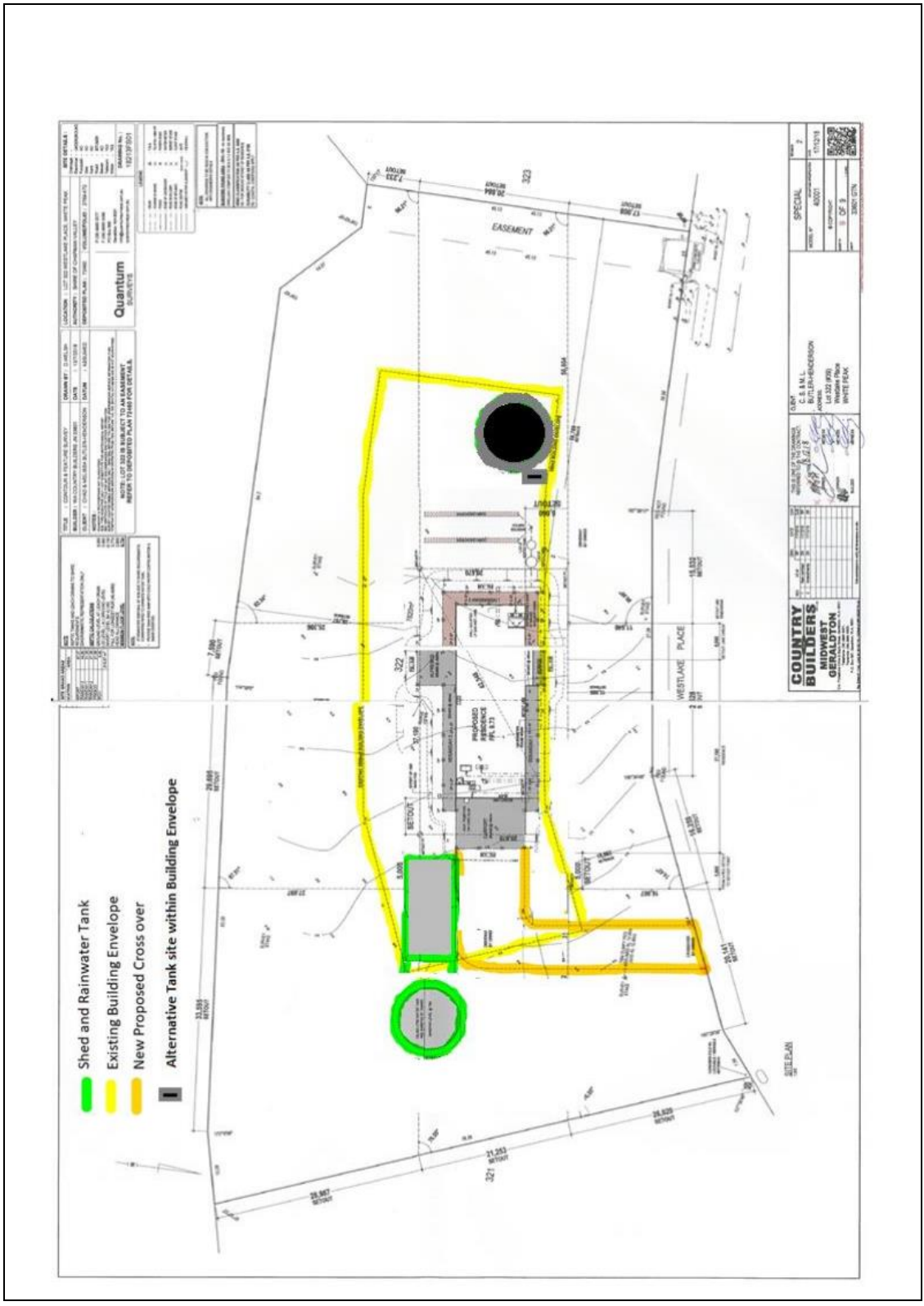
Both alternatives would have an additional financial impact such as requiring in excess of an additional 100 cubic metres of clean fill, additional plumbing and electrical services to the rainwater tank as well as an additional smaller shed to contain pumps and filtration equipment.

Although I do not want to upset my neighbours as Mr and Mrs Bradley mention, upon reflection this design is the most aesthetically beneficial to all my neighbours.

Kind Regards

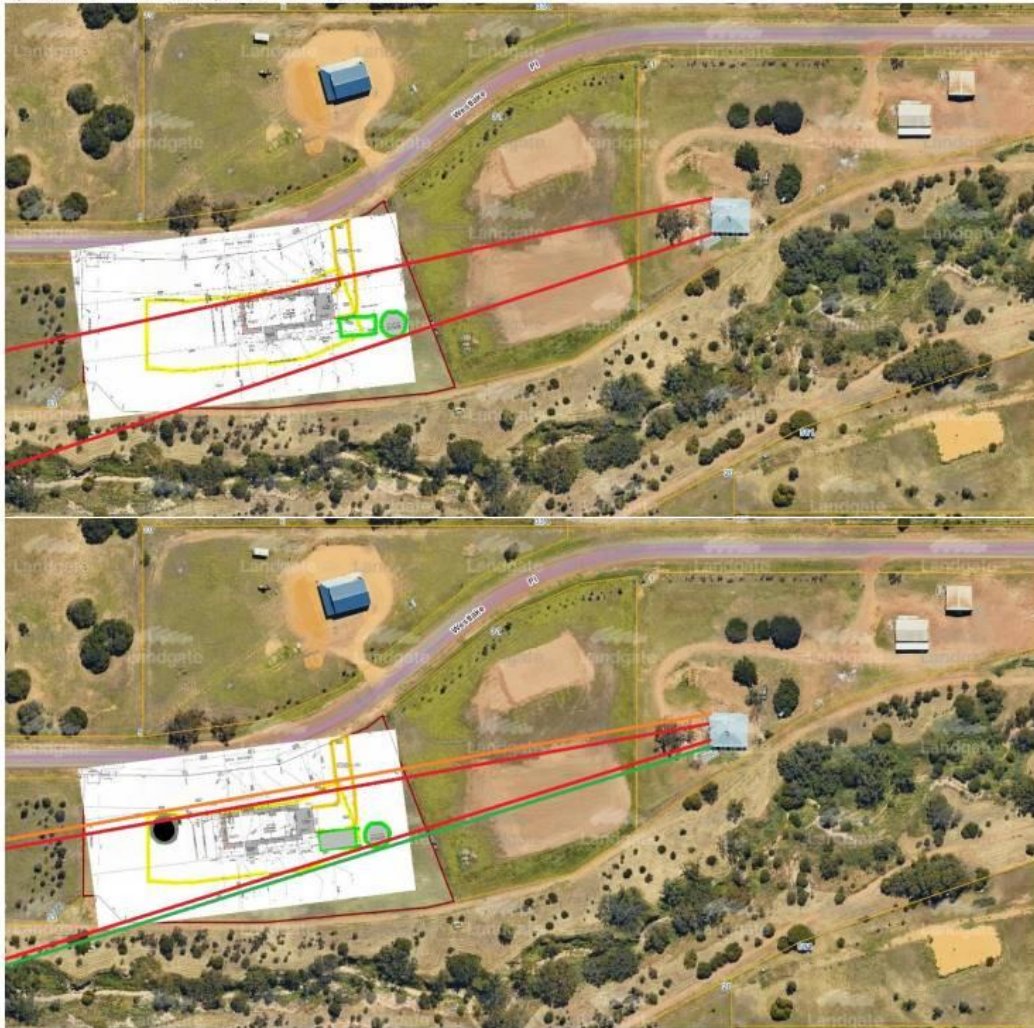


Chad & Melissa Butler-Henderson.

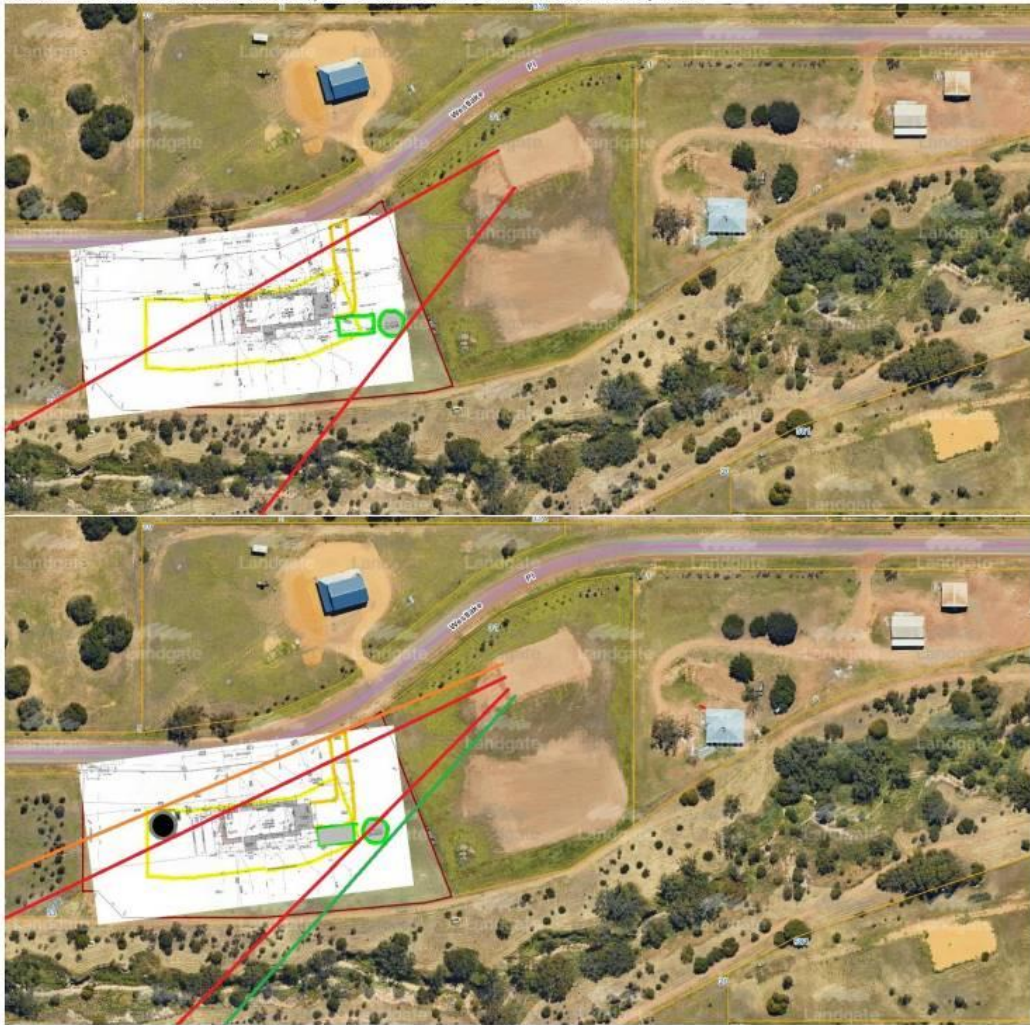




The below images represent view obstruction to the residents at 1 Westlake Place. The first image is the original proposal and the second image is with the alternative options. This overlay shows clearly by moving the house and shed 7 metres to the west to be within the envelope, this will obstruct more of this residents views. The Orange and green lines in the second image represents the two options for the rainwater tank, both options have minimal impact on this residents views.



The below images represent the view obstruction to the residents at 31 Westlake Place. The first image is the original proposal and the second image is with the alternative options. This overlay shows clearly by moving the house and shed 7 metres to the west to be within the envelope, this will obstruct more of this residents views. The Orange and green lines in the second image represents the two options for the rainwater tank, by moving the rainwater tank within the envelope blocks more of this residents westerly views



Mr Chad Butler Henderson left Chambers at 9.15am

Cr Humphrey declared an Impartiality Interest and decided to vacated chambers at 9.15am

AGENDA ITEM:	10.1.2
SUBJECT:	PROPOSED OUTBUILDING EXTENSION
PROPONENT:	D & K DUPELOUZEL
SITE:	5 (LOT 50) ELIZA SHAW DRIVE, BULLER
FILE REFERENCE:	A1227
PREVIOUS REFERENCE:	11/15-6
DATE:	12 FEBRUARY 2019
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENT:

Ref	Title	Attached to Report	Under Separate Cover
Nil			

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

An extension between 2 outbuildings upon 5 (Lot 50) Eliza Shaw Drive, Buller has been undertaken without approval. This matter has been placed before Council as it exceeds the delegation limits of the Shire’s ‘Outbuildings’ Local Planning Policy. This report recommends retrospective approval. An alternative recommendation is provided in the event that Council consider that action should be commenced requiring removal of the extension.

COMMENT

Lot 50 is a flat, cleared 1.9543ha rectangular property located immediately east of the North West Coastal Highway and on the north side of Eliza Shaw Drive with a 75.58m frontage and 265.8m depth.

Figure 10.1.2(a) – Location Plan for 5 (Lot 50) Eliza Shaw Drive, Buller



COMMENT

The property contains a 2 storey residence that is setback 24m from the Eliza Shaw Drive/southern property boundary and 25m from the North West Coastal Highway/western property boundary with a swimming pool to the north of the residence. Two outbuildings are located 6m north-east of the residence and are set back 50m from the Eliza Shaw Drive/southern property boundary, 55m from the North West Coastal Highway/western property boundary and 5m from the nearest/eastern property boundary.

