



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 19 June 2019  
at the Council Chambers, 3270 Chapman Valley Road, Nabawa  
commencing at 9:00am.

Maurice Battilana  
CHIEF EXECUTIVE OFFICER

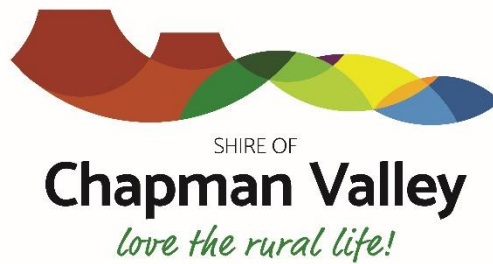
# AGENDA

## JUNE 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 positioned above the name of the Chief Executive Officer.

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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*Cr Warr was granted Leave of Absence at the May OCM for July 2019 – Min Ref: 05/19-1*

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### 8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

8.1 Ordinary Meeting of Council held on Wednesday 15 May 2019

That the minutes of the Ordinary Meeting of Council held Wednesday 15 May 2019 be confirmed as a true and accurate.

### 9.0 ITEMS TO BE DEALT WITH EN BLOC

### 10.0 OFFICERS REPORTS

# **10.1**

# **Deputy Chief Executive Officer**

# **June 2019**

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10.1.1 Proposed Outbuilding, Yetna - Lot 6980 Eastough-Yetna Road, Yetna

10.1.2 Review Of Outbuildings Local Planning Policy

<b>AGENDA ITEM:</b>	<b>10.1.1</b>
<b>SUBJECT:</b>	<b>PROPOSED OUTBUILDING, YETNA</b>
<b>PROPONENT:</b>	<b>I. EASTOUGH &amp; T. BENNIER</b>
<b>SITE:</b>	<b>LOT 6980 EASTOUGH-YETNA ROAD, YETNA</b>
<b>FILE REFERENCE:</b>	<b>A25 &amp; 204.16.07</b>
<b>PREVIOUS REFERENCE:</b>	<b>05/03-6</b>
<b>DATE:</b>	<b>7 JUNE 2019</b>
<b>AUTHOR:</b>	<b>SIMON LANCASTER</b>

**SUPPORTING DOCUMENT:**

Ref	Title	Attached to Report	Under Separate Cover
10.1.1(a)	Submitted plans for proposed outbuilding	√	
10.1.1(b)	Oakajee Narngulu Infrastructure Corridor plans	√	
10.1.1(c)	Received submissions	√	

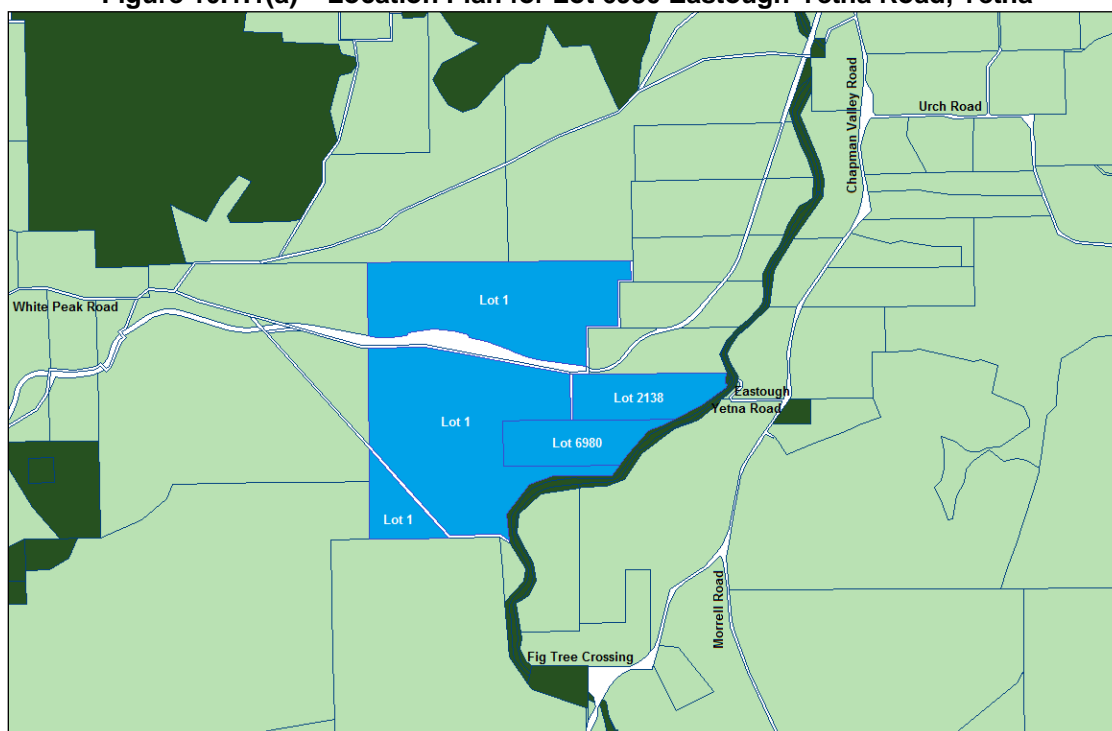
**DISCLOSURE OF INTEREST**

Nil.

**BACKGROUND**

Council is in receipt of an application to construct an outbuilding upon Lot 6980 Eastough-Yetna Road, Yetna. The location for the proposed outbuilding is within the alignments of both the proposed Oakajee to Narngulu Infrastructure Corridor ('ONIC') and Dongara to Northampton Corridor Alignment Study. The application has been referred to the relevant state government agencies for comment. This report recommends conditional approval of the application.

**Figure 10.1.1(a) – Location Plan for Lot 6980 Eastough-Yetna Road, Yetna**



**COMMENT**

Lot 6980 is a cleared 40.645ha property that abuts the Chapman River to the east and contains an existing residence and several nearby outbuildings. The applicant owns the adjoining 40.508ha Lot 2138 to the north and the 171.22ha Lot 1 to the east which are used for farming purposes, and the landholding gains access to Chapman Valley Road via Eastough Yetna Road to the north-east.

**Figure 10.1.1(b) – Aerial photograph of Lot 6980 Eastough-Yetna Road, Yetna**



The applicant is seeking to construct a 30m x 12m (360m<sup>2</sup>) zincalume shed with a wall height of 5m and a total height of 6.166m for the purpose of machinery storage. The shed would be clustered with the existing outbuildings upon the property and located approximately 150m from the nearest boundary, this being the river reserve boundary to the south-east. A copy of the submitted outbuilding plans have been included as **Attachment 10.1.1(a)**.

**Figure 10.1.1(c) – Proposed location for Shed upon Lot 6980**



The location for the proposed outbuilding is within the alignments of both the proposed ONIC and the Dongara to Northampton Corridor Alignment Study, and the application has therefore been referred to Council for its consideration in accordance with the Shire of Chapman Valley Local Planning Policy 'Development adjacent to the proposed Oakajee to Tallering Peak and Oakajee to Narngulu Rail Corridors'



Plans illustrating the full ONIC alignment as contained within the Department of Planning, Lands & Heritage's 'Oakajee Narngulu Infrastructure Corridor Draft Alignment Definition Report' (2014) and the section relating to Lot 6980 are provided in **Attachment 10.1.1(b)**.

Generally, the Shire has taken the approach in its assessment of applications within vicinity of either the proposed Oakajee to Tallering Peak railway alignment or the ONIC to require development to be setback from the corridor alignments.

However, in this particular instance Shire staff do not raise objection to the application based upon the following:

- the outbuilding is proposed to be clustered immediately with an existing residence and outbuildings that are already within the proposed corridor alignment and would therefore ultimately require acquisition and demolition;
- given the uncertainties over the timing for acquisition and construction of the alignment and the landowner's need to continue to use their land in the more immediate term, it would not appear reasonable in this instance to oppose the outbuilding given that its proposed location is incidental to existing development that would need to be acquired anyway;
- the proposal is for a shed for the purpose of machinery storage and approval would not therefore introduce additional settlement/habitation upon Lot 6980 or within vicinity of the ONIC;
- the application is for a Class 10 (non-habitable) building, and this should form part of the conditional basis for any approval (if given);
- the application was forwarded for review and comment to the relevant state government agencies and no objection was received;
- in the event that the state government (or a private proponent) determine that the land requires purchase then the development is considered relatively minor in nature and cost in context to the overall ONIC project cost, and there is further the ability for the structure to be dismantled and re-erected elsewhere (either upon this, or another, property).