Figure 10.1.2(b) – Aerial photo of 5 (Lot 50) Eliza Shaw Drive prior to unauthorised works



The development history for the property is as follows:

- 19/2/01 DP25477 created Lot 50 as part of Stage 1 of the Parkfalls Estate.
- 3/11/03 Parkfalls Estate developer sold Lot 50 to initial purchaser.
- 13/1/06 Current landowners purchased Lot 50.
- 23/2/06 Planning approval issued for 2 outbuildings upon Lot 50, with the western of the 2 outbuildings being 109.92m² (9.04m wide x 12.16m deep) with a 5m wall height, and the eastern outbuilding being 89.98m² (7.4m wide x 12.16m deep) with a 5m wall height, both outbuildings are clad in blue colorbond.
- 15/3/06 Planning approval issued for a 2 storey, cream brick walled, blue colorbond roofed residence.
- 10/1/07 Planning approval issued for a below ground swimming pool and associated fencing.
- 18/11/15 Council refused application to connect 2 outbuildings with enclosed extension.
- 20/11/17 Landowner lodged identical application to previously refused application to connect 2 outbuildings with enclosed extension.
- 12/12/17 Shire wrote to landowner advising that application exceeded level of delegated authority provided to Shire staff and was therefore required to be presented to Council for consideration. Shire correspondence noted *"It is understood from your discussion with Shire staff that you are intending to submit a revised development that proposes additional 'connecting' works between the residence and outbuilding that would utilise complementary materials and colours to the existing built form. The Shire will therefore await your submission of the revised site, elevation and floor plans, and your additional supporting information, prior to commencing assessment of the application."*
- 11/1/18 Shire emailed landowner enquiring when requested additional information would be submitted.
- 12/12/18 Council raised issue that a roof (unenclosed extension) had been constructed to connect the 2 outbuildings.
- 13/12/18 Shire staff spoke with landowner to advise that inspection of Lot 50 had confirmed that an outbuilding extension had been constructed without approval and that this matter would be placed before the 20/2/19 Council meeting. Landowner advised that they did not seek to undertake any further works

i.e. they did not seek to enclose the roofed section with wall cladding or doors. Shire wrote to landowner to confirm in writing the nature of the discussions.

7/2/19

Shire staff met with landowner on-site to view works.

Figure 10.1.2(c) – View of Lot 50 from Eliza Shaw Drive prior to unauthorised works



Figure 10.1.2(d) – View of Lot 50 from Eliza Shaw Drive following unauthorised works



Figure 10.1.2(e) – View of outbuilding from rear of Lot 50 looking south



The landowner is seeking approval for the 42.56m² roofed section that covers the 3.5m wide and 12.16m deep area between the 2 outbuildings. The roof extension utilises matching colours and materials to the existing outbuildings.

The extension increases the total outbuilding area upon Lot 50 from 199.9m² to 242.46m² and as this exceeds the 200m² maximum aggregate area under which Shire staff may approve applications under delegated authority it has therefore been presented to Council for its consideration.

Figure 10.1.2(f) – Roof extension between existing outbuildings upon Lot 50



Whilst it might be considered that the process the landowner has elected to follow lacks good faith, and Council does have the right to pursue legal avenue for the removal of the structure, there is the ability for Council to consider the development as having merit and could be permitted to remain based on the following:

- the development is minor in nature seeking only to infill a 3.5m wide gap between two existing structures with roof sheeting of matching materials, colours, height and profile;
- the visual impact of the connecting extension (also the area of policy variation) is reduced by it being open sided;
- the development complies with the setback requirements of the Shire's Local Planning Scheme and Outbuildings Local Planning Policy;
- the development does not impact upon the views of any of the surrounding landowners;
- the subject property is 2ha in area and set amidst similarly sized rural residential properties creating a low density of built form that is not impacted by the development, it is noted that the closest existing residences are 150m to the north-east, and the next closest is 225m to the west on the opposite side of the North West Coastal Highway, and only one other residence could be located closer than this in future upon adjoining Lot 51, and the outbuilding infill extension would be obscured from that property by the existing outbuilding;
- the alteration to the outbuilding(s) is not significantly apparent as viewed from the highway, being obscured by the existing outbuilding to the west, and being situated 75m away from the actual highway;
- the creation of one outbuilding in place of two outbuildings, as viewed from Eliza Shaw Drive, may be considered a visual improvement, or of minor impact given it would be setback 58m from the actual carriageway;
- the outbuilding does not appear excessive in size given its immediate proximity to a substantial 2 storey residence;
- the landowner has recently undertaken landscaping works along the driveway to improve the appearance of the Eliza Shaw Drive frontage to the property;
- the development does not impact upon driver sightlines on either North West Coastal Highway or Eliza Shaw Drive;
- by adjoining the North West Coastal Highway, Lot 50 serves an informal 'buffer role' between the highway and the Parkfalls Estate, and an outbuilding of a slightly greater area in this context can be viewed as appropriate;
- the landowner has discussed with Shire staff their intention to install fencing of matching colours and materials between the residence and outbuilding to address the issue of easterly winds blowing leaves and dust into the swimming pool, it is considered that such works would have the ability to tie the overall built form in together and further improve the appearance of the outbuilding;
- the total built form upon Lot 50 is 589.8149m² (comprising a 347.3549m² residence and 242.46m² outbuilding), this equates to a plot ratio of 3.018% which still results in a low density of development in keeping with a rural residential area;
- the development may be considered to provide an improved planning and visual outcome to correct an unusual situation arising from a past anomaly in the Shire's Outbuilding Local Planning Policy. In 2006 the Shire's Outbuildings Local Planning Policy stipulated a maximum outbuilding area of 150m² per building, but a total aggregate area of 200m². The landowner desired a 200m² outbuilding but due to the policy requirements of the time was required to construct 2 separate outbuildings to be compliant but proved less than ideal in terms of practical usage. As a result of this development a review of the Shire's Outbuildings Local Planning Policy was undertaken that addressed this issue by allowing for a maximum aggregate area of 200m². If the current policy requirements had been in place at the time of the outbuildings' initial

development the landowner would not have been required to construct 2 outbuildings, and an unusual built form that is not considered an ideal entrance to the Parkfalls Estate could have been avoided. It is considered that connection of the 2 outbuildings with an unenclosed roof provides a solution that better suits the landowner's storage requirements, provides a more standardised built form at the entrance point to a rural-residential area and eliminates an incongruous development that detracted from the Parkfalls Estate.

STATUTORY ENVIRONMENT

Section 162 of the *Planning and Development Act 2005* and Clause 60 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2017* require that a person shall not commence or carry out development without first having applied for and obtained the planning approval of the local government.

Section 164 of the *Planning and Development Act 2005* states:

“Development commenced or carried out, subsequent approval of

- (1) A responsible authority may grant its approval under a planning scheme or interim development order for development already commenced or carried out.*
- (2) The Commission may grant its approval under section 116 for development already commenced or carried out in a planning control area.*
- (3) Subsections (1) and (2) do not affect the operation of the provisions of Part 13 in respect of development commenced or carried out before approval has been granted.*
- (4) Development which was unlawfully commenced or carried out is not rendered lawful by the occurrence of any subsequent event except the approval by the relevant responsible authority of that development.*
- (5) The continuation of development unlawfully commenced is to be taken to be lawful upon the grant of approval for the development.”*

Section 8.4 ‘Unauthorised Existing Developments’ of Shire of Chapman Valley Local Planning Scheme No.2 (‘the Scheme’) states:

“8.4.1 The Local Government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.

8.4.2 Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.

Note:

- 1. Applications for approval to an existing development are made under Part 9.*
- 2. The approval by the Local Government of an existing development does not affect the power of the Local Government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval.”*

In the event that Council were to grant retrospective planning approval there is then the ability under Section 51 of the *Building Act 2011* for the landowner to submit a building approval certificate for an unauthorised work.

Lot 50 Eliza Shaw Drive, Buller is zoned ‘Rural Residential 1’ and 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.”*

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.”*

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 10.2 of the Scheme lists the following relevant matters to be considered by Local Government in considering a development application:

- “(f) any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;...*
- ...(i) the compatibility of a use or development with its setting;...*
- ...(n) the preservation of the amenity of the locality;*
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation, and appearance of the proposal;...*
- ... (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;...*
- (za) any other planning consideration the Local Government considers relevant.”*

POLICY IMPLICATIONS

The connecting outbuilding extension upon Lot 50 increases the total outbuilding area from 199.9m² to 242.46m². Shire of Chapman Valley Local Planning Policy ‘Outbuildings’ lists the maximum total aggregate area for Lot 50 as being 200m². Given the development exceeds this policy requirement by 42.46m² (21.23%) this matter cannot be determined under delegated authority and is required to be presented to Council for its consideration.

Whilst the area of variation to the policy is unenclosed, Section 4.1 of the Policy states that:

“For the purpose of this Policy an outbuilding means a building structure not under the main roof of a dwelling and is measured by the total floor area (whether enclosed or open).”

The Shire’s Outbuildings Local Planning Policy sets a maximum total height of 5.5m for the ‘Rural Residential’ zone and the infill extension complies with this policy requirement.

The objectives of the ‘Outbuildings’ Local Planning Policy are as follows:

- “3.1 To allow for a regional variation to Section 5.4.3 of State Planning Policy 3.1 - Residential Design Codes.*
- 3.2 To provide a clear definition of what constitutes an “outbuilding”.*

- 3.3 To ensure that outbuildings are not used for habitation, commercial or industrial purposes by controlling building size and location.
- 3.4 To limit the visual impact of outbuildings.
- 3.5 To encourage the use of outbuilding materials and colours that complement the landscape and amenity of the surrounding areas.
- 3.6 To ensure that the outbuilding remains an ancillary use to the main dwelling or the principle land use on the property.”

The Shire of Chapman Valley ‘Outbuildings’ Local Planning Policy has the following purpose and scope:

“Purpose

Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. The Scheme prevails should there be any conflict between this Policy and the Scheme.

It is not intended that a policy be applied rigidly, but each application be examined on its merits, with the objectives and intent of the policy the key for assessment. However, it should not be assumed that the local government, in exercising its planning discretion, be limited to the policy provisions and that mere compliance will result in an approval. This approach has produced many examples of inappropriate built form that has a long-term impact on the amenity and sustainability of the locality.

The Shire encourages applicants to produce innovative ways of achieving the stated objectives and acknowledges that these may sit outside the more traditional planning and architectural approaches. In these instances the local government is open to considering (and encourages) well-presented cases, during pre-application consultation, having due regard to the outcome of any public consultation undertaken and the orderly and proper planning of the locality.

Scope

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

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.

Council has approved only 2 variations to the outbuilding area in the Parkfalls Estate:

- 240m² enclosed outbuilding upon 85 (Lot 60) Eliza Shaw Drive at the 21 November 2000 meeting, this outbuilding was subsequently approved on 26 June 2001 at a floor area of 360m² (comprising 240m² enclosed shed with an additional 120m² open sided lean-to verandah); &
- 220.2m² outbuilding (comprising a 200m² enclosed outbuilding with an additional 20.2m² open sided balcony) upon 230 (Lot 93) Eliza Shaw Drive at the 20 August 2014 meeting.

In the event that Council considers that the application should not be retrospectively approved it may consider the following alternative wording appropriate in its determination on the application:

“That Council instruct its solicitor to commence legal proceedings against the landowners of upon 5 (Lot 50) Eliza Shaw Drive, Buller in relation to the unauthorised outbuilding extension.”

FINANCIAL IMPLICATIONS

In the event that Council wishes to pursue enforcement action for the unauthorised works then Account 2232-Legal Expenses is set aside for this purpose.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 July 2017 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 was endorsed by Council at its 15 November 2017 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Strategic Community Plan.

CONSULTATION

Council may when considering an application that adjoins the North West Coastal Highway refer the matter to Main Roads WA for comment. However, in this instance Main Roads WA were not approached for comment as the property gains vehicular access via Eliza Shaw Drive and not the North West Coastal Highway, and the proposed outbuilding infill extension is not considered distracting to passing highway traffic or impacting upon driver visibility.

Council may when considering an application that proposes a variation to any part of its Local Planning Policy resolve to undertake consultation with surrounding landowners. However, in this instance surrounding landowners were not contacted for comment, as the outbuilding infill extension does not impact upon any surroundings landowners' outlook. The closest existing residences are 150m to the north-east, and the next closest is 225m to the west on the opposite side of the North West Coastal Highway.

RISK ASSESSMENT

Rating 1 (Insignificant) Measures of Consequence – Risk Assessment and Acceptance Criteria

VOTING REQUIREMENTS

Simple majority required

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORTH

SECONDED: CR MALUISH

That Council pursuant to Section 8.4.1 of the Shire of Chapman Valley Local Planning Scheme No.2 grant formal planning approval for a 42.56m² connecting roof between the 2 outbuildings upon 5 (Lot 50) Eliza Shaw Drive, Buller subject to compliance with the following conditions:

- 1 The extension shall be in the form of a connecting roof only and must not be enclosed at its northern or southern elevation with wall cladding or doors.
- 2 The landowner is required to engage an independent building surveyor to provide a Certificate of Building Compliance for the works.

Advice Notes:

- (i) Council notes in its determination on this outbuilding extension that the subject property adjoins the North West Coastal Highway and serves in this capacity as a 'buffer' lot between the highway and the Parkfalls Estate, that the outbuilding extension represents an unenclosed infill development between two existing developments and will not therefore impact on the amenity or outlook of surrounding properties, and the proposed development will provide an improved planning and visual outcome to correct a highly unusual situation arising from a past anomaly in the Shire's Outbuilding Local Planning Policy. Council further notes that on this basis that this decision should not be viewed as a precedent for applications seeking relaxation of the outbuilding area requirements under the Shire's Outbuildings Local Planning Policy.
- (ii) The landowner is advised that Section 162 of the *Planning and Development Act 2005* and Clause 60 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2017* require that a person shall not commence or carry out development without first having applied for and obtained the planning approval of the local government. A person who commits an offence under this Act

is liable to a fine of up to \$200,000 and in the case of a continuing offence, a further fine of up to \$25,000 for each day during which the offence continues.

- (iii) Further to advice note (ii) the landowner is advised not to commence any further development upon the property, including connecting fencing works between the residence and outbuilding, without first obtaining all necessary prior approvals from the local government.
- (iv) If the landowner is aggrieved by any aspect of 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 6/0
CARRIED
Minute Reference: 02/19-4**

Cr Humphrey re-entered Chambers at 9.23am

Mr Duperouzal left Chambers at 9.23am

AGENDA ITEM:	10.1.3
SUBJECT:	PROPOSED SUBDIVISION
PROPONENT:	LANDWEST FOR B & H WALLACE
SITE:	LOT 2462 WHITE PEAK ROAD, WHITE PEAK
FILE REFERENCE:	A104 & 204.16.07
PREVIOUS REFERENCE:	03/14-3, 09/15-10, 10/15-2 & 09/17-4
DATE:	31 JANUARY 2019
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENT:

Ref	Title	Attached to Report	Under Separate Cover
10.1.3(a)	Subdivision Application Report		√
10.1.3(b)	Oakajee Narngulu Infrastructure Corridor	√	
10.1.3(c)	Oakajee Narngulu Infrastructure Corridor (detail)	√	

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

Council is in receipt of correspondence from the Western Australian Planning Commission seeking its comment on the proposed subdivision of Lot 2462 White Peak Road, White Peak. This report recommends that Council conditionally support the application.

COMMENT

Lot 2462 is a 339.143ha property located at the eastern end of the constructed portion of White Peak Road.

Figure 10.1.3(a) – Location Plan for Lot 2462 White Peak Road, White Peak



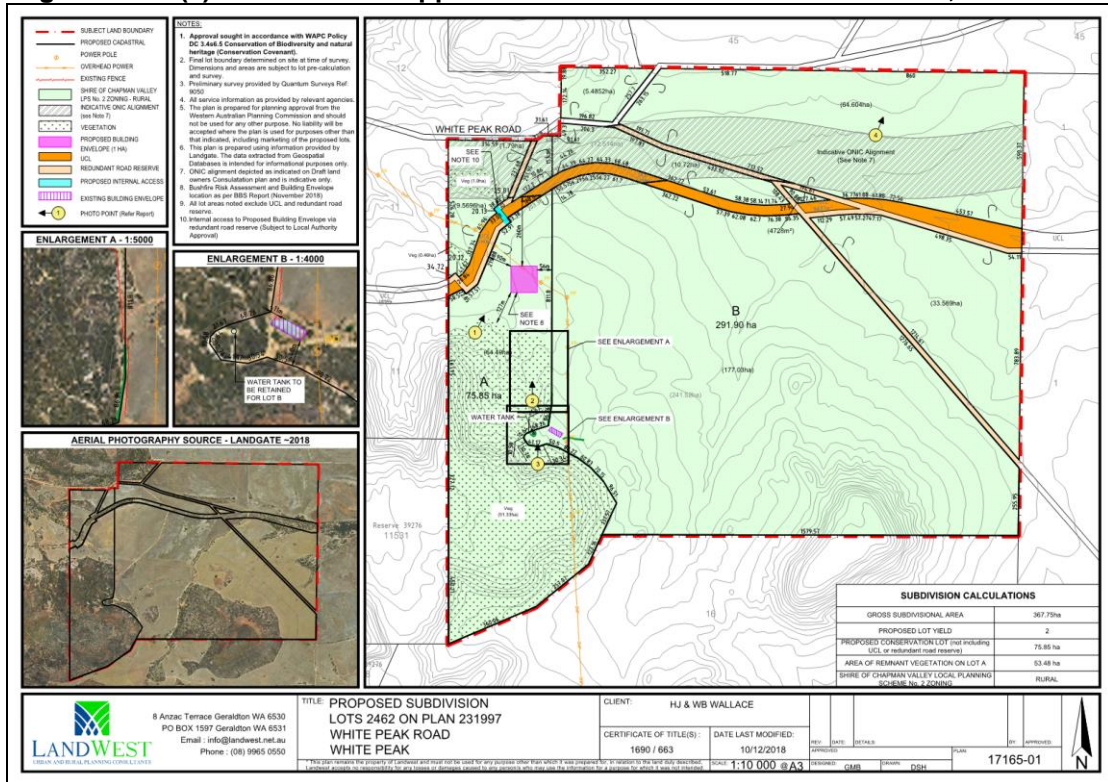
Lot 2462 is used for grazing purposes and contains several tributary lines that run eastwards towards the Chapman River. The property is largely cleared with the exception of an approximately 51ha steeply sloped area of remnant vegetation in the south-western corner of Lot 2462 that adjoins the Wokatherra Nature Reserve, an approximately 35ha area of remnant vegetation around a hilltop along the lot's southern boundary, and a 5.5ha portion in the north-western corner that adjoins the Yetna Nature Reserve.

Several unconstructed road reserve alignments and the Geraldton to Yuna rail reserve (which ceased operation in 1956) run across Lot 2462, along with a 46.11ha section of the proposed Geraldton Outer Bypass/Oakajee Narnghulu Infrastructure Corridor ('ONIC') alignment.

Figure 10.1.3(b) – Aerial Photograph of Lot 2462 White Peak Road, White Peak



Figure 10.1.3(c) – Subdivision Application Plan Lot 2462 White Peak Road, White Peak



The applicant is seeking to subdivide the property into 2 lots, a 75.85ha conservation lot at the western end of the property and a balance 367.75ha lot that would contain the residence.

A copy of the consultant's report submitted in support of the subdivision application, which includes a subdivision plan, bushfire hazard assessment, environmental information, site photographs and literature review is provided as separate **Attachment 10.1.3(a)**.

STATUTORY ENVIRONMENT

Lot 2462 White Peak Road, White Peak is zoned 'Rural' under the Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme') and also lies within the 'Moresby Ranges Landscape Protection Special Control Area' zone.

Section 4.2.5 of the Scheme lists the objectives of 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 1.6 'Aims of the Scheme' lists the following aim considered to be of relevance to this application:

- "(a) Provide for a variety of lifestyle opportunities;...*
- ...(d) Protect, preserve and enhance the environment, natural and cultural heritage, and landscape and streetscape values;...*
- ...(f) Protect the landscape and environmental values of the Moresby Ranges and associated valleys;...*
- ...(i) Provide for the orderly and proper development of the Oakajee Industrial Estate, including the establishment of supporting infrastructure such as port facilities, roads and railways, and electricity, gas and water supplies, and the protection of the Buffer from incompatible development."*

Section 6.3 sets the Scheme requirements relevant to the 'Moresby Ranges Landscape Protection Special Control Area' 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

State Planning Policies are prepared and adopted by the WAPC under statutory procedures set out in part 3 of the *Planning and Development Act 2005*. The WAPC and Local Governments should have due regard to the provisions of State Planning Policies when making decisions on planning matters. The State Administrative Tribunal is also required to take account of State Planning Policies when determining appeals.

The WAPC have the following State Planning Policies relevant to this application:

- Statement of Planning Policy 2 – Environment and Natural Resources Policy

The proposed subdivision can be considered to align with the following biodiversity objective of SPP2:

“5.5(v) Assist the return of areas of high biodiversity conservation value to the public estate or otherwise ensure the protection of high biodiversity conservation values through mechanisms including planning controls or conservation covenants.”

- Statement of Planning Policy 2.5 - Rural Planning

The proposed subdivision can be considered to align with the following environmental objective of SPP2.5:

“5.10 Environmental and landscape attributes will be managed and improved by:

- (a) *supporting and promoting private conservation areas within Western Australia in addition to State and local government conservation reserves.”*

- Statement of Planning Policy 3.7 – Planning in Bushfire Prone Areas

It is considered that the introduction and enforcement of a building envelope upon proposed Lot A, accompanied by the Bushfire Management Statement Strategies as outlined in the applicant’s submitted Bushfire Management Plan, align with the objectives of SPP3.7.

The WAPC’s Development Control Policies sit within a structure which is established under the State Planning Strategy and Statement of Planning Policy No.1 State Planning Framework. Development Control Policies are used to guide decision making in relation to subdivision and development applications.

- Development Control Policy 3.4 - Subdivision of Rural Land

The proposed subdivision can be considered under the following circumstances as outlined within DCP3.4:

“6.5 Conservation of biodiversity and natural heritage

Conservation lots may be created to conserve significant environmental features and remnant vegetation provided that:

- (a) *the application includes advice from the Department of Parks and Wildlife, National Trust of Australia (WA), or another relevant agency, endorsing the suitability of the new lot for the intended purpose of retaining environmental values including:*
 - (i) *the adequacy of the lot size proposed (if it is less than 40 hectares) to retain the conservation value in perpetuity; and*
 - (ii) *in-principle agreement to administer the necessary conservation covenant.*
- (b) *generally at least 85 per cent of the area of the conservation lot has high environmental values or is covered by endemic or regenerated vegetation and/or wetland;*

- (c) *the proposed conservation lot has an appropriate shape having regard for the native vegetation, natural features, bush fire management, water resources, property management and existing or proposed structures;*
- (d) *a conservation covenant in perpetuity with the Department of Parks and Wildlife, the National Trust of Australia (WA), or an alternative authority acceptable to the WAPC, is registered on the certificate of title as a condition of subdivision for the proposed conservation lot and that the covenant includes provisions that:*
 - (i) *prohibit further clearing (other than for necessary land and fire management requirements);*
 - (ii) *clearly delineate a building envelope and/or building exclusion area which is also shown on the subdivision plan; and*
 - (iii) *prohibit stocking outside any existing cleared area.*
- (e) *bushfire risk can be managed in accordance with WAPC guidelines without resulting in loss of conservation values; and*
- (f) *the balance lot is suitable for the continuation of the rural land use and retains where practical, native or regenerated vegetation as an integral part of sustainable primary production, provided that this does not result in the division of significant endemic vegetation in order to include a portion of that vegetation within the agricultural lot.*

The creation of more than one conservation lot is inconsistent with the objectives of this policy. The creation of multiple conservation lots will require land to be appropriately zoned as conservation themed rural-residential or rural smallholdings with conservation covenants and building envelopes specified.

Following the creation of a lot under this clause, the resultant conservation lot should be appropriately zoned by the local government in the local planning scheme in a future omnibus amendment or when the scheme is reviewed.”

Schedule 2 Part 2 Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides Council with the ability to prepare Local Planning Policies. Council has the following Local Planning Policy relevant to Lot 2462:

- Shire of Chapman Valley Local Planning Policy 16.190 ‘Development adjacent to the proposed Oakajee to Tallering Peak and Oakajee to Narngulu Rail Corridors’

LPP16.190 seeks to prevent incompatible development adjoining the proposed Oakajee to Tallering Peak and Oakajee to Narngulu rail corridors and protect future residents from adverse noise and vibration impacts as a result of train movements on any future railway.

LPP16.190 includes the following:

“4.2 This policy shall affect any application for a habitable building within 250m of the centre line of the railway (this distance is based on the 65dB(A) Noise Contour Line) and any application for a non-habitable building within 150m of the centre line of the railway (this distance is based on the 75dB(A) Noise Contour Line).”

The subdivision application proposes that the building envelope for Lot A would be setback 260m from the southern edge of the ONIC. It is considered that the introduction and enforcement of a building envelope upon proposed Lot A, accompanied by notification on title advising of the building envelope and the potential for future noise impact arising from the ONIC, can be considered to align with the objective of LPP16.190.

FINANCIAL IMPLICATIONS

Nil

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 July 2017 meeting, Section 1 of the Plan ‘The Challenges We Face’ notes that:

“The road network is the Shire’s biggest asset and transport the main priorities. Maintaining and upgrading the road network is important to the community.”

STRATEGIC IMPLICATIONS

Shire of Chapman Valley Local Planning Strategy

The western portion of Lot 2462 that is proposed to be excised from the balance of the property as a conservation lot is located within 'Precinct No.4 - Moresby Range' of the Shire of Chapman Valley Local Planning Strategy the vision for which is:

"The Moresby Ranges are visually and environmentally preserved as a landscape feature, natural resource and a recreational and tourist resource for the general population, whilst recognising the rights of existing landowners."