**Figure 10.1.1(d) – View north-west along proposed ONIC alignment towards Lot 6980**



## **STATUTORY ENVIRONMENT**

Lot 6980 Eastough-Yetna Road, Yetna is zoned 'Rural' under the Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme').

It is considered that a shed for the purpose of machinery storage upon Lot 6980 would meet with the Scheme's definition of 'Agriculture-Extensive' which *"means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture-intensive or animal husbandry-intensive"* which is listed as a permitted use in the 'Rural' zone under Table 3 of the Scheme.

Part 3 Section 16 of the Scheme lists the objectives of the 'Rural' zone as being:

- *To provide for the maintenance or enhancement of specific local rural character.*
- *To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.*
- *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.*
- *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses to the Rural zone.*
- *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.”*

Part 1 Section 9 'Aims of the Scheme' lists the following aim considered to be of relevance to this application:

- “(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.”*

Schedule 2 Part 9 Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by local government in considering a development application:

- “(a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) *any approved State planning policy;...*
- ...(e) *any policy of the Commission;*
- (f) *any policy of the State;*
- (g) *any local planning policy for the Scheme area;...*
- ...(q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;...*
- ...(s) *the adequacy of —*
  - (i) *the proposed means of access to and egress from the site; and*
  - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;...*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate.”*

## **POLICY IMPLICATIONS**

Shire of Chapman Valley Local Planning Policy 16.190 'Development adjacent to the proposed Oakajee to Tallering Peak and Oakajee to Narngulu Rail Corridors' seeks to prevent incompatible development in vicinity to the ONIC.

On 12 May 1998 Council formally adopted a Local Planning Policy regarding development adjacent to the Oakajee to Tallering Peak Rail Corridor. The policy had been developed in consultation with the (then) Shires of Greenough and Mullewa, and the Departments of Resources Development, and Environmental Protection.

Following the completion of the Consultative Environmental Review for the Oakajee to Narngulu Rail Corridor and subsequent assessment by the Department of Environmental Protection, the Minister for the Environment requested that Council extend its current policy to give regard for this second rail corridor and the expanded policy was adopted by Council at its 18 April 2000 meeting.

The policy was reviewed and adopted by Council again at the 19 February 2014 meeting following gazettal of the Scheme No.2.

Shire of Chapman Valley Local Planning Policy 'Development adjacent to the proposed Oakajee to Talling Peak and Oakajee to Narngulu Rail Corridors' has the following objectives and policy requirements:

*“Objective*

- 3.1 *To prevent incompatible development adjoining the proposed Oakajee to Talling 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.*

*Policy Statement*

- 4.1 *Applications for planning consent on land adjacent to the Oakajee to Talling Peak and Oakajee to Narngulu rail corridors shall not be determined by Council until such time as advice has been received from the Environmental Protection Authority, Department of Planning, and the Department of State Development. Council shall refuse any such application should any of those agencies object to the proposal; and the objectors agree to cover all compensation costs resulting from Council's refusal of the application.*
- 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).*
- 4.3 *For the purposes of this policy, the centre line of the railway corridors shall be as defined in the alignment definition study prepared by the Department of Planning and in the recommendation, report prepared by the Environmental Protection Authority.”*

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**

The State Budget that was announced in May 2015 included an allocation of \$10.3 million to commence compulsory land acquisition for the ONIC, this amount was later withdrawn.

Council resolved at its 20 February 2019 meeting to 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 (which immediately adjoins to the east the landholding of the applicant for the proposed outbuilding that is subject of this report).

On 6 May 2019 the Premier and Minister for State Development, Hon. Mark McGowan MLA responded to the Shire as follows:

*“The Western Australian Government remains committed to using the Oakajee Site for a future port and industrial estate to support the continued development of the Mid West region, inclusive of the Oakajee Narngulu Infrastructure Corridor, which will ultimately realise the full potential of the development.*

*Consistent with this, the Government is seeking to extend the port environmental approval; for a further five years and to progress land use planning arrangements, to ensure that the Oakajee development can be achieved in a timely manner should the iron ore market improve.*

*At this time, the Government does not have a budget for acquisition of land within the corridor. The funding for this matter was withdrawn by the former Liberal/National Government in 2015.”*

- **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 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 seeks to establish an integrated port and industrial estate at Oakajee; 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.

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 Department of Planning'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 (2008).
- Moresby Range Management Strategy (2009) prepared by the Department of Planning;
- Moresby Range Management Plan (2010) prepared jointly by the Shire of Chapman Valley and City of Greater Geraldton;
- Oakajee Industrial Estate Structure Plan (2011) 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 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, and without it the Oakajee Industrial Estate is considered unlikely to develop to any significant level in the near future.

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 the 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 already under State Government ownership as freehold title or publicly reserved land.

Even in the absence of strategic level industry proponents relating to the Oakajee Industrial Estate & Port, the acquisition and staged construction of the ONIC (in conjunction with the Northampton bypass) is still required at this time for the following reasons:

- will enable triple road-trains to travel south from their current termination point at Carnarvon to continue through to north of Perth as part of a wider state transport initiative;
- will provide an outer Geraldton bypass route for other heavy vehicle transport and alleviate safety and congestion concerns currently experienced by having them run through Geraldton (e.g. the current alignment runs through residential suburbs, multiple school crossings, traffic lights and roundabouts and mixes domestic traffic with state transport traffic);
- encourage 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;
- enable general/lighter industrial uses to establish at the Oakajee Industrial Estate as the ONIC would provide the required road and servicing connection to the Geraldton Port and wider transport network;

- enable logistics/transport uses to establish within the Oakajee Industrial Estate on a site that would be immediately fronting the state road network (including triple road-trains) and have ability to travel north/south and be located in immediate proximity to a regional employment centre;
- securing of the ONIC would also provide greater certainty to potential investment in the Oakajee Industrial Estate and Port with private enterprise unable to access the site which can avoid further incidents such as the socially divisive and unsuccessful application for Mining Tenement Miscellaneous Licence (for the purpose of transporting minerals) as previously lodged by Karara Mining Ltd.

- **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

As per the requirements of the Local Planning Policy the Shire wrote to the **Department of Jobs, Tourism, Science & Innovation, the Department of Planning, Land & Heritage, the Environmental Protection Authority and Main Roads WA** on 9 April 2019 providing details of the application and inviting comment prior to 21 May 2019.

At the conclusion of the advertising period 2 submissions had been received, neither in objection to the application, and copies of the received submissions have been provided as **Attachment 10.1.1(c)**.

## RISK ASSESSMENT

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

## VOTING REQUIREMENTS

Simple majority required.

## STAFF RECOMMENDATION (PART 1)

That Council grant formal planning approval for a zincalume clad outbuilding to be constructed upon Lot 6980 Eastough-Yetna Road, Yetna subject to the following conditions:

- 1 Development shall be in accordance with the attached approved plans dated 19 June 2019 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and must not be used for habitation, commercial or industrial purposes.
- 4 The applicant is advised that the outbuilding is impacted by the alignment of the Oakajee Narngulu Infrastructure Corridor and may be subject to future impacts associated with the acquisition, construction and operation of this alignment.
- 5 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination, the approval shall lapse and be of no further effect.

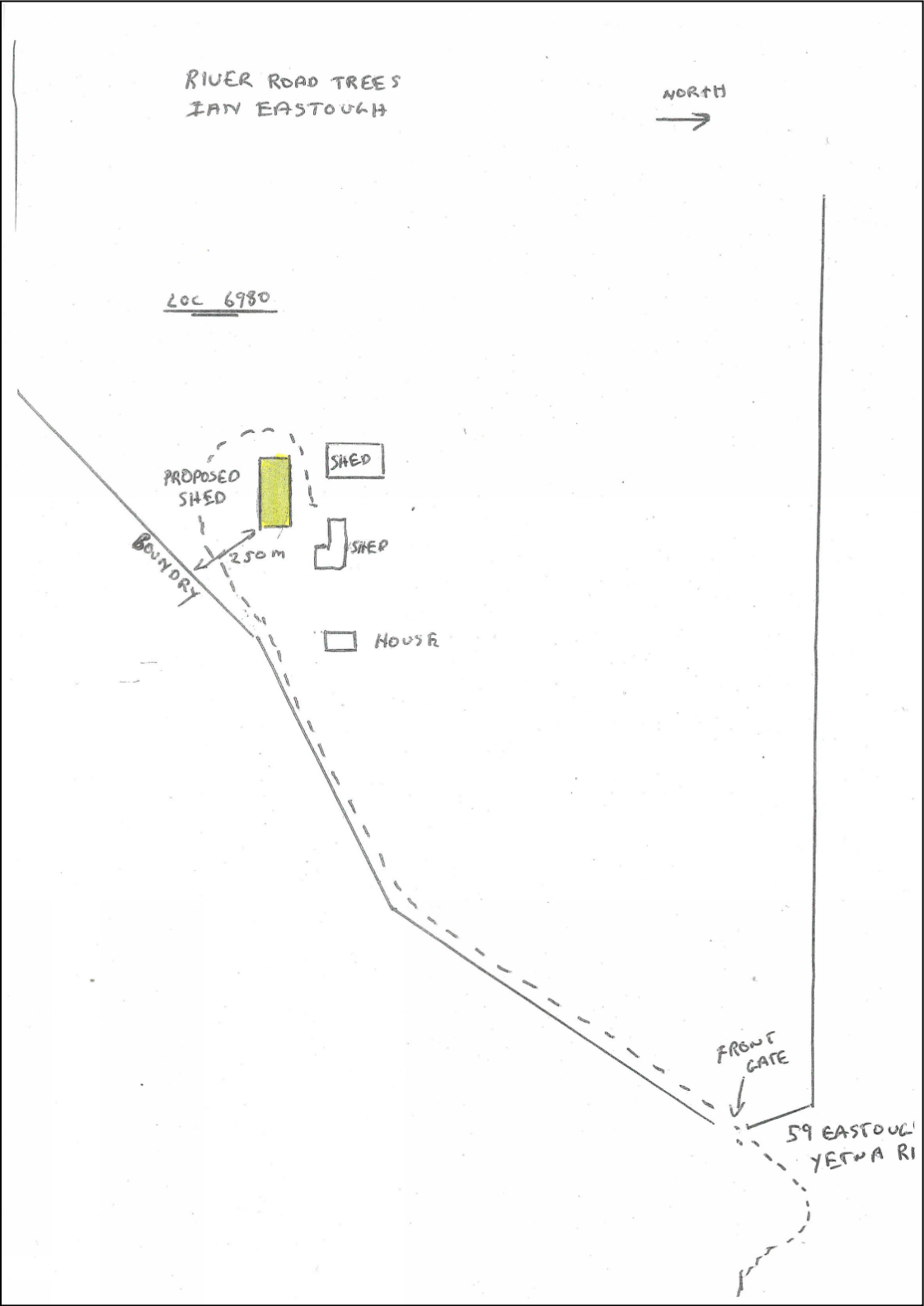
Notes:

- (a) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.
- (b) If an applicant is aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.
- (c) The approval of this application should not be viewed as setting a precedent for determination of other applications within proximity to alignment corridors and Council maintains a general approach in its

assessment of applications within vicinity of either the proposed Oakajee to Tallering Peak railway alignment or the Oakajee to Narngulu Infrastructure Corridor to require development to be setback from the corridor alignments. However, it is noted in this instance that the outbuilding is proposed to be clustered with an existing residence and existing outbuildings that are already within the proposed corridor alignment and would therefore ultimately require acquisition and demolition.

**STAFF RECOMMENDATION (PART 2)**

That Council write to the Minister for State Development seeking the state government's reinstatement of a budget allocation for the acquisition of land within the Oakajee-Narngulu Infrastructure Corridor.



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**1** SIDEWALL EXTERIOR ELEVATION  
SCALE: 1:100

**2** SIDEWALL EXTERIOR ELEVATION  
SCALE: 1:100

**3** ENDWALL EXTERIOR ELEVATION  
SCALE: 1:100

**4** ENDWALL EXTERIOR ELEVATION  
SCALE: 1:100

BUILDING COLOURS	
WALL	RAL 7016
ROOF	RAL 7016
POSTERS	RAL 7016
WALLS	RAL 7016
WALLS	RAL 7016
WALLS	RAL 7016
WALLS	RAL 7016
WALLS	RAL 7016
WALLS	RAL 7016

STEEL BUILDING BY	(CONTACT)	<b>AUSSIE SHEDS GROUP</b> 1300 308 022 RIVER ROAD TREES EASTOUGH 59 EASOUGH YETNA RD YETNA
FOR		
AT		

**fairdinkum SHEDS**

**NORTHERN CONSULTING ENGINEERS**  
Civil & Structural Engineers  
59 Pinner Street  
Carrington, Qld 4812  
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Email: design@ncon.com.au  
ABN 241 608 372 56

Mr Timothy Roy Messer BE MIEAust RPENG  
Registered Professional Engineer 2555680  
Signature: *T. Messer*  
Date: 3/4/2019  
Registered on the NPER in the areas of practice of Civil & Structural National Professional Engineers Register

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IF IN COURT, ASK

**1** FOUNDATION PLAN AND MEMBER LAYOUT  
SCALE: 1:100

ROOF STRAP BRACING TO BE CONNECTED TO THE PURLIN CLOSEST TO THE LINE OF THE END WALL MULLION

MEMBER LEGEND	
C1	C20030
C2	2C30030
C3	C30024

STEEL BUILDING BY	(CONTACT)	<b>AUSSIE SHEDS GROUP</b> 1300 308 022 RIVER ROAD TREES EASTOUGH 59 EASOUGH YETNA RD YETNA
FOR		
AT		

**fairdinkum SHEDS**

**NORTHERN CONSULTING ENGINEERS**  
Civil & Structural Engineers  
59 Pinner Street  
Carrington, Qld 4812  
Fax: 07 4728 8850  
Email: design@ncon.com.au  
ABN 241 608 372 56

Mr Timothy Roy Messer BE MIEAust RPENG  
Registered Professional Engineer 2555680  
Signature: *T. Messer*  
Date: 3/4/2019  
Registered on the NPER in the areas of practice of Civil & Structural National Professional Engineers Register

DO NOT SCALE THIS DRAWING. USE FIGURED DIMENSIONS ONLY. ALL DIMENSIONS TO BE VERIFIED ON SITE.