The proposed subdivision is not considered to conflict with the objectives for Precinct 4 of the Local Planning Strategy:

4.1 Community Objectives

- 4.1.1 *Maintain the existing cadastral pattern, except where subdivision can be supported on environmental and conservation grounds in accordance with current Planning Policy.*
- 4.1.2 *Encourage the protection and restoration of places and buildings of heritage/historical significance.*

4.2 Economic Objectives

- 4.2.1 *Promote sustainable agricultural production in suitable areas with due regard of the high conservation values and visual amenity of the Moresby Ranges.*
- 4.2.2 *Encourage agricultural diversification in appropriate areas where there will be no detrimental impact to the surrounding land.*
- 4.2.3 *Promote low-key tourist related land use/development associated with the conservation values and scenic qualities of the Moresby Ranges. To be assessed in conjunction with related strategies and policies.*

4.3 Environmental Objectives

- 4.3.1 *Protect the scenic values and visual amenity of the Moresby Ranges while encouraging suitable tourist development.*
- 4.3.2 *Encourage revegetation and retention of existing vegetation in order to minimise soil erosion.*
- 4.3.3 *Protect and enhance existing catchments, botanical linkages and vegetation/wildlife corridors.*
- 4.3.4 *Promote sound land management practices in consideration of the high conservation values of the area.*
- 4.3.5 *Ensure that land use conflicts (ie noise, dust, odour, spray drift, vermin etc) are avoided through appropriate environmental and planning controls.*
- 4.3.6 *Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements as a minimum.*
- 4.3.7 *Encourage conservation of biodiversity and farm sustainability.*
- 4.3.8 *Promote a detailed planning exercise be undertaken in partnership with all relevant stakeholders for Area A of the Moresby Ranges, depicted on the Precinct Maps as 'Special Investigation Area – Conservation and Development', to identify a range opportunities in consideration of current environmental values and constraints.*

4.4 Infrastructure Objectives

- 4.4.1 *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.*
- 4.4.2 *Identify, support and facilitate the efficient and coordinated use of existing road linkages."*

The Local Planning Strategy also notes within Precinct No.4 that:

“Consideration will be given to the objectives of the precinct when determining land use and subdivision proposals.”

“The list below outlines the types of land uses considered appropriate within the Precinct subject to compliance with the provisions of the Town Planning Scheme and specific policies of the Council.

- *Broadacre Agriculture*
- *Tourism (low-key, incidental & eco-tourism)*
- *Conservation*
- *Heritage Protection/Restoration*
- *Rural Smallholdings (20–40ha)”*

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

- (c) *Where it is demonstrated that there is a substantial, sustainable and beneficial gain in environmental repair, protection and preservation of land for conservation purposes in accordance with criteria for conservation lots outlined in WAPC Policy DC3.4 and the Moresby Ranges Management Strategy.”*

Oakajee Narngulu Infrastructure Corridor

The ONIC is the final land acquisition component (with the Oakajee Industrial Estate and buffer having now been acquired by the state government) of the broader Oakajee Mid West Development Project which is coordinated by the Department of State Development, with the aim to establish an integrated port and industrial estate at Oakajee; with supporting rail and infrastructure corridors to facilitate the development of the resources sector in the Mid West; and ensure the long-term prosperity of the region.

The full ONIC alignment is illustrated in **Attachment 10.1.3 (b)** and the figure relevant to Lot 2462 from the WAPC’s ‘Oakajee Narngulu Infrastructure Corridor Draft Alignment Definition Report’ is provided in **Attachment 10.1.3(c)**.

A road and rail bypass east of the Moresby Range around Geraldton was identified in a number of planning studies including the 1976 and 1989 editions of the WAPC’s Geraldton Region Plan. A number of studies were undertaken in the 1990’s to identify and assess a suitable railway corridor from the Narngulu Industrial Estate to the proposed Oakajee Industrial Estate and to service the proposed An Feng Kingstream Steel Project.

The ONIC was further refined through the 1999 and 2011 editions of the Geraldton Region Plan (and its aligned Greater Geraldton Structure Plan) and is also recognised in the following planning documents relevant to the Shire of Chapman Valley:

- Shire of Chapman Valley Local Planning Strategy;
- Moresby Range Management Strategy prepared by the WAPC;
- Moresby Range Management Plan prepared jointly by the Shire of Chapman Valley and City of Greater Geraldton;
- Oakajee Industrial Estate Structure Plan prepared by LandCorp.

Development of the Oakajee Industrial Estate is presently constrained by not having suitable connection or servicing, with the current road connection to the Geraldton Port and Narngulu Industrial Estate via the North West Coastal Highway having significant issues with multiple sets of traffic lights, intersections and travelling through a built-up area.

The ONIC is a 34km alignment intended to provide a strategic linkage between the Oakajee Port and Oakajee Industrial Estate to the Narngulu Industrial Estate, Geraldton Port, iron ore mines and the wider heavy vehicle and rail network. The ultimate land requirements for the ONIC are estimated to be 1,048ha, based on a 230m wide corridor to accommodate road, rail and service utilities infrastructure, with certain sections of greater width to accommodate engineering requirements of the road and rail alignments. Approximately 664ha of the ONIC is across 59 privately owned lots, owned by 34 different landowners, with 7 of these landowners being located within the Shire of Chapman Valley, and the remainder in the City of Greater Geraldton. The remaining 358ha is under State Government ownership as freehold title or publicly reserved land.

The acquisition and construction of the ONIC would enable strategic industrial projects that do not require deep water port access to establish at the Oakajee site, rather than be lost to the Mid West region due to the Narngulu Industrial Estate being constrained by its cumulative emissions modelling. Further general/lighter industrial and logistic/transport uses might consider the Oakajee Industrial Estate a viable location where the ONIC to be in place and providing suitable road and power servicing.

Proposed Land Exchange and Acquisition

The landowners of Lot 2462 wrote to the Shire on 16 August 2017 seeking Council's assistance in resolving the issue of the ONIC as it related to their property.

The Shire raised the landowner's plight as having reasonable hardship grounds to be considered for state acquisition of the alignment at a meeting with the Minister for Transport, Planning and Lands on 24 August 2017.

Council subsequently resolved at its 20 September 2017 meeting as follows:

"That Council write to the Minister for Transport, Planning and Lands seeking the state government's consideration of entering into land acquisition discussions with the landowner of Lot 2462 White Peak Road, White Peak for the 46.11ha section of the Geraldton Outer Bypass/Oakajee-Narngulu Infrastructure Corridor that runs across this property. It is also suggested that there is the ability for the state to offset the cost of purchasing the 46.11ha alignment by entering into a land exchange that in return provides to the landowner 14.88ha of unrequired Crown Land that runs across Lot 2462 (this Crown Land being unconstructed and unrequired local road reserves that are south of the Geraldton Outer Bypass/ONIC that are within Lot 2462, and the former Yuna rail reserve which would be superseded by the east-west Geraldton Outer Bypass/ONIC acquisition)."

The 2015 State Budget included an allocation of \$10.3 million to commence compulsory land acquisition for the ONIC, and the Department of State Development supported by Main Roads WA were to be the lead agencies in this process, this budget allocation was later withdrawn.

Main Roads WA have previously advised there are opportunities to fund land acquisition where a hardship case can be built, and Council made representation to the Minister for Transport, Planning and Lands that this avenue should be used by the state to purchase the Geraldton Outer Bypass/ONIC alignment relevant to Lot 2462.

Council also suggested that there was the ability for the state to offset the cost of purchasing the 46.11ha Geraldton Outer Bypass/ONIC alignment from the landowner of Lot 2462 by entering into a land exchange that in return provides to the landowner 14.88ha of unrequired Crown Land that runs across Lot 2462.

The subsequent discussions with the State Government appear to indicate that it does not have an immediate willingness or budget allocation to pursue land acquisition at this time. This is a disappointing outcome for the landowners along the alignment who are seeking certainty over their land, and potential that elderly landowners who might be described as 'asset rich and income poor' being unable to obtain a pension if they continue to live in their home of many years, and their options are restricted by facing reduced ability to sell or subdivide their property whilst the ONIC issue remains unresolved in terms of who will buy the alignment, for what price, under what mechanism and in what timeframe.

The current limbo situation as faced by the landowner of Lot 2462, and others along the ONIC alignment for several decades now, serves as a telling warning for those landowners currently under threat from the alignment being pursued by the Mid West Development Commission and Main Roads (and opposed by the Shire of Chapman Valley) in relation to the Dongara to Northampton Corridor Alignment Study.

Greater Geraldton Structure Plan

The Greater Geraldton Structure Plan was updated in 2011 by the WAPC to provide a framework for the future management, protection and coordination of regional planning in the region. The Region Plan incorporates a Structure Plan for the Greater Geraldton area which identifies the area proposed to be rezoned from 'Rural' to 'Rural Residential' by this application as being within 'Development Investigation Area 1 – White Peak' noting that:

"This area is identified as 'rural' with general farming currently being the predominant land use. It will be considered for future intensification. It is acknowledged that in the Shire of Chapman Valley Local Planning Strategy a portion of the subject area is proposed for rural living purposes. The northern boundary of this area is adjacent to the proposed Oakajee-Narngulu Infrastructure Corridor. Finalisation of the alignment of the corridor and resolution of its associated buffers will effectively inform the northern extent of this precinct."

An amendment to the local planning scheme will be necessary for any eventual change in zoning. This may require an environmental assessment to be undertaken by the Environmental Protection Authority; and regard for natural features in any potential subdivision design.”

Moresby Range Management Strategy

Lot 2462 falls within the ‘Development Investigation Area’ boundary as identified by the WAPC’s Moresby Range Management Strategy. The Strategy recognised that there were particular issues relating to the southern section of the Moresby Range, and recommended that a Management Plan be prepared for this area, with Section 5.1 noting that:

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

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

Moresby Range Management Plan

The southern portion of Lot 2462 falls within the area identified as ‘Range Precinct’ by the Moresby Range Management Plan. The Plan defines the ‘Range Precinct’ as the area that includes the flat tops and major slopes of a section of the Moresby Range but excludes the flatter areas of land that surround the Range. The Plan has the vision for a community park that would ultimately turn the Range Precinct into an iconic regional resource. The Plan identifies the community park not as a formal planning description, rather a statement of aspiration and intent, ideally, when a park eventuates it will be formally recognised under an appropriate planning framework.

The boundary of the Range Precinct was selected according to a number of criteria including topography, cadastral boundaries, biogeographical and biodiversity features, and existing developments.

Section 13.1 of the Moresby Range Management Plan noted that:

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

Given the private ownership status of the majority of the Range Precinct, and the uncertain timeframe, funding mechanism and management model to create a community park, the Plan makes recommendations with regard to covenanting sections of properties to protect bush land and areas that have been identified for inclusion in the park, and it can be considered that the proposed subdivision would align with the overall strategic direction of the Moresby Range Management Plan.

- **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.

Council’s support for this subdivision application would assist in addressing the community outcome of ‘more people and families move into the Shire’ and the environmental objective of ‘we want to make the most of our environment, including the ranges, rivers and coastline’ along with the strategy of ‘explore opportunities to utilise key areas in the Shire by showcasing their natural and environmental characteristics’ as outlined by the Shire’s Strategic Community Plan.

Council's ongoing efforts to achieve certainty over the Geraldton Outer Bypass/ONIC aligns with the community strategy of the Strategic Community Plan "*promote and contribute to increased mobile phone coverage and improve power, road and water services*".

It is also considered that by taking up this issue on behalf of its community that Council has been meeting the following leadership objective of its Strategic Community Plan "*the President and Councillors to be representative of the community and provide strong leadership*".

CONSULTATION

The WAPC is not obliged to undertake any public consultation in its assessment of subdivision applications but has referred the application to the Shire of Chapman Valley, Department of Biodiversity Conservation & Attractions, Department of Fire & Emergency Services, Department of Mines Industry Regulation & Safety, DFES Unexploded Ordnance Branch, Water Corporation and Western Power inviting comment.

The Department of Biodiversity Conservation & Attractions advised on 19 December 2018 that Lot 2462 was considered suitable for conservation covenant based upon the areas of remnant vegetation.

RISK ASSESSMENT

Rating 1 (Insignificant) Measures of Consequence – Risk Assessment and Acceptance Criteria

VOTING REQUIREMENTS

Simple majority required

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORRESTER

SECONDED: CR WARR

That Council:

- 1 Advise the Western Australian Planning Commission that it supports the subdivision of Lot 2462 White Peak Road, White Peak (WAPC 157682) as shown upon Plan 17165-01 (WAPC date stamped 30/1/19) subject to the following:

Conditions:

- (a) A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificates of title of the proposed lots. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: "*The lots are situated in the vicinity of a transport corridor and is currently affected or may in the future be affected by transport noise.*"
- (b) A restrictive covenant, to the benefit of the local government, pursuant to section 129BA of the *Transfer of Land Act 1893* is to be placed on the certificates of title of the proposed lots advising of the existence of a restriction on the use of the land. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows: "*No buildings and effluent disposal systems are to take place outside the defined building envelope(s), unless otherwise approved by the local government.*"
- (c) A notification, pursuant to Section 165 of the *Planning and Development Act 2005*, is to be placed on the certificates of title of the proposed lots with a Bushfire Attack Level (BAL) rating of 12.5 or above, advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: "*This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is/may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land.*"
- (d) A restrictive covenant, to the benefit of the Department of Biodiversity, Conservation and Attractions, pursuant to Section 129BA of the *Transfer of Land Act 1893* is to be placed on the certificate of title of proposed Lot A advising of the existence of a restriction on the use of the land to protect areas identified for conservation. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan).

- (e) The approximately 7.67ha portion of the Oakajee Narngulu Infrastructure Corridor that is within proposed Lot A, being shown on the diagram or plan of survey (deposited plan) as a road reserve and vested in the Crown, such land to be ceded free of cost and without any payment of compensation by the Crown.

Advice Note:

- (i) In relation to condition (d) the conservation covenant shall apply only to the 51.33ha area of native vegetation in the southern portion of proposed Lot A and not the entirety of Lot A to remove future complications relating to the Oakajee Narngulu Infrastructure Corridor.
- (ii) In relation to condition (e) the Shire of Chapman Valley is willing to initiate the closure process for the unrequired 14.88ha road reserves and former Geraldton-Yuna rail reserve that run across Lot 2462 (that are located south of the ONIC) to enable the amalgamation of the approximate 2.98ha closed reserve area into proposed Lot A and a balance approximate 4.69ha closed reserve area into proposed Lot B to achieve parity with the approximate 7.67ha land area being ceded for the Oakajee Narngulu Infrastructure Corridor.
- (iii) In relation to condition (e) the Shire of Chapman Valley is willing to forego any requirement for the subdivider to upgrade or make contribution to the upgrade of White Peak Road in lieu of the land area being ceded for the Oakajee Narngulu Infrastructure Corridor.

- 2 Write to the Minister for State Development, Hon Mark McGowan MLA seeking an update on the state government's consideration of land acquisition discussions with the landowner of Lot 2462 White Peak Road, White Peak for the 46.11ha section of the Geraldton Outer Bypass/Oakajee-Narngulu Infrastructure Corridor that runs across their property. It is noted that there is the ability for the state to offset the cost of purchasing the 46.11ha alignment by entering into a land exchange that in return provides to the landowner 14.88ha of unrequired Crown Land that runs across Lot 2462 (this Crown Land being unconstructed and unrequired local road reserves that are south of the Geraldton Outer Bypass/ONIC that are within Lot 2462, and the former Yuna rail reserve which would be superseded by the east-west Geraldton Outer Bypass/ONIC acquisition).

Voting 7/0
CARRIED
Minute Reference: 02/19-5



Oakajee Narngulu Infrastructure Corridor
Draft Alignment Definition Report

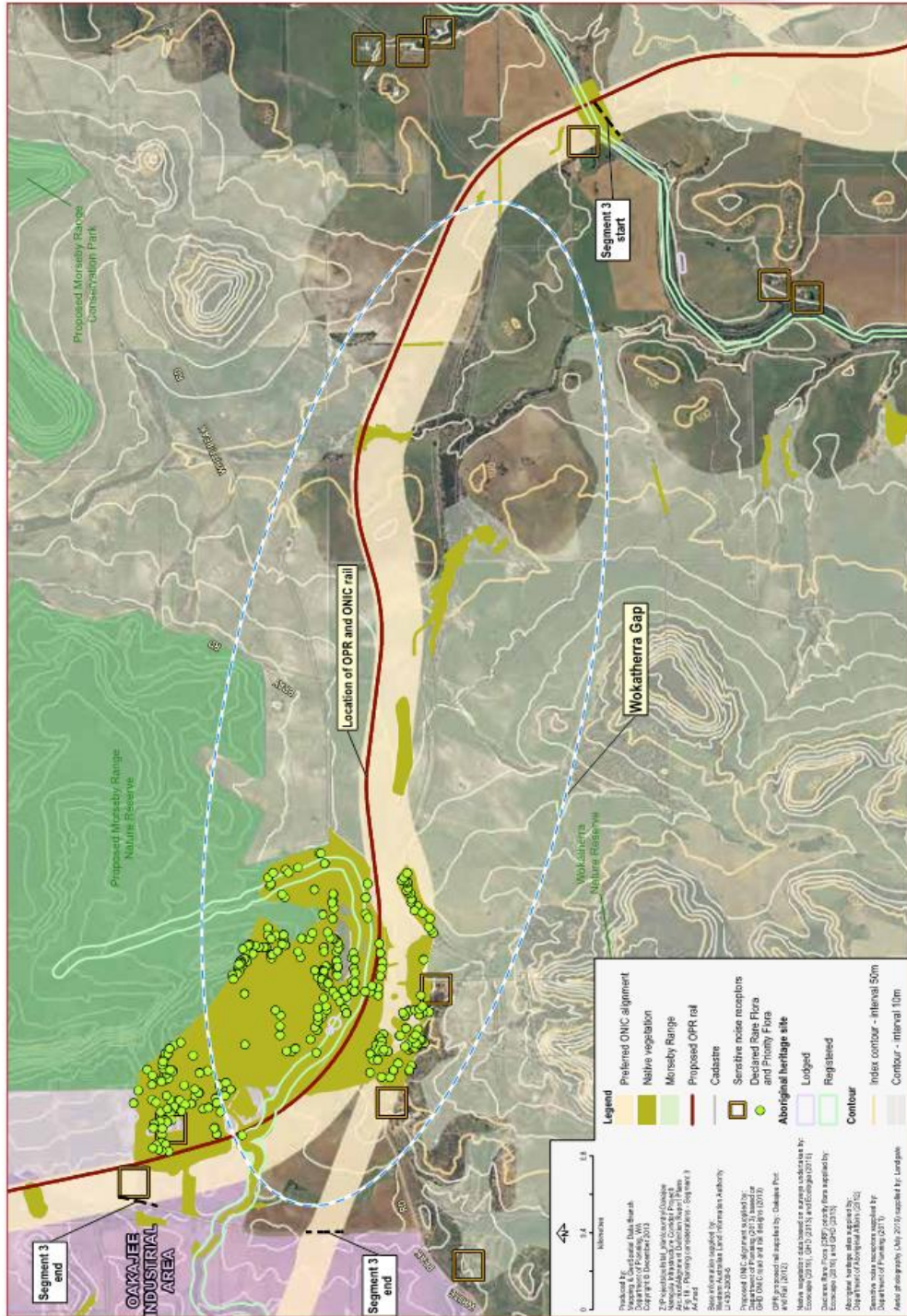


Figure 18: Planning Considerations – Segment 3

AGENDA ITEM:	10.1.4
SUBJECT:	GERALDTON ALTERNATIVE SETTLEMENT AGREEMENT
PROPONENT:	DEPARTMENT OF PLANNING, LANDS & HERITAGE
SITE:	VARIOUS CROWN LAND
FILE REFERENCE:	706.00
PREVIOUS REFERENCE:	09/18-5 & 11/18-7
DATE:	25 JANUARY 2019
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENT:

Ref	Title	Attached to Report	Under Separate Cover
10.1.4(a)	Geraldton Alternative Settlement Agreement Land Identification, Assessment & Selection Flowchart	√	
10.1.4(b)	Summary of Unallocated Crown Land – CONFIDENTIAL		√

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

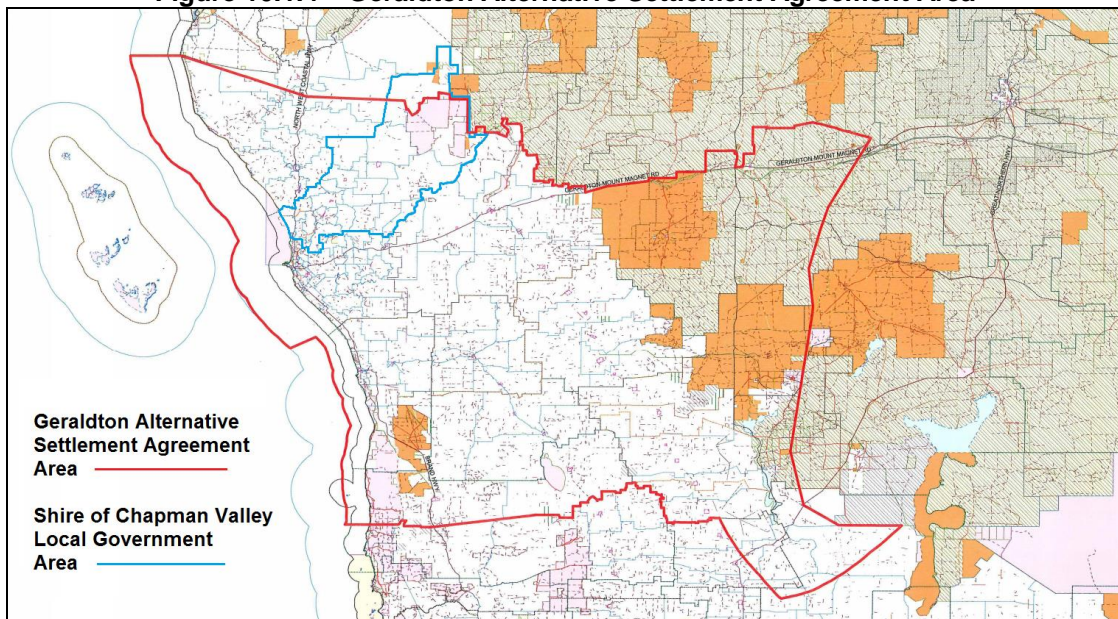
Council is in receipt of correspondence from the Department of Planning, Lands & Heritage seeking its comment in relation to 61 Crown Land properties within the Shire of Chapman Valley that have been identified as areas of interest for the native title claimants and are currently being considered for inclusion into the Indigenous Land Use Agreements.

COMMENT

The State of Western Australia is currently negotiating an alternative native title settlement in the greater Geraldton region with four native title claimant groups (Southern Yamatji, Hutt River, Widi Mob and Mullewa Wadjari).

The State's proposal, under the Geraldton Alternative Settlement Agreement ('GASA') is that a settlement package will be agreed in exchange for the surrender of all native title rights and interests within the external boundaries of the GASA.

Figure 10.1.4 – Geraldton Alternative Settlement Agreement Area



Negotiations may include the following matters:

- development of, and initial support for, appropriate governance structures to ensure successful implementation of a final agreement;
- a heritage regime based on the Government Standard Heritage Agreement;
- **provision by the State of a land base;**
- **joint vesting and/or management of conservation areas, including areas not yet reserved for conservation purposes;**
- development of a ranger program;
- financial assistance for business and economic development opportunities; &
- recognition of traditional ownership.

The State's offer under the GASA includes provision by the State of a land base to the claimant groups. The negotiation of this part of the agreement entails members of the groups' Traditional Owner Negotiation Team selecting various parcels of land within the agreement area which they seek to have transferred to them, or management thereof. The Department of Planning, Lands & Heritage is responsible for reviewing these parcels to identify which of them might be eligible for transfer, what is the appropriate tenure and under what conditions (e.g. freehold, leasing, sole management or joint management of reserves).

A flowchart providing background information on the overall process has been provided as **Attachment 10.1.4(a)**.

The Department of Planning, Lands & Heritage are seeking the Shire's comment upon various Unallocated Crown Land parcels in the former Naraling townsite with respect to the following:

- “1 Are there any future proposals for the land identified? If so, in what time frame?”
- 2 Are there any future proposals for any adjoining land which may impact on the proposed transfer of the land identified?”
- 3 Are there any proposed planning scheme amendments which may affect the land identified? If so, in what time frame?”
- 4 Are there any known land management issues with the land identified e.g. contamination etc?”

Shire staff have prepared **separate confidential Attachment 10.1.4(b)** that provides a cadastral map, aerial photograph and individual comment for each of the 61 Crown Land parcels, and it is suggested that this form the basis for Council's response to the Department of Planning, Lands & Heritage.

STATUTORY ENVIRONMENT

Section 14 of the *Land Administration Act 1997* requires that:

“Before exercising in relation to Crown land any power conferred by this Act, the Minister must, unless it is impracticable to do so, consult the local government within the district of which the Crown land is situated concerning that exercise.”

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The GASA is following a similar process to that previously undertaken for the South West Native Title Claim Area, which is at a more advanced stage, that also sought to identify Unallocated Crown Land that might be either transferred to the Noongar Boodja Trust as freehold title or leasehold or managed reserves. The South West Native Title Settlement Fact Sheet, previously prepared by the Department of Premier & Cabinet in 2015 for that process, provides some general guidance on frequently asked questions, noting that:

“What is the difference between Freehold land and Managed Reserve Land?”

Each form of land tenure has different benefits.

- *Freehold is land that the Noongar Boodja Trust will own like any other private land owner in the State. It allows for the land to be developed, used for commercial purposes, used as*

security against loans, or to be sold. Like all other freehold land, there are costs that must be met, including local government rates and charges, insurance, fire service levies and any land management cost.

- *Managed reserves are areas of Crown land that has been reserved for a particular purpose. The Trustee will consult with the Noongar community as to the use of any individual reserve – i.e. whether it is held for particular Noongar social, cultural, or economic benefit, whether it can be subdivided, and so on.*

“Will the Noongar Boodja Trust need to pay rates on the Freehold land allocated under the Settlement?”