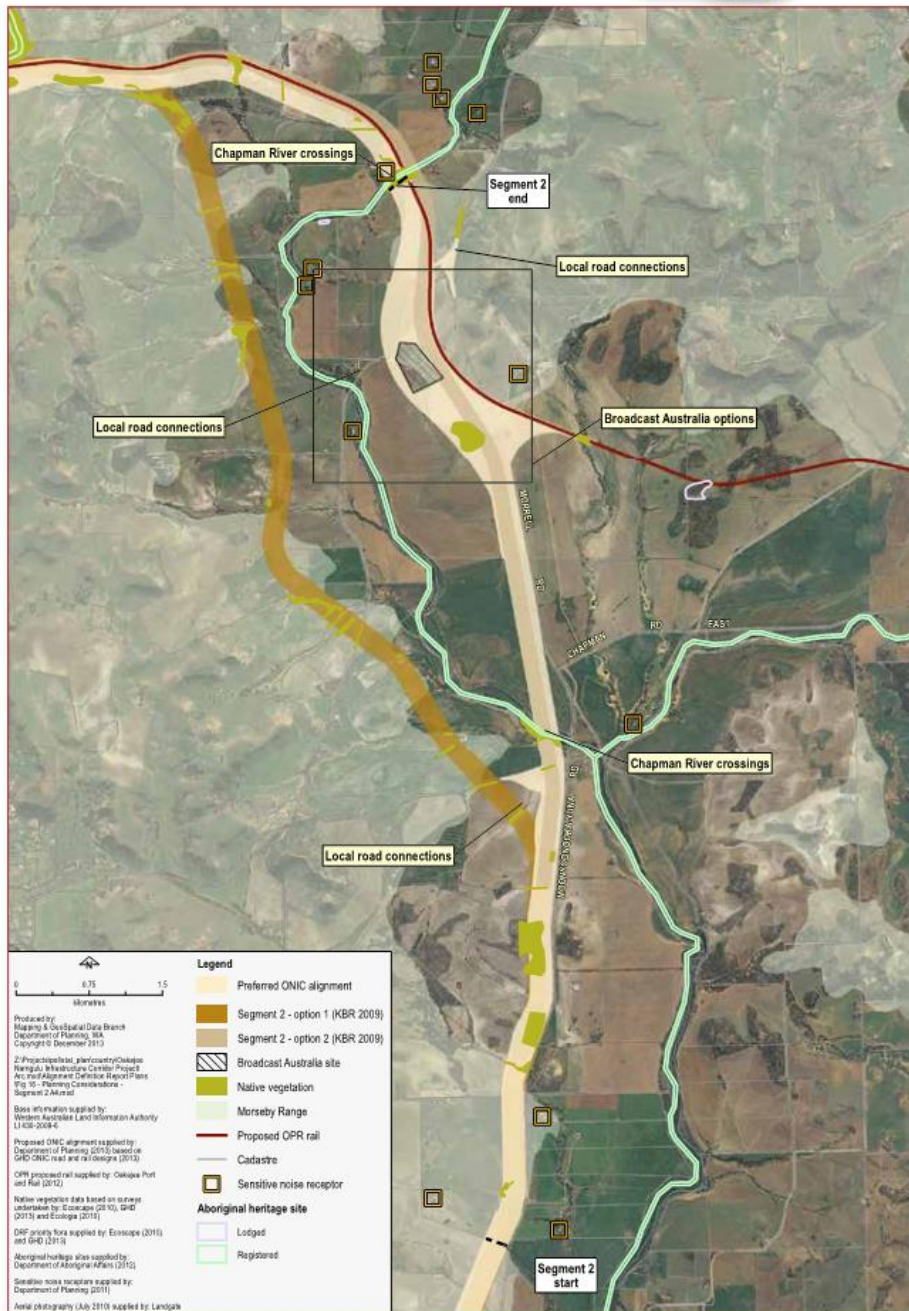


Figure 16: Planning Considerations – Segment 2

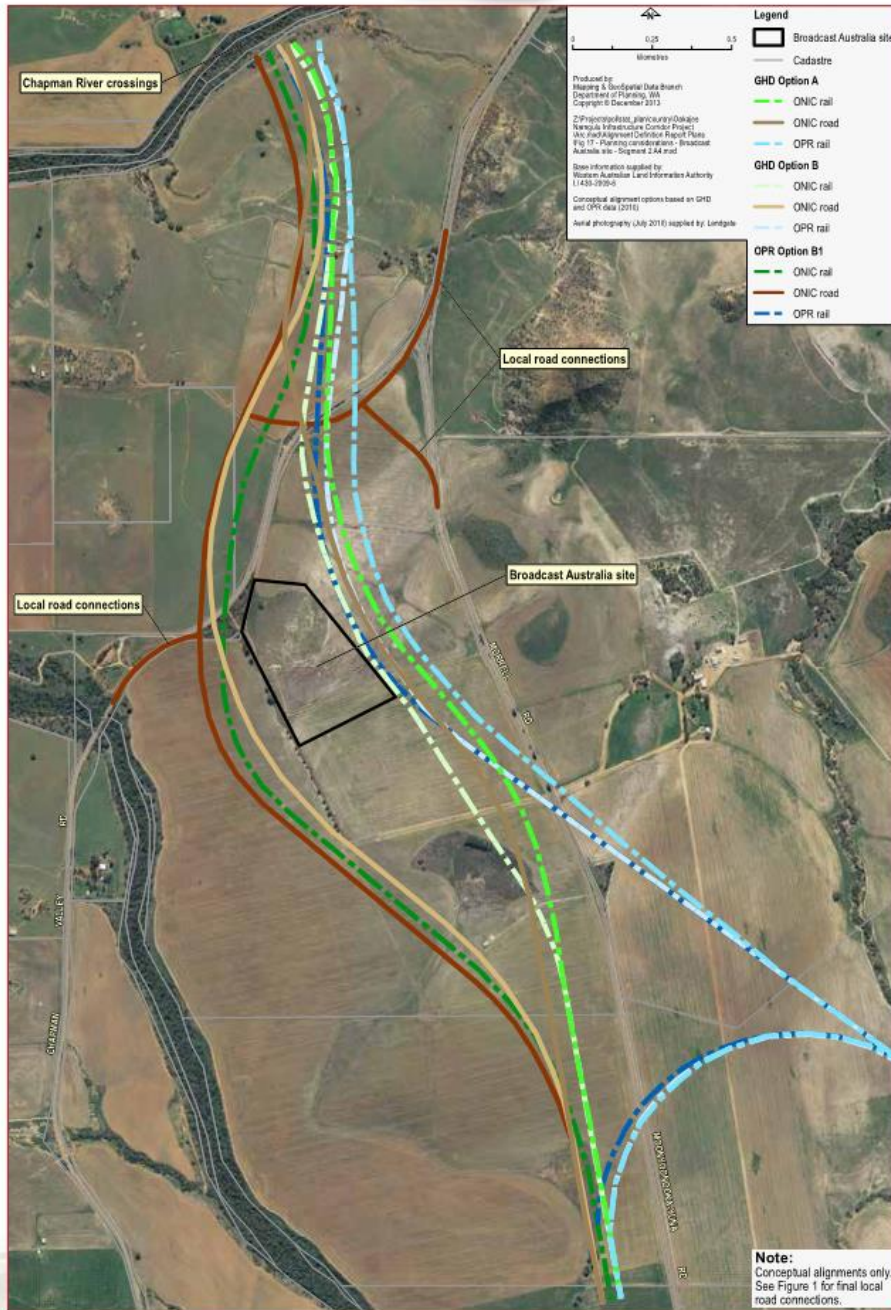


Figure 17: Planning Considerations – Broadcast Australia site, Segment 2

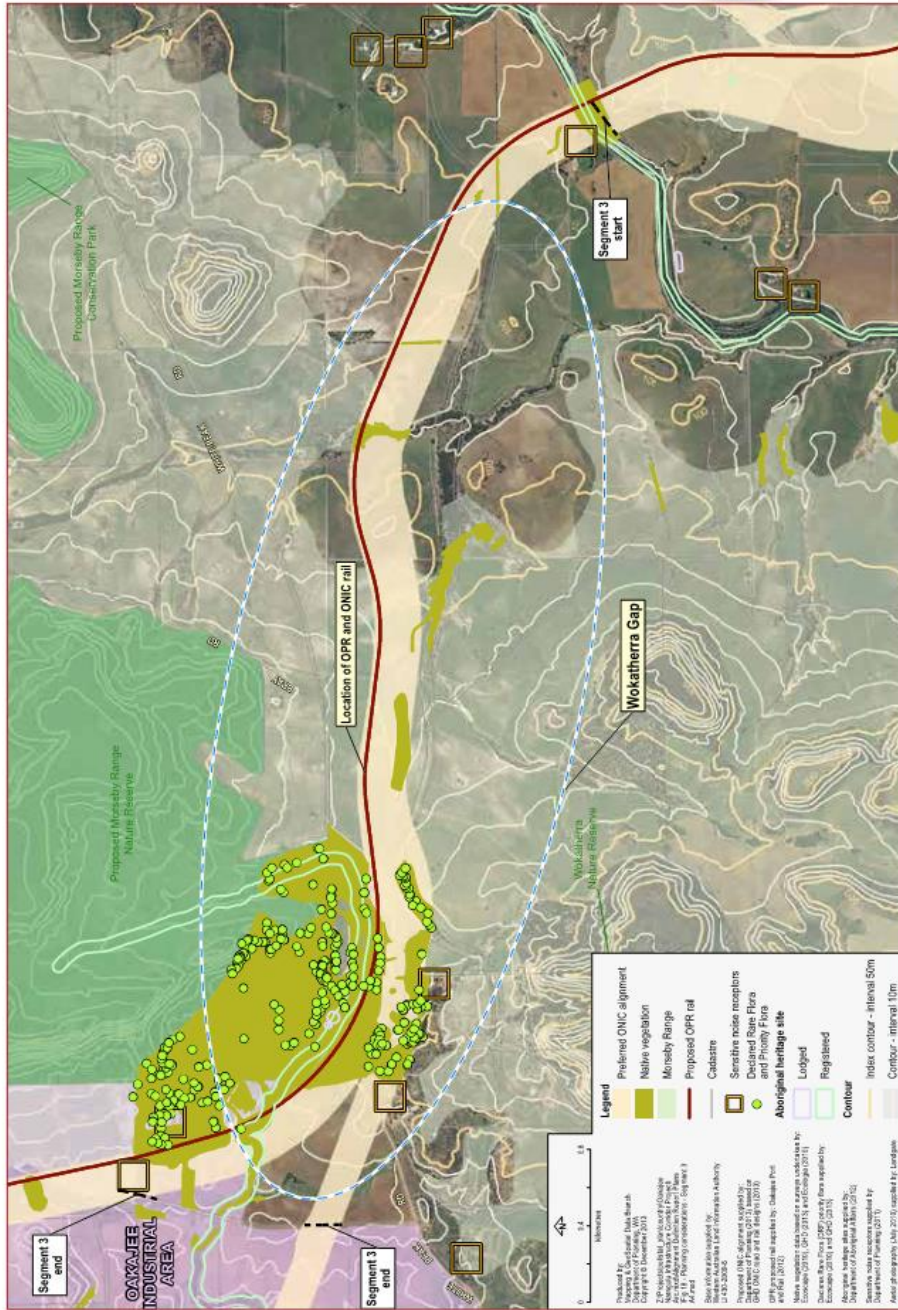


Figure 18: Planning Considerations – Segment 3



Enquiries: Pia Marshall 9956 1210  
 Our Ref: D19#331598  
 Your Ref: A25 & 204.16.07

02 May 2019

Simon Lancaster  
 Deputy Chief Executive Officer  
 Shire of Chapman Valley  
 By email: [dceo@chapmanvalley.wa.gov.au](mailto:dceo@chapmanvalley.wa.gov.au)

Dear Mr Lancaster,

**Development Application – Proposed Outbuilding – Lot 6980 Eastough-Yetna Road (P254346).**

Thank you for consulting Main Roads on the proposed development on Lot 6980 Eastough-Yetna Road, Yetna.

Main Roads considers both the Oakajee to Narngulu Infrastructure Corridor (ONIC) and the Dongara to Northampton Coastal Route (DGN) to be significant road planning projects for the Mid West-Gascoyne region.

Main Roads is commonly of the view that it will not support any new developments on land, which may be involved in the land acquisition process for future road projects. However, in this instance Main Roads agrees it would be unreasonable to object to the proposed development, recognising that:

- The development for a proposed outbuilding (shed structure) is within the area of the existing development, it will not introduce any additional sensitive land uses, diversification of the current use or operation of the land and is unlikely to increase the value of the land; and
- There is currently no funding available for either project, and therefore no definite timeframe for the commencement of land acquisition or construction;

While there is no land acquisition funding available at this time, Main Roads would like to take the opportunity to highlight the guidance available in relation to our land acquisition process. Please refer attachment 1: "land acquisition – A guide for Property Owners".

If you would like any further information, please contact Pia Marshall on 08 9956 1210.

Yours sincerely,

for Bernie Miller  
**Regional Manager**  
**Mid West-Gascoyne Region**

Main Roads Western Australia  
 Mid-West Gascoyne  
 Geraldton Office, Eastward Road, PO Box 165, Geraldton WA 6531  
 Carnarvon Office, 470 Robinson Street, PO Box 480, Carnarvon WA 6701

[mainroads.wa.gov.au](http://mainroads.wa.gov.au)  
[enquiries@mainroads.wa.gov.au](mailto:enquiries@mainroads.wa.gov.au)  
 138 138

### Is GST payable?

Compensation payments made as a result of formal property taking do not attract GST

### Is interest payable?

Where property is taken, or entered for road construction purposes before compensation is paid, interest is payable at the current rate set by the Supreme Court from the date of entry or date of receipt of the claim whichever happens first.

### What if we can't agree on a purchase price?

A valuation report is an expression of opinion only. Assumptions are often made and differences between assessments can occur even between skilled professionals. In such circumstances, it cannot be said that either assessment is right or wrong. Where discussion and negotiation cannot reconcile these differences, options exist for arbitration or settlement by legal action through the Courts. In most cases this is not necessary.

### FURTHER INFORMATION?

For further information on the land acquisition process, please contact one of Main Roads' Land Acquisition Managers on (08) 9323 4346, (08) 9323 4454, (08) 9323 4463, (08) 9323 4627 or (08) 9323 4183 between 8.30am and 4.30pm, Monday to Friday.



### LAND ACQUISITION PROCESS

Land requirements are determined through route planning processes



[www.mainroads.wa.gov.au](http://www.mainroads.wa.gov.au)



mainroads  
WESTERN AUSTRALIA

### LAND ACQUISITION

# A Guide for Property Owners



July 2015

### Why property is needed

As part of the State's infrastructure we sometimes need land to improve existing roads or to provide new transport corridors. Land reserved for roads is also used for surface water drainage and to accommodate a wide range of public utility services including water, sewerage, electricity, gas and telecommunications.