As the owner of the freehold land, the Noongar Boodja Trust will be required to meet the normal costs, including rates or service charges, associated with owning freehold land. Freehold land can be exempted from rates under s.6.26(2)(g) of the Local Government Act 1995 (WA) where that land is used exclusively for charitable purposes. However, if the freehold land is used for a commercial purpose or leased for a commercial enterprise, it will not be exempt from rates.”

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 July 2017 meeting and Section 6.3 notes that the objective of asset management is to meet a required level of service in the most cost-effective manner through the management of assets for present and future customers. On this basis the Shire comments in relation to the Unallocated Crown Land parcels have been structured to identify, and seek management of, only those parcels which Council would have some future purpose/requirement (e.g. for road widening or construction purposes).

STRATEGIC IMPLICATIONS

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 15 November 2017 meeting and lists its aim as being to maintain and build population while ensuring financial and asset management is robust to allow for effective service delivery as an independent shire participating in the growth of the region.

CONSULTATION

The Department of Planning, Lands & Heritage have advised that the parties to the proposed agreement are negotiating under tight timeframes imposed by the Federal Court and the **Shire comment is required to be provided by 22 February 2019.**

The Department of Planning, Lands & Heritage have advised as follows:

“Please note that this process is being carried out in the context of a Federal Court mediation which is confidential. Accordingly, you are not permitted to share any of the matters pertaining to this referral to a third party.”

The Department of Planning, Lands & Heritage have also advised that the Shire’s comments may be provided to the Traditional Owner Negotiation Team members for their consideration.

RISK ASSESSMENT

Rating 1 (Insignificant) Measures of Consequence – Risk Assessment and Acceptance Criteria

VOTING REQUIREMENTS

Simple majority required

COUNCIL RESOLUTION

MOVED: CR WARR

SECONDED: CR HUMPHREY

That Standing Orders be suspended.

**Voting 7/0
CARRIED
Minute Reference: 02/19-6**

Open debate and discussion took place on the Agenda Item

COUNCIL RESOLUTION

MOVED: CR WARR

SECONDED: CR HUMPHREY

That Standing Orders be reinstated.

**Voting 7/0
CARRIED
Minute Reference: 02/19-7**

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR HUMPHREY

SECONDED: CR FORRESTER

That Council endorse and forward the Shire response to the Department of Planning, Lands & Heritage as provided in Attachment 10.1.4(b).

**Voting 7/0
CARRIED
Minute Reference: 02/19-8**

GERALDTON ALTERNATIVE SETTLEMENT AGREEMENT –

STAGES OF THE LAND IDENTIFICATION, ASSESSMENT AND SELECTION PROCESS

STAGE 1 - LAND IDENTIFICATION

1. TONT members identify land they are interested in and create TONT Land Lists - this can be one parcel or multiple parcels which make sense to include together ("TONT Priority Lands").
2. DPLH identifies all UCL and UMR in the Geraldton region and creates DPLH Land Lists ("DPLH Identified Lands").



STAGE 2 - LAND ASSESSMENT

DPLH undertakes a desktop review of the TONT Priority Lands and the DPLH Identified Lands, including tenure map, SLIP aerial map, title plan, existing registered interests and other encumbrances on title, indicative assessment (based on SLIP maps) of encroachments, registered Aboriginal heritage sites, mining and petroleum interests, legal access, status of the land (vacant or with infrastructure), any environmental considerations and listings on the State or LGA heritage lists.

Only Eligible Land proceeds to Stage 3.



STAGE 3A - INTERNAL REFERRALS AND FILE REVIEW

Stages 3A and 3B run concurrently.

1. DPLH undertakes a file review to determine whether there are any existing unregistered interests affecting the Eligible Land.
2. DPLH refers Eligible Land to the Planning Division, the Heritage Division (both State Heritage and Aboriginal Heritage) and the Midwest Gascoyne, Pastoral, Aboriginal Lands Trust and the Land Asset Management Unit teams for assessment on whether the land is the subject of any existing State proposal or unregistered interest, and whether there are any known site, heritage or planning constraints, conflicts or other issues which may impact on eligibility to proceed to Stage 4.

Only Eligible Land proceeds to Stage 4.



STAGE 3B - INDICATIVE ASSESSMENT BY DMIRS AND REFERRAL TO JTSI, DBCA, MANAGEMENT BODIES AND RESPONSIBLE AGENCIES

Stages 3A and 3B run concurrently.

1. DPLH refers Eligible Land to DMIRS for indicative assessment. DMIRS will nominate the different tenures which will be likely to receive final statutory approval, including freehold and managed reserve.
2. DPLH refers Eligible Land to JTSI for their advice on whether the land is the subject of an existing or proposed State Agreement.
3. Where the TONT Priority Land is a managed reserve, DPLH will refer the land to the management body for their comments.
4. Where the TONT Priority Land has a responsible agency other than DPLH, DPLH will refer the land to the responsible agency for their comments.
5. DPLH will refer land to DBCA if a conservation interest is known - either through existing Memoranda of Understanding or if identified as a potential joint management / vesting proposal.

Only Eligible Land proceeds to Stage 4.



STAGE 4 - LAND AND TENURE SELECTION

Of the Eligible Land, TONT members select the land parcels to proceed to Stage 5 and the preferred tenure for those land parcels ("Selected Land").



STAGE 5 - STATUTORY APPROVALS AND ADMINISTRATIVE RESPONSE REFERRALS

The Selected Land is referred to DMIRS, DWER, DBCA, MRWA, PTA, LGA and other government agencies and service providers for final statutory approval or administrative response.

Only land which receives statutory approval proceeds to Stage 6 ("Terms of Allocation").



STAGE 6 - TERMS OF ALLOCATION

1. DPLH provides Terms of Allocation (including tenure and any conditions).
2. TONT accepts or rejects Terms of Allocation.

Only land that is accepted by TONT proceeds to Stage 7 ("Final Land List")



STAGE 7 - FINAL LAND LIST

The Final Land List is provided to DPC for consideration for inclusion in the Indigenous Land Use Agreement.

10.2 Finance February 2019

Contents

10.2 AGENDA ITEMS

- 10.2.1 Financial Reports for December 2018 & January 2019
- 10.2.2 Annual Budget Review 2018/2019
- 10.2.3 Finance, Audit & Risk Committee Minutes

AGENDA ITEM:	10.2.1
SUBJECT:	FINANCIAL MANAGEMENT REPORTS FOR THE MONTHS DECEMBER 2018 & JANUARY 2019
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	307.00
PREVIOUS REFERENCE:	N/A
DATE:	20th FEBRUARY 2019
AUTHOR:	DIANNE RAYMOND, MANAGER FINANCE & CORPORATE SERVICES

SUPPORTING DOCUMENTS:

FMR	Title	Attached to Report	Under Separate Cover
10.2.1(a)	December 2018 Financial Management Reports		✓
10.2.1(b)	January 2019 Financial Management Reports		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Local Government (Financial Management) Regulations require monthly statements of financial activity to be reported and presented to Council.

COMMENT

The financial position at the end of January 2019 is detailed in the monthly management report 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/PROCEDURE IMPLICATIONS

There are no policy implications

FINANCIAL IMPLICATIONS

As presented in the Financial Management Reports for December 2018 and January 2019

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

No significant effect on the LTFP

STRATEGIC IMPLICATIONS

Nil

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

Ref	Objective	Strategy	Action
5.1	Ensure governance and administration systems, policies and processes are current and relevant		Review current Council and Management policies and formalise update process and timelines.

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. Risk rating is considered Level 1 - Insignificant

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

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORRESTER

SECONDED: CR FORTH

That Council receives the financial management reports supplied under separate attachment for the months of December 2018 and January 2019 comprising the following:

- Statement of Financial Activities with notes
- Note 1 – Net Current Assets
- Note 2 – Explanation of Material Variances
- Note 3 – Cash & Investments
- Note 4 – Receivables
- Note 5 – Rating Revenue
- Note 6 – Disposal of Assets
- Note 7 – Capital Acquisitions
- Note 8 – Borrowings
- Note 9 – Reserves
- Note 10 – Grants & Contributions
- Note 11 – Trust Fund
- Note 12 – Budget Amendments

Additional Information

- Budget by Program
- Summary of Payments
- Bank Reconciliation
- Credit Card Statement

**Voting 7/0
CARRIED
Minute Reference: 02/19-9**

AGENDA ITEM:	10.2.2
SUBJECT:	ANNUAL BUDGET REVIEW 2018/2019
PROPONENT:	CHIEF EXECUTIVE OFFICER
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	306.13
PREVIOUS REFERENCE:	NIL
DATE:	20th FEBRUARY 2019
AUTHOR:	DIANNE RAYMOND, MANAGER FINANCE & CORPORATE SERVICES

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.2	Budget Review Report		√

DISCLOSURE OF INTEREST

Nil

BACKGROUND

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

“33A Review of budget

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

COMMENT

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

- actual revenues and expenditures for the first seven (7) months of the financial year,
- forecast revenue and expenditure levels for the remaining five (5) months of the year,
- the more significant (in dollar terms) variances to budget rather than the minor 'under & over's' which will generally balance out.

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

The items listed in the **Budget Review Report** have been identified as variations required to the Annual Budget however, having a nil overall effect on the 2018/2019 Adopted Budget. The Budget Review Report provides information on the identified revenue and expenditure expectations for the full year and is based on the review period 1 July 2018 to 31st January 2019. The report highlights identified amendments and provides detailed explanations for these variances by Program (although also noted by Nature or Type in the financial statements). The financial statements are provided as a guidance only to reflect a general revised full year budget based on the proposed amendments being adopted with no further changes to the budget for the remaining year.

This report seeks Council consideration of variations for the mid-year budget review and determination of whether or not to authorise these proposed variations according to both operating and capital revenue/expenditure.

The original 2018/2019 budget as adopted by Council forecast a closing position of \$1,279,178; after the annual financial audit the actual audited closing position is \$1,367,942, increasing the carried forward surplus by an amount of \$88,766. The change in position is mainly due to over estimating 30 June 2018 creditors to be paid in July 2018.

The fixed asset depreciation budget provision across all infrastructure, land & building, plant & equipment classes requires amendment primarily due to the revaluation cycle for Infrastructure at the 30th June 2018. This revaluation was not completed at the time of preparing the annual budget and all depreciation was estimated based on the previous financial year. The asset register has now been updated with depreciation rates recalculated for all Roads Infrastructure. It is recommended the overall budget for asset depreciation be amended to reflect this change and further review take place at the end of year. This is a non-cash item; however, may impact on Council's ratios at the end of the financial year.

STATUTORY ENVIRONMENT

Local Government Act (1995) – Division 2 - Annual Budget - Section 6.2
Local Government (Financial Management) Regulations - Review of Budget - Reg 33A

POLICY IMPLICATIONS

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

FINANCIAL IMPLICATIONS

A summary of Proposed Budget amendments is attached with a NIL overall budget effect.

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

No significant effect on the LTFP

STRATEGIC IMPLICATIONS

Nil

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

All the attached proposed amendments are consistent with the Corporate Business Plan.

Ref	Objective	Strategy	Action
5.1	Ensure governance and administration systems, policies and processes are current and relevant	Review policy categories and set ongoing accountability for review processes	Review current Council and Management policies and formalise update process and timelines.

CONSULTATION

All Senior Staff have been consulted to determine the various proposed budget amendments requested.

RISK ASSESSMENT

Risk Rating Level 1 - Insignificant is appropriate as associated risk would be a failure to comply with relevant Financial Management Regulations requiring local governments to review their annual budget. The proposed changes to the 2018/2019 Adopted Budget does not have an increased/decreased financial impact, simply a NIL affect overall. The proposed increase adjustments to expenditures are offset by reducing expenditure allocations elsewhere in the budget; increase to income not previously allocated and additional opening surplus, with the view to ensuring a budget outcome for the year achieves or delivers an improved overall result than the original budget.

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

VOTING REQUIREMENTS

Absolute Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR WARR

SECONDED: CR FORRESTER

That Council:

1. Council adopts the 2018/2019 Statutory Budget Review, which includes all amendments listed in the Budget Review Report attached.
2. The 2018/2019 fixed asset depreciation budget allocation be amended in accordance with the recent revaluations. This is a non-cash item therefore will have a nil effect on Council's operating budget.

AMENDMENT

MOVED: CR MALUISH

SECONDED: CR FORTH

That \$1000 be allocated to materials for installation of bollards to protect existing gazebo area as part of the identified in the Bill Hemsley Park Master Plan by reducing the transfer to plant/light vehicle reserve by \$1000.

**Voting 7/0
CARRIED**

Minute Reference: 02/19-10

The Substantive motion became as follows:

That Council:

1. Council adopts the 2018/2019 Statutory Budget Review, which includes all amendments listed in the Budget Review Report attached and the following:
 - \$1000 be allocated to materials for installation of bollards to protect existing gazebo area as part of the identified in the Bill Hemsley Park Master Plan by reducing the transfer to plant/light vehicle reserve by \$1000.
2. The 2018/2019 fixed asset depreciation budget allocation be amended in accordance with the recent revaluations. This is a non-cash item therefore will have a nil effect on Council's operating budget.