### Metropolitan Region Scheme (MRS)

In the metropolitan area, most of our long term projects are incorporated in the Metropolitan Region Scheme (MRS) which was adopted by the State Government in 1963. The MRS can be inspected at either the Department of Planning or at your local council office. There is also information available on the Department of Planning's website.

Owners of properties required for long term projects in the MRS, and who are experiencing hardship, should write to the Department of Planning (agents for the Western Australian Planning Commission) at Gordon Stephenson House, 140 William Street Perth.

### Planning Control Area (PCA)

In some situations property owners may be affected by a Planning Control Area (PCA) which is an area being considered for inclusion in the MRS and protected from development in the short term by a gazettal notice under the *Planning and Development Act 2005*. PCAs apply only for a limited period – usually five years from the date of gazettal.

### When will the land be required?

We will discuss our requirements with land owners and occupiers as early as possible prior to project construction. This is generally about two years prior to needing the land, but may vary due to project demands or the availability of funding. We will work with property owners to find ways to make the purchase of land as easy as possible.

Sometimes land owners and occupiers may be asked for their views on a project during the planning phase, even though construction is many years off. This is only a preliminary stage and has no legal status.

### How will the land requirement be negotiated?

Land is acquired by negotiation or formal taking action under the powers contained in the *Land Administration Act 1997*.

Where road works are planned and programmed for a future date, we will initiate land purchases by voluntary negotiations when funding is available. In some cases, where construction is imminent, acquisition may take place by formal taking action. This does not affect your rights to compensation.

### What is formal taking?

When land cannot be obtained through voluntary negotiation we can use the formal processes and provisions of the *Land Administration Act 1997*. However, before proceeding with a formal taking action, we will personally contact each property owner to advise them of the process, details of the project and its effect on their property.

### Can I object?

If a Notice of Intention to Take has been lodged in accordance with the *Land Administration Act 1997*, property owners or other persons with an interest in the land will be given the opportunity to lodge a formal objection to the Minister for Transport. (Disagreement on the amount of compensation to be paid is not a valid grounds for objection.)

The Minister will consider the objection and decide whether the objection should be upheld or dismissed or the Notice of Intention to Take varied or cancelled.

### Will I be paid compensation?

The *Land Administration Act 1997* provides that where property is being acquired by negotiation or taken under the provisions of the *Land Administration Act 1997*, every person entitled will be compensated. Usually this compensation will be paid to the land owners although lessees may also be entitled to compensation in certain circumstances.

### How do I claim compensation?

A claim form will be sent to all land owners and lessees when the Taking Order has been registered at Landgate. Owners and lessees will then have six (6) months from the date of registration of the Taking Order to lodge a claim for compensation.

### How is compensation assessed?

Main Roads uses assessments provided by independent licenced valuers to help determine the amount of the offer made to owners. You may accept an offer made on these valuations or obtain your own independent valuation advice.

The principles upon which the valuation is made are set out in the *Land Administration Act 1997* and have been interpreted at various times by Courts and Arbitration bodies. Compensation includes considering the value of the land to be taken and any improvements, and where appropriate, allowances for severance, injurious affection, business disturbance and other incidental expenses the owner or occupier may incur as a result of the proposed taking.