**Voting 7/0
CARRIED**

Minute Reference: 02/19-11

AGENDA ITEM:	10.2.3
SUBJECT:	FINANCE, AUDIT & RISK COMMITTEE MINUTES
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	403.05
PREVIOUS REFERENCE:	NIL
DATE:	20th FEBRUARY 2019
AUTHOR:	DIANNE RAYMOND, MANAGER FINANCE & CORPORATE SERVICES

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.3	Finance, Audit & Risk Committee Minutes 8 th February 2019		√

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Shire of Chapman Valley Finance, Audit & Risk Committee met on the 8th February 2019 in the Council Chambers Nabawa. The Minutes of the meeting have been included. **(Supplied under separate attachment).**

COMMENT

The Minutes and recommendations from the Finance, Audit & Risk Committee meeting dated 8th February 2019 are presented for Council consideration.

STATUTORY ENVIRONMENT

Local Government Act 1995 & Local Government Audit Regulations 1996.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

No implications envisaged.

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

No effect on LTFP

STRATEGIC IMPLICATIONS

No implications envisaged.

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

Ref	Objective	Strategy	Action
5.1	Ensure governance and administration systems, policies and processes are current and relevant	Review policy categories and set ongoing accountability for review processes	Review current Council and Management policies and formalise update process and timelines.

CONSULTATION

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

RISK ASSESSMENT

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

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

VOTING REQUIREMENTS

Simple Majority

COMMITTEE RECOMMENDATION

That Council receives the Minutes of the Finance, Audit & Risk Committee meeting held on the 8th February 2019 and endorse the following recommendations i.e.

1. The Committee recommends to Council the Management Report for year ending 30 June 2018 be received and, other than monitoring the levels and trends of all ratios, there are no actions required out of the report;
2. The Committee recommends to Council the Final Audit Report of the Chief Executive Officer the year ending 30 June 2018 be received and it be noted there are no further actions required from the report.
3. That Committee recommends the following to Council:
 - a) The 2018 Compliance Audit Return be signed by the CEO and Shire President
 - b) The 2018 Compliance Audit Return be received and recorded in the Minutes of Council
 - c) The 2018 Compliance Audit Return is submitted to the Department of Local Government, Sport & Cultural Industries.

AMENDMENT

MOVED: CR WARR

SECONDED: CR FARRELL

That Council receives the Minutes of the Finance, Audit & Risk Committee meeting held on the 8th February 2019 and endorse the following recommendations i.e.

- 1 The Committee recommends to Council the Management Report for year ending 30 June 2018 be received and, other than monitoring the levels and trends of all ratios, there are no actions required out of the report;
- 2 The Committee recommends to Council the Final Audit Report of the Chief Executive Officer the year ending 30 June 2018 be received and it be noted there are no further actions required from the report.
- 3 That Committee recommends the following to Council:
 - a) The 2018 Compliance Audit Return be signed by the CEO and Shire President
 - b) The 2018 Compliance Audit Return be received and recorded in the Minutes of Council

- c) The 2018 Compliance Audit Return is submitted to the Department of Local Government, Sport & Cultural Industries.
- 4 The Draft revised Asset Management Plan, Long Term Financial Plan and Workforce Plan be presented back to a Concept Forum prior to being presented to Council for further consideration and deliberation.

Voting 7/0
CARRIED
Minute Reference: 02/19-12

Deviation from Staff Recommendation: Councillors wanted the opportunity to further review the revised plans.

The President expressed his and Council congratulations and appreciation to Di Raymond (Manager Finance & Corporate Services) and Staff for their efforts in achieving a clean audit for 2017/2018.

10.3

Chief Executive Officer

February 2019

Contents

10.3 AGENDA ITEMS

10.3.1 Appointment of Acting Chief Executive Officer & Delegated Authority

10.3.2 Annual Electors Meeting Minutes

10.3.3 Local Government Act Review

AGENDA ITEM:	10.3.1
SUBJECT:	APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER & DELEGATED AUTHORITY
PROPONENT:	CHIEF EXECUTIVE OFFICER
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	908.102
PREVIOUS REFERENCE:	NIL
DATE:	20 FEBRUARY 2019
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
	NIL		

DISCLOSURE OF INTEREST

Financial Interest – Simon Lancaster (DCEO).

BACKGROUND

As previously indicated, I will be clearing section of Annual and Long Service Leave during 2019, with the intention of the Deputy CEO (Simon Lancaster) taking on the position of Acting Chief Executive Officer during these periods of absence.

I have recently cleared leave in December 2018/January 2019, which was over the Christmas New Year period and being a quiet time of the year, it was not considered necessary to appoint an Acting Chief Executive Officer during this period. However, as other periods of leave throughout 2019 will not be during the quiet times of the year I believe it is appropriate for Council to appoint Simon as the Acting Chief Executive Officer during these periods of my absence.

COMMENT

Simon’s existing Employment Contract & Position Description incorporates to requirement for him to act as Chief Executive Officer when required and this has been built into the annual remuneration provided to Simon in his Contract & Position Description in 2016. This was incorporated into Simon’s Contract to remove the situation of implementing a higher capacity hourly rate when he covers for the CEO in his absence i.e.

“Act in the position of Chief Executive Officer on an as needs basis as determined by the CEO”

STATUTORY ENVIRONMENT

Section 5.36 of the *Local Government Act 1995* provides that:

- (1) *A local government is to employ—*
 - (a) *a person to be the CEO of the local government; and*
 - (b) *such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.*
- (2) *A person is not to be employed in the position of CEO unless the council—*
 - (a) *believes that the person is suitably qualified for the position; and*
 - (b) *is satisfied with the provisions of the proposed employment contract.*
- (3) *A person is not to be employed by a local government in any other position unless the CEO—*
 - (a) *believes that the person is suitably qualified for the position; and*
 - (b) *is satisfied with the proposed arrangements relating to the person’s employment.*
- (4) *Unless subsection (5A) applies, if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement into contain such*

information with respect to the position as is prescribed.

- (5A) Subsection (4) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.
- (5) For the avoidance of doubt, subsection (4) does not impose requirement to advertise a position before the renewal of contract referred to in section 5.39.

Regulation 18 of the Local Government (Administration) Regulations provides that:

- (1) If a position of CEO, or of senior employee, of a local government **becomes vacant**, the local government is to advertise the position —
- (a) on a notice board exhibited to the public at the local government's offices, if the position is —
- (i) to be filled on a part time basis by a person who is also employed by another local government;
- or
- (ii) an acting position for a term not exceeding one year;
- or
- (b) otherwise, in a newspaper circulating generally throughout the State.
- (2) An advertisement referred to in sub regulation (1) is to contain —
- (a) the details of the remuneration and benefits offered;
- (b) details of the place where applications for the position are to be submitted;
- (c) the date and time for the closing of applications for the position;
- (d) the duration of the proposed contract;
- (e) contact details for a person who can provide further information about the position; and
- (f) any other information that the local government considers is relevant.

As the CEO's position has not become vacant the above legislation is not relevant. However, it is important for Council to afford the same Delegated Authority to the Acting CEO during my absence to ensure the organisations operational procedures are not adversely affected during my periods of absence whilst on leave.

The legislation relevant to delegation's states:

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
- (a) this Act other than those referred to in section 5.43; or
- (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

* Absolute majority required.

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

The Staff Recommendation is to afford the Acting CEO the save level of delegated authority given to the myself only whilst I am on periods of extended leave. These delegations will need to be provided to Simon in writing (signed by the Shire President) for these periods only.

As the actual periods are not specified at this time the resolution and subsequent correspondence to Simon will need to be generic in nature.

POLICY/PROCEDURE IMPLICATIONS

Council's Delegation Register will need to be amended to reflect the Acting CEO's Delegated Authority being equivalent to the existing CEO delegations during the periods determined by the CEO leave absences only.

FINANCIAL IMPLICATIONS

There will be no financial affects as the DCEO's Contract & Position Description reflects the requirement for him to act in the position of CEO when required to do so by the CEO. The DCEO's remuneration package accommodates this requirement already.

Budget allocation has been made from the Leave Reserve Fund to cover additional costs to outsource any task as required during the CEO's periods of absence whilst clearing leave (e.g. Planning Officer).

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

No affect.

STRATEGIC IMPLICATIONS

It is important delegations are continued in the CEO's leave absence period to ensure the organisations operational procedures are not adversely affected.

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

CONSULTATION

The CEO and DCEO have discussed the matter and agree with the Staff Recommendation below.

RISK ASSESSMENT

Risk in this instance is considered insignificant due to Simon's experience and long-term employment with the Shire:

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

VOTING REQUIREMENTS

Absolute Majority.

5.45. Other matters relevant to delegations under this Division

- (1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
 - (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an **absolute majority**.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR BATTEN

SECONDED: CR FORTH

That Council:

- 1 Endorse the appointment of Simon Lancaster as Acting Chief Executive Officer during the periods of leave taken by and as determined necessary by the Chief Executive Officer only.
- 2 Extend the approved Delegated Authority to the Acting Chief Executive to the same level Council has afforded the Chief Executive Officer during the periods of leave taken by and as determined necessary by the Chief Executive Officer only. Such extended delegations are to be provided to the Acting Chief Executive Officer in writing in accordance with Section 5.42(2) of the *Local Government Act, 1995*.

**Voting 7/0
CARRIED
Minute Reference: 02/19-2
(Motion moved en-bloc)**

AGENDA ITEM:	10.3.2
SUBJECT:	ANNUAL ELECTORS MEETING MINUTES
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	413.01
PREVIOUS REFERENCE:	MINUTE REF: 12/18-9 and 12/18-10
DATE:	20th FEBRUARY 2019
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.2(a)	Minutes – Annual Electors Meeting – 31 st January 2019		√

DISCLOSURE OF INTEREST

Nil

BACKGROUND

At the December 2018 OCM Council resolved the following:

MOVED: CR BATTEN

SECONDED: CR WARR

Council:

- 1 *Accepts the Annual Report for the 2017/2018 Financial Year as required by s5.54 of the Local Government Act 1995.*

Voting 6/0

CARRIED

Minute Reference: 12/18-9

COUNCIL RESOLUTION / STAFF RECOMMENDATION 2 (Simple Majority Vote Required)

MOVED: CR BATTEN

SECONDED: CR HUMPHREY

Council:

- 1 *Receives and accepts the Auditors Report for 2017/2018;*
- 2 *Receives and accepts the Auditors Management Letter 2017/2018;*
- 3 *Sets the date for the Annual General Meeting of Electors for Thursday 31st January 2019 commencing 6.00pm at the Nabawa Council Chamber and advertise this meeting.*
- 4 *Request the CEO 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 2017/2018 Annual Report to the Director General of the Department of Local Government.*

Voting 6/0

CARRIED

Minute Reference: 12/18-10

Council held its Annual Electors Meeting on the 31st January 2019 and a copy of the unconfirmed minutes from the meeting have been provided under separate cover as **Attachment 10.3.3(a)**

COMMENT

This item is presented to the next Ordinary Council Meeting following an Annual Electors meeting to enable consideration of the issues raised. There being only one decisions or resolutions from the Annual Electors meeting requiring Council's consideration Council. This was a result of error being identified in the Annual Report presented to Council for consideration at the December OCM i.e.

MOVED: CR FORTH

SECONDED: CR WARR

That the 2017/2018 Annual Report including Annual Financial Statements, Audit Report, Presidents Report and Chief Executive Officer Report be received with the following amendments:

Population Growth

Remove:

The building/development approvals issued by the Shire in 2016/2017 are as follows:

1 July 2016 – 30 June 2017		
Type	No. Approved	Value
Dwellings	16	\$5,831,873
Dwelling (Class 1a inside Class 10a)	3	\$175,000
Outbuildings	19	\$693,534
Other Residential (patios, pools, granny flats etc.)	16	\$408,203
Industrial/Commercial	4	\$9,500
Events	3	N/A
TOTAL	61	\$7,118,110

Replace with the following:

The building/development approvals issued by the Shire in 2017/2018 are as follows:

1 July 2017 – 30 June 2018		
Type	No. Approved	Value
Dwellings	9	\$2,714,649
Dwelling (Class 1a inside Class 10a)	2	\$100,000
Outbuildings	11	\$353,254
Other Residential (patios, pools, granny flats etc.)	8	\$152,620
Industrial/Commercial	1	\$40,000
Events	4	N/A
TOTAL	35	\$3,360,523

Also –

Strategic Planning Projects

This is also the 2016/2017 details.

This section can be totally removed as the Strategic Community Plan/Corporate Business Plan update is provided separately within the CEO's Report.

CARRIED
Voting 7/0
Minute Reference AEM 01/19 - 2

STATUTORY ENVIRONMENT

Section 5.33 of the Local Government Act 1995 requires that:

- "(1) All decisions made at an electors meeting are to be considered at the next ordinary council meeting or, if that is not practicable –
- (a) At the first ordinary council meeting after that meeting; or
 - (b) At a special meeting called for that purpose.

which ever happens first.