In certain cases we may also assist with the reasonable cost of obtaining independent valuation advice. This is subject to the valuation being conducted by a licenced valuer and obtaining two quotes. These quotes should be submitted to us. Written approval is required from us prior to engaging the valuation consultant. We will also need to be provided with a copy of the valuation report and you will have to be prepared to use the report as a basis for negotiations. We do not pay any negotiating fees and the value of the property cannot act as an advocate in property negotiations.

An allowance of up to 10 per cent for compulsory acquisition (solatium) may also be paid in certain circumstances.

**From:** Landy Jones <landy.jones@dwer.wa.gov.au>  
**Sent:** Wednesday, 17 April 2019 3:15 PM  
**To:** Simon Lancaster <dceo@chapmanvalley.wa.gov.au>  
**Subject:** Proposed outbuilding - Lot 6980 Eastough-Yetna Rd, Yetna - A25 & 204.16.07

Afternoon Simon,

Thank you for the referral, received 11 April 2019, regarding the proposed outbuilding – lot 6980 Eastough-Yetna Rd, Yetna.

The Department of Water and Environmental Regulation (DWER) has reviewed the proposal and acknowledge the location of the outbuilding to form part of the existing cluster of buildings, at the above mentioned lot.

As indicated in your correspondence this building will be non-habitable and therefore will not impact on the existing water usage of the property.

Providing the applicant manages water from the roof of the new dwelling onsite and is aware of the potential for future acquisition of land, DWER has no objections.

Regards

Landy  
Yolande Jones  
NRMO Planning Advice  
Mid West Gascoyne Region  
Department of Water and Environmental Regulation  
20 Gregory St Geraldton  
PO Box 73 WA 6531  
P: 08 9965 7431  
E: [landy.jones@dwer.wa.gov.au](mailto:landy.jones@dwer.wa.gov.au) | [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au)  
Twitter: @DWER\_WA



Disclaimer: This e-mail is confidential to the addressee and is the view of the writer, not necessarily that of the Department of Water and Environmental Regulation, which accepts no responsibility for the contents. If you are not the addressee, please notify the Department by return e-mail and delete the message from your system; you must not disclose or use the information contained in this email in any way. No warranty is made that this material is free from computer viruses.

<b>AGENDA ITEM:</b>	<b>10.1.2</b>
<b>SUBJECT:</b>	<b>REVIEW OF OUTBUILDINGS LOCAL PLANNING POLICY</b>
<b>PROPONENT:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>SITE:</b>	<b>WHOLE OF SHIRE</b>
<b>FILE REFERENCE:</b>	<b>204.05</b>
<b>PREVIOUS REFERENCE:</b>	<b>06/08-19, 07/08-8, 10/08-7, 05/12-08, 02/14-33, 03/15-9, 04/15-3 &amp; 05/15-4</b>
<b>DATE:</b>	<b>6 JUNE 2019</b>
<b>AUTHOR:</b>	<b>SIMON LANCASTER</b>

#### SUPPORTING DOCUMENT:

Ref	Title	Attached to Report	Under Separate Cover
10.1.2(a)	Current Shire of Chapman Valley Outbuildings Local Planning Policy	√	
10.1.2(b)	Proposed Shire of Chapman Valley Outbuildings Local Planning Policy	√	

#### DISCLOSURE OF INTEREST

Nil.

#### BACKGROUND

A revised Outbuildings Local Planning Policy is presented for Council consideration. This report recommends that the policy be advertised for comment.

#### COMMENT

Council as part of an ongoing review of its policies discussed the Outbuildings Local Planning Policy at its 20 March 2019 and 15 May 2019 Concept Forums. The discussion examined in particular the size and area requirements of the Outbuildings Local Planning Policy and how the current Shire requirements relate to the wider region's standards and the demands of the Chapman Valley community.

General Councillor discussion indicated that in the interests of regional consistency that the outbuilding area and height requirements as adopted in the neighbouring Shire of Northampton should be considered as a basis for updating the Shire of Chapman Valley Outbuildings Policy.

This approach would follow other regional local government initiatives, with the most recent being the Shire of Chapman Valley led approach to align the burning periods.

A copy of the current Shire of Chapman Valley Outbuildings Local Planning Policy is provided as **Attachment 10.1.2(a)**.

A copy of the proposed Shire of Chapman Valley Outbuildings Local Planning Policy is provided as **Attachment 10.1.2(b)**.

#### STATUTORY ENVIRONMENT

Schedule 2 Part 2 Division 2 Clauses 3-6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* establish the procedure for creating and amending Local Planning Policies.

“3 *Local planning policies*

- (1) *The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.*
- (2) *A local planning policy —*
  - (a) *may apply generally or in respect of a particular class or classes of matters specified in the policy; and*
  - (b) *may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.*



- (3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.
- (4) The local government may amend or repeal a local planning policy.
- (5) In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

#### 4 Procedure for making local planning policy

- (1) If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —
  - (a) publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —
    - (i) the subject and nature of the proposed policy; and
    - (ii) the objectives of the proposed policy; and
    - (iii) where the proposed policy may be inspected; and
    - (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;
  - (b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;
  - (c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.
- (2) The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).
- (3) After the expiry of the period within which submissions may be made, the local government must —
  - (a) review the proposed policy in the light of any submissions made; and
  - (b) resolve to —
    - (i) proceed with the policy without modification; or
    - (ii) proceed with the policy with modification; or
    - (iii) not to proceed with the policy.
- (4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.
- (5) A policy has effect on publication of a notice under subclause (4).
- (6) The local government —
  - (a) must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and
  - (b) may publish a copy of each of those local planning policies on the website of the local government.

#### 5 Procedure for amending local planning policy

- (1) Clause 4, with any necessary changes, applies to the amendment to a local planning policy.
- (2) Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.

#### 6 Revocation of local planning policy

A local planning policy may be revoked —

- (a) by a subsequent local planning policy that —
  - (i) is prepared in accordance with this Part; and
  - (ii) expressly revokes the local planning policy;
- or
- (b) by a notice of revocation —
  - (i) prepared by the local government; and
  - (ii) published in a newspaper circulating in the Scheme area.”

## POLICY IMPLICATIONS

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

The advertising cost of amending a local planning policy is covered by the Council's existing planning budget allocation.

- **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 Shire's Outbuildings policy is intended to balance the expectations of the community on what is an appropriate standard of amenity, and the requirements for general domestic storage which in a regional and rural-residential setting can often include larger items such as 4WD's, trailers, caravans, boats, craypots, ride-on mowers, motor/quad bikes and stock keeping/feeding items.

It is always good practice for Council to review its policies be they procedural, financial or planning on a regular basis to ensure they are current, address changing circumstances, current and evolving development trends, community demands and meet Council's expectations.

- **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

Schedule 2 Part 2 Division 2 Clauses 4 & 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires that Council advertise the amendment of a local planning policy for a minimum period of 21 days with a notice being placed in a locally circulating newspaper.

Section 4.11 of the current and proposed versions of the Outbuildings policy (as contained within **Attachments 10.1.2(a) & (b)**) addresses the issue of consultation in the event an application is received that does not accord with the policy.

## RISK ASSESSMENT

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

## VOTING REQUIREMENTS

Simple majority required.

## STAFF RECOMMENDATION

That Council resolve, pursuant to Schedule 2 Part 2 Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to prepare the Shire of Chapman Valley 'Outbuildings' Local Planning Policy as contained in Attachment 10.1.2(b) and proceed to give notice to this effect and at the conclusion of the advertising period return this matter to Council for its further consideration.

## OUTBUILDINGS

### LOCAL PLANNING POLICY



#### 1. 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.

#### 2. 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.

#### 3. OBJECTIVE

- 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.

#### 4. POLICY STATEMENT

- 4.1 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).
- 4.2 Should Ancillary Accommodation be constructed within a Class 10 Outbuilding (i.e. a box or rectangular shaped structure constructed of coated or uncoated metal sheeting which does not include additional features such as eaves, verandahs, windows and other 'house' like features) the Ancillary Accommodation will be considered to be included within the total outbuilding area of a property. However, should the Ancillary Accommodation structure be purposely constructed as a Class 1A building and incorporate design features such as eaves, verandahs, windows and other 'house' like features the building would not be considered within the aggregate outbuilding area permitted upon a property.
- 4.3 Pre-fabricated garden sheds, "cubby houses", kennels and other animal enclosures (such as aviaries, stables) less than 9m<sup>2</sup> in total aggregate area and less than 2.5m in height (measured from natural ground level) are exempt from this policy provided they are located to the rear of the residence, and of a design and colour considered in keeping with the amenity of the area by the Local Government.
- 4.4 In consideration of an application the following maximum standards apply to outbuildings:

Zone	Standard	Maximum
Residential (R10 and higher density)	Area (total aggregate)	120 m <sup>2</sup>
	Wall Height	3.0 metres*
	Overall Height (single story)	4.0 metres*
Townsite	Area (total aggregate)	120 m <sup>2</sup>
	Wall Height	3.0 metres*
	Overall Height (single story)	4.0 metres*
Residential (R5 and lower density)	Area (total aggregate)	180 m <sup>2</sup>
	Wall Height	3.5 metres*
	Overall Height (single story)	4.5 metres*
Rural Residential Rural Smallholding Rural (lots less than 4 ha)	Area (total aggregate)	200 m <sup>2</sup>
	Wall Height	4.5 metres*
	Overall Height (single story)	5.5 metres*
	Overall Height (double story barn)	6.5 metres*
Rural Residential Rural Smallholding Rural (lots greater than 4 ha)	Exempt from the area and height requirements of this policy	

\* wall heights are to be measured from natural ground level.

- 4.5 Other than for general storage and/or agricultural purposes an outbuilding shall not be used for any commercial or industrial use without prior approval from Council.
- 4.6 The storage of accumulated personal items and any items in connection with a commercial or industrial operation (e.g. cray pots, building materials, earthmoving equipment etc.) is considered contrary to the objectives of this

policy and is therefore not considered sufficient justification for an increase in the maximum standards prescribed.

- 4.7 An outbuilding is required to be sited behind the 'front building line' of a dwelling on lots less than 4ha in area in all zones, unless sufficient justification has been provided by the applicant and the building is consistent in design and materials with the existing dwelling.

*Note: For the purpose of this statement the 'front building line' is to be measured from the closest point of the house to the front boundary drawn parallel to the boundary as illustrated below:*

Figure 1

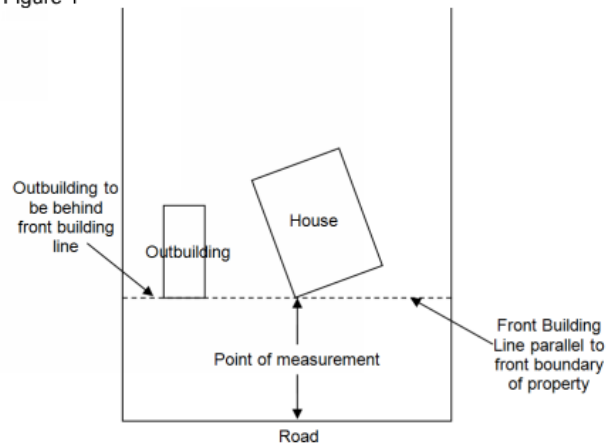
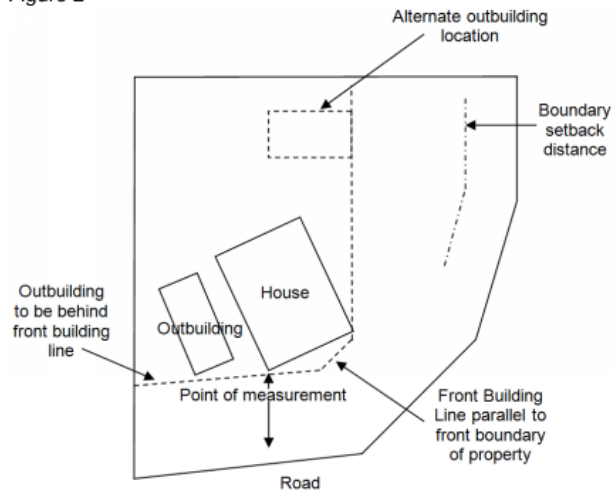


Figure 2



4.8 The development of an outbuilding on vacant residential land shall not be approved unless the residence has been completed up to, and including, the pouring of a concrete house slab (although variation to this is permitted where the slabs for the residence and outbuilding are poured concurrently).

#### 4.9 Setbacks for outbuildings

- (a) For lots zoned 'Townsite' or 'Residential' lots zoned R5 and higher density the side/rear boundary can be reduced to nil (subject to compliance with the Building Code of Australia) provided neighbour consent is given. No planning application is required to be lodged.
- (b) For 'Residential' lots zoned R2.5 and lower density the outbuilding is to be setback in accordance with the Residential Design Codes, or if applicable located within a defined building envelope.
- (c) For lots zoned 'Rural-Residential', 'Rural Smallholding' and 'Rural' the outbuildings are to be setback in accordance with the Local Planning Scheme, or if applicable located within a defined building envelope.

#### 4.10 Materials

- (a) The use of uncoated metal sheeting (i.e. zincalume or corrugated iron) is only permitted upon land zoned 'Rural Smallholdings' or 'Rural'.
- (b) The use of uncoated metal sheeting may be considered in the 'Townsite' zone or where existing buildings have been constructed with the use of uncoated metal sheeting or similar upon a property or another property located in close proximity.

#### 4.11 Consultation

Applications that propose variation to any part of the Policy will require consultation with effected owners and/or occupiers, by means of the Shire writing directly to the surrounding landowners inviting comment, and placement of an advisory sign on-site for a period of not less than 21 days, prior to the application and any received submissions being placed before a meeting of Council for consideration.

Note: The advertising of a received application that proposes variation to any part of the Policy is undertaken to make the proposal available for inspection in order to provide opportunity for public comment and it should not be construed that final approval will be granted.

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

## 5. REFERENCES AND ADOPTION

Shire of Chapman Valley Local Planning Scheme No.2  
*Planning & Development Act 2005*

*Adopted for advertising for public comment at the 18 March 2015 meeting of Council.  
Adopted at the 20 May 2015 Ordinary Meeting of Council.*

## OUTBUILDINGS

### LOCAL PLANNING POLICY



#### 1. 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.

#### 2. 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.

#### 3. OBJECTIVE

- 3.1 To allow for a regional variation to Section 5.4.3 of State Planning Policy 7.3 - 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.

#### 4. POLICY STATEMENT

- 4.1 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).
- 4.2 Should Ancillary Accommodation be constructed within a Class 10 Outbuilding (i.e. a box or rectangular shaped structure constructed of coated or uncoated metal sheeting which does not include additional features such as eaves, verandahs, windows and other 'house' like features) the Ancillary Accommodation will be considered to be included within the total outbuilding area of a property. However, should the Ancillary Accommodation structure be purposely constructed as a Class 1A building and incorporate design features such as eaves, verandahs, windows and other 'house' like features the building would not be considered within the aggregate outbuilding area permitted upon a property.
- 4.3 Pre-fabricated garden sheds, "cubby houses", kennels and other animal enclosures (such as aviaries, stables) less than 9m<sup>2</sup> in total aggregate area and less than 2.5m in height (measured from natural ground level) are exempt from this policy provided they are located to the rear of the residence, satisfy the site and development requirements set out in the Scheme, and are of a design and colour considered in keeping with the amenity of the area by the Local Government.
- 4.4 In consideration of an application the following maximum standards apply to outbuildings:

Zone	Standard	Maximum
Residential (R10 and higher density)	Area (total aggregate) Wall Height Overall Height (single story)	120 m <sup>2</sup> 3.0 metres* 4.5 metres*
Townsite	Area (total aggregate) Wall Height Overall Height (single story)	120 m <sup>2</sup> 3.0 metres* 4.5 metres*
Residential (R5 and lower density)	Area (total aggregate) Wall Height Overall Height (single story)	180 m <sup>2</sup> 4.0 metres* 5.0 metres*
Rural Residential Rural Smallholding Rural (lots less than 4 ha)	Area (total aggregate)  Wall Height Overall Height (single story) Overall Height (double story barn)	240 m <sup>2</sup> (In addition up to a maximum of 120m <sup>2</sup> unenclosed area may be considered subject to prior consultation being undertaken as per Section 4.11(b) of this policy) 4.5 metres* 5.5 metres* 6.5 metres*
Rural Residential Rural Smallholding Rural (lots greater than 4 ha)	Exempt from the area and height requirements of this policy	

\* heights are to be measured from natural ground level.