- (2) *If at a meeting of the Council a local government makes a decision in response to a decision made at an electors meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.”*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

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

No effect

STRATEGIC IMPLICATIONS

Not applicable

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

Ref	Objective	Strategy	Action
1.1	Nurture the sense of community	Determine a whole of Shire community integration approach	Advocate a sense of community when opportunity arises.

CONSULTATION

Meeting was advertised and attended by electors, elected members and staff.

RISK ASSESSMENT

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

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR BATTEN

SECONDED: CR FORTH

The Minutes of the Annual Electors meeting dated 31st January 2019 be received and the following recommendation actioned:

That the 2017/2018 Annual Report including Annual Financial Statements, Audit Report, Presidents Report and Chief Executive Officer Report be received with the following amendments:

Population Growth

Remove:

The building/development approvals issued by the Shire in 2016/2017 are as follows:

1 July 2016 – 30 June 2017		
Type	No. Approved	Value
Dwellings	16	\$5,831,873
Dwelling (Class 1a inside Class 10a)	3	\$175,000
Outbuildings	19	\$693,534
Other Residential (patios, pools, granny flats etc.)	16	\$408,203
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Events	3	N/A
TOTAL	61	\$7,118,110

Replace with the following:

The building/development approvals issued by the Shire in 2017/2018 are as follows:

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Other Residential (patios, pools, granny flats etc.)	8	\$152,620
Industrial/Commercial	1	\$40,000
Events	4	N/A
TOTAL	35	\$3,360,523

Also –

Strategic Planning Projects

This is also the 2016/2017 details.

This section can be totally removed as the Strategic Community Plan/Corporate Business Plan update is provided separately within the CEO's Report.

**Voting 7/0
CARRIED
Minute Reference: 02/19-2
(Motion moved en-bloc)**

AGENDA ITEM:	10.3.3
SUBJECT:	LOCAL GOVERNMENT ACT REVIEW
PROPONENT:	WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION
SITE:	WA LOCAL GOVERNMENT
FILE REFERENCE:	404.02
PREVIOUS REFERENCE:	MINUTE REFERENCE 04/17-22
DATE:	20th FEBRUARY 2019
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

SUPPORTING DOCUMENTS

Ref	Title	Attached to Report	Under Separate Cover
10.3.3(a)	DLG – Local Government Act Review Survey		√

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Western Australian Local Government Association (WALGA) and the Department of Local Government Sport and Cultural Industries (DLG) have both progressed Stage 2 of the Local Government Act Review process.

WALGA and the DLG have been conducting Forums across the State as part of the Review process, which is focusing on specific areas. The CEO & DCEO attended a LG Staff Forum and Cr Warr & CEO attended an Elected Member & Senior Staff Forum in Geraldton in late 2018.

At the December 2018 Concept Forum, the CEO presented the DLG's Survey response form with areas highlighted as recommended responses.

Councillors went through the Survey form a recommended amendments and additions. The Survey (**see Attachment 10.3.3(a)**) has now been amended accordingly and is now presented to Council for formal adoption prior to submission to both the DLG and WALGA.

This stage of the LG Act review process included the following areas

- Elections;
- Beneficial Enterprises;
- Community Engagement & Integrated Planning and Reporting;
- Council Meetings; and
- Financial Management;
- Administrative Efficiencies & Local Laws;
- Complaints Management;
- Interventions; and
- Rates, Fees & Charges.

Discussion Papers on each of the abovementioned areas of the review were presented to Council as part of the December 2018 Concept Forum and can be referred to again from this Concept Forum Agenda if required.

Below is an email received from WALGA, which has a link to the DLG website where the full Discussion Papers and Survey can be found on all the above areas under review.

Councillors can lodge their own individual submissions and/or an agreed position on behalf of the Shire of Chapman Valley.

Dear Chief Executive Officer

On Wednesday 19 September 2018, the Minister for Local Government announced the public consultation for the new Local Government Act, and released a series of discussion papers which cover a range of issues to get the conversations started. **See link**

<https://www.dlqsc.wa.gov.au/localgovernment/strengthening/Pages/LG-Act-Review.aspx>

WALGA and the Department of Local Government Sport and Cultural Industries will host a series of Local Government Act Forums throughout October and November 2018 to inform the development of a new Local Government Act for Western Australia.

These facilitated forums will be held in respective WALGA Zones groupings. This approach will maximize the opportunity for Council input. A Zone Report will be developed following each forum to inform WALGA Zone discussions and the development of submissions.

Following WALGA's request the consultation period has been extended to **Sunday, 31 March 2019**.

WALGA is currently organising the Local Government Act forums and liaising with Zone Executive Officers for dates and locations. The forums will be for all Elected Members and CEO's plus CEO nominated staff, and we are looking to hold the forums between 8 October and 2 November 2018. We are seeking to have as many Local Government representatives participate as possible.

The coordination of the forum will be managed by WALGA and the Department.

It is important to note that the discussion papers that have been produced are from the Department of Local Government, Sport and Cultural Industries and not from WALGA. WALGA will respond to the papers after receiving sector feedback. It is anticipated that an item will be prepared for sector position on all the issues at the February/March round of Zone and State Council meetings.

WALGA is committed to providing the best opportunity for members to inform the development of the new Local Government Act.

We will advise on dates for the forum early next week and also provide an Info page highlighting current sector positions against the various issues that have been highlighted in the Departments papers.

Any queries please let me know.

Kind Regards

Tony Brown | Executive Manager Governance & Organisational Services | WALGA

(p) (08) 9213 2051 | (mob) 0439 914 349 | (f) (08) 9213 2077 | (e) tbrown@walga.asn.au

www.walga.asn.au

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COMMENT

Though this report deals specifically with Stage 2 of the LG Act Review, which focuses on specific areas of the legislation, Council has already lodged submissions at Stage 1 of the review process and as part of the Northern Country Zone's review on legislative burdens placed on LGA's in 2017 and 2018.

STATUTORY ENVIRONMENT

Local Government Act, 1995 & associated Regulations.

POLICY/PROCEDURE IMPLICATIONS

No existing Policies/Procedures effected.

FINANCIAL IMPLICATIONS

As reported at the April 2017 OCM, the financial Implications associated with superfluous overburdening legislation has not been formally measured or analysed. However; in a presentation given in the mid-2000s by Shane Silcox, CEO City of Melville, indicated the costs of legislative compliance in local government is approximately \$12m per annum. Below is an extract from the Shane's presentation:

"In Western Australia the growth in legislation from the 1960s as documented in the Business Regulation Action Plan by the Business Council of Australia has been some 185% to a staggering 20,000 pages of primary legislation in 2000. That is from approximately 7,000 pages of primary legislation in 1960's, 11,000 pages in 1970's, 14,000 pages in the 1980's, 18,000 pages in the 1990's and 20,000 pages in the 2000's.

Unfortunately, many regulations conceived to fix one problem often lead to unintended consequences, sometimes requiring more legislation...and the cycle goes on!

And the cost of this exponential growth, or exuberance, is estimated at 8% of GDP. In fact the cost of regulation for small and medium-sized Australian businesses in 1998, suggests the OECD, is estimated at more than \$17 billion. Additionally, the Federal government alone spent some \$4.5 billion on the administrative costs of Commonwealth regulatory bodies.

Studies in the USA have identified that the cost of compliance is about 1.5% of revenues...in Western Australia the combined Local Government revenues is some \$829m hence the cost of compliance in this state alone is over \$12m.

Overall it is unfortunate that compliance has dominated debate since the 1990's with our society becoming more litigious in the process. Australian taxpayers, consumers and ratepayers ultimately pay the price of this exuberance both from a compliance and risk management perspective."

As previously mentioned, as part of prior submission, it would fair to state the issue has worsened significantly since the mid 2000's and I am sure the legislation cost across the local government sector would closer to \$20m per annum. However, as you would imagine, ascertaining the actual cost burden would be a major exercise and one I am sure this shire alone (or even the NCZ member LGAs) could not afford the time or resources to undertake.

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

The Shire's LTFP must consider the operational costs of the organisation, which then must consider the costs to ensure compliance with legislative requirements and the implementation of legislation as it is being determined by the executive arm of government (i.e. *Best Practice*).

The administrative burdens placed on the organisation has been significant over past 20 to 30 years. These administrative burdens are invariably directly associated with the legislative (and executive arm of governments interpretations) burdens place on local governments during this period.

It would also be fair to state the Financial Assistance Grants, which are designed to make funds available to local government to provide services to its constituents, has not kept pace with the legislative impositions place on local government.

STRATEGIC IMPLICATIONS

- Strategic Community Plan/Corporate Business Plan:**

Ref	Objective	Strategy	Action
5.1	Ensure governance and administration systems, policies and processes are current and relevant	Review policy categories and set ongoing accountability for review processes	Review current Council and Management policies and formalise update process and timelines.

CONSULTATION

Prior discussions occurred at the December 2018 Concept Forum on Council's Survey responses for Stage 2 of the LG Act Review.

RISK ASSESSMENT

Due to the ever-increasing burdens being placed on local government I would consider the risk being **Major** in this instance if these burdens cannot be removed (or at least diminished) i.e.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR BATTEN

SECONDED: CR FORTH

Council endorse the Stage 2 Local Government Act Review Survey responses as provided at **Attachment 10.3.3(a)** and lodge these as the Shire of Chapman Valley's submission on the review process to both the Western Australian Local Government Association and the Department of Local Government Sport and Cultural Industries.

**Voting 7/0
CARRIED
Minute Reference: 02/19-2
(Motion moved en-bloc)**

The Meeting adjourned at 10.47am

The meeting recommenced at 11.00am

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

Nil

13.0 DELEGATES REPORTS

Cr Farrell advised that he had attended the Australia Day event and thanked Mrs Mckay for organising.

Cr Forth attended the Chapman Valley Ag Society AGM and advised that the 70th Celebration will be their focus for 2019.

Cr Forrester attended the Parkfalls Residents Association AGM.

Cr Maluish advised that he had attended the Shinema event held at Bill Hemsley Park Community Centre which was well attended.

14.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

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

- 15.1 Tenders 4-18/19- Supply One (1) Articulated Motor Grader
Tenders 5-18/19 - Supply One (1) Multi Tyred Roller

COUNCIL RESOLUTION

MOVED: CR FORRESTER

SECONDED: CR HUMPHREY

Council close the meeting to the public for the following Agenda Item(s) in accordance with the Local Government Act, 1995:

- 15.1 – Tender 4 -18/19 – Supply One (1) Articulated Motor Grader; &
Tender 5 -18/19 – Supply One (1) Multi Tyred Roller
 - ~ Section 5.23(2)(c) - Item relates to contracts entered into, or which may be entered into, by the local government and which relates to matters to be discussed at the meeting; and
 - ~ Section 5.23(2)(e) – Item relates to a matter that if disclosed, would reveal information that has a commercial value to a person or information about the business, commercial or financial affairs of a person

**Voting 7/0
CARRIED
Minute Reference: 02/19-13**

*Cr Farrell (President) declared a financial interest and left Chambers at 11.16am and Cr Warr took the Chair.
Cr Warr (Deputy President) presided over the meeting in the absence of Cr Farrell.*

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORTH

SECONDED: CR BATTEN

AGENDA ITEM:	15.1
SUBJECT:	TENDERS 4-18/19- SUPPLY ONE (1) ARTICULATED MOTOR GRADER TENDERS 5-18/19 - SUPPLY ONE (1) MULTI TYRED ROLLER
PROPONENT:	CHIEF EXECUTIVE OFFICER
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	408.01.98 and 408.01.99
PREVIOUS REFERENCE:	Min Ref: 05/18-12
DATE:	20th FEBRUARY 2019
AUTHOR:	MAURICE BATTILANA

Council:

1. Awards Tender 4-18/19 to Westrac Pty Ltd for the supply of one (1) CAT 120M Articulated Motor Grader with trade of existing item of plant as follows:

~ Purchase Price (with Trade)	\$ 348,056.77 (GST Exclusive)		
~ Less Trade Value	<u>\$ 65,000.00</u>	"	"
Net Cost (after Trade)	<u>\$ 283,056.77</u>	"	"

2. Accept the tenders from Smith Broughton & Sons (trading as Allied Equipment) for the Outright Purchase of the trade SM Multipac Multi Tyred Roller of \$14,000 (GST Exclusive).

3. Awards Tender 5-18/19 to GCM Agencies Pty Ltd for the supply of one (1) Multipac 524H Multi Tyred Roller as follows:

~ Purchase Price (No Trade Option)	\$ 135,000.00 (GST Exclusive)		
~ Less Income from Outright Purchase Tender	<u>\$ 14,000.00</u>	"	"
Net Cost (after Trade)	<u>\$ 121,000.00</u>	"	"

4. The acceptance of these offers is under the conditional the supplier's and purchaser's compliance with all specification stipulated in the tender documentation.

**Voting 6/0
CARRIED
Minute Reference: 02/19-14**

COUNCIL RESOLUTION

MOVED: CR FORTH

SECONDED: CR BATTEN

That the meeting be re-opened to the public.

**Voting 6/0
CARRIED
Minute Reference: 02/19-15**

Cr Farrell re-entered Chambers and took the Chair at 11.20am and resumed as Presiding Member for the meeting

16.0 CLOSURE

The President thanked Elected Members and Staff for their attendance and closed the meeting at 11.21am.