- 4.5 Other than for general storage and/or agricultural purposes an outbuilding shall not be used for any commercial or industrial use without prior approval from Council.
- 4.6 The storage of accumulated personal items and any items in connection with a commercial or industrial operation (e.g. cray pots, building materials, earthmoving equipment etc.) is considered contrary to the objectives of this policy and is therefore not considered sufficient justification for an increase in the maximum standards prescribed.
- 4.7 An outbuilding is required to be sited behind the 'front building line' of a dwelling on lots less than 4ha in area in all zones, unless sufficient justification has been provided by the applicant and the building is consistent in design and materials with the existing dwelling.

*Note: For the purpose of this statement the 'front building line' is to be measured from the closest point of the house to the front boundary drawn parallel to the boundary as illustrated below:*

Figure 1

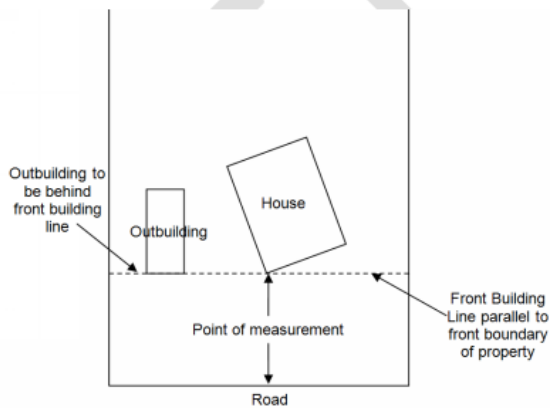
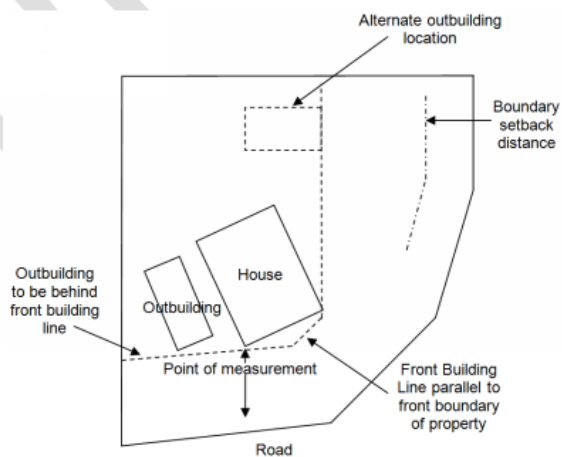


Figure 2



4.8 The development of an outbuilding on vacant residential land shall not be approved unless the residence has been completed up to, and including, the pouring of a concrete house slab (although variation to this is permitted where the slabs for the residence and outbuilding are poured concurrently).

4.9 Setbacks for outbuildings

- (a) For lots zoned 'Townsite' or 'Residential' lots zoned R5 and higher density the side/rear boundary can be reduced to nil (subject to compliance with the Building Code of Australia) provided neighbour consent is given. No planning application is required to be lodged.
- (b) For 'Residential' lots zoned R2.5 and lower density the outbuilding is to be setback in accordance with the Residential Design Codes, or if applicable located within a defined building envelope (Variation to a 5m side and/or rear boundary setback for outbuildings may be considered subject to prior consultation being undertaken as per Section 4.11(c) of this policy).
- (c) For lots zoned 'Rural-Residential', 'Rural Smallholding' and 'Rural' the outbuildings are to be setback in accordance with the Local Planning Scheme, or if applicable located within a defined building envelope.

4.10 Materials

- (a) The use of uncoated metal sheeting (i.e. zincalume or corrugated iron) is only permitted upon land zoned 'Rural Smallholdings' or 'Rural'.
- (b) The use of uncoated metal sheeting may be considered in the 'Townsite' zone or where existing buildings have been constructed with the use of uncoated metal sheeting or similar upon a property or another property located in close proximity.

4.11 Consultation

- (a) Applications that propose variation to any part of the Policy (other than the variation pursuant to Section 4.11(b) & (c) of this policy) will require consultation with surrounding landowners, by means of the Shire writing directly to the surrounding landowners inviting comment, and placement of an advisory sign on-site for a period of not less than 21 days, prior to the application and any received submissions being placed before a meeting of Council for consideration.
- (b) Applications within the 'Rural Residential', 'Rural Smallholding' and 'Rural' zone (where the lots are less than 4ha) that propose a total outbuilding area comprising not more than 240m<sup>2</sup> enclosed aggregate area and an additional 120m<sup>2</sup> unenclosed aggregate area will require consultation with surrounding landowners, by means of the Shire writing directly to the surrounding landowners inviting comment, and placement of an advisory sign on-site for a period of not less than 21 days. In the event that at the conclusion of the consultation period no written, author-identified objections have been received then the application may be determined by Shire staff under delegated authority. In the event that a written, author-identified objection is received then the application and the received submission(s) will be placed before a meeting of Council for consideration.

- (c) Applications for 'Residential' lots zoned R2.5 and lower density that propose a side and/or rear boundary setback of less than the R-Code requirement, but not less than 5m, will require consultation with surrounding landowners, by means of the Shire writing directly to the surrounding landowners inviting comment, and placement of an advisory sign on-site for a period of not less than 21 days. In the event that at the conclusion of the consultation period no written, author-identified objections have been received then the application may be determined by Shire staff under delegated authority. In the event that a written, author-identified objection is received then the application and the received submission(s) will be placed before a meeting of Council for consideration.

Note: The advertising of a received application that proposes variation to any part of the Policy is undertaken to make the proposal available for inspection in order to provide opportunity for public comment and it should not be construed that final approval will be granted.

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

## 5. REFERENCES AND ADOPTION

Shire of Chapman Valley Local Planning Scheme No.3

*Planning & Development Act 2005*

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

State Planning Policy 7.3 - Residential Design Codes

# **10.2 Manager Finance & Corporate Services June 2019**

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## **Contents**

### **10.2 AGENDA ITEMS**

10.2.1 Financial Reports for May 2019

10.2.2 Review of Long Term Financial Plan; Asset Management Plan & Workforce Plan

<b>AGENDA ITEM:</b>	<b>10.2.1</b>
<b>SUBJECT:</b>	<b>FINANCIAL MANAGEMENT REPORT FOR MAY 2019</b>
<b>PROPONENT:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>SITE:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>FILE REFERENCE:</b>	<b>307.00</b>
<b>PREVIOUS REFERENCE:</b>	<b>N/A</b>
<b>DATE:</b>	<b>19 JUNE 2019</b>
<b>AUTHOR:</b>	<b>DIANNE RAYMOND, MANAGER FINANCE &amp; CORPORATE SERVICES</b>

**SUPPORTING DOCUMENTS:**

<b>FMR</b>	<b>Title</b>	<b>Attached to Report</b>	<b>Under Separate Cover</b>
10.2.1(a)	May 2019 Financial Management Reports		√
10.2.1(b)	Confidential List of Accounts		√

**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 May 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 Report for May 2019

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

No significant effect on the LTFP

**STRATEGIC IMPLICATIONS**

Nil

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

<b>Ref</b>	<b>Objective</b>	<b>Strategy</b>	<b>Action</b>
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

## STAFF RECOMMENDATION

That Council receives the financial management report supplied under separate cover for the month May 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

<b>AGENDA ITEM:</b>	<b>10.2.2</b>
<b>SUBJECT:</b>	<b>REVIEW OF LONG TERM FINANCIAL PLAN; ASSET MANAGEMENT PLAN &amp; WORKFORCE PLAN</b>
<b>PROPONENT:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>SITE:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>FILE REFERENCE:</b>	<b>313.00</b>
<b>PREVIOUS REFERENCE:</b>	<b>MINUTE REFERENCES: 9/13-5; 11/13-9, 07/17-6 &amp; 02/19-12</b>
<b>DATE:</b>	<b>19th JUNE 2019</b>
<b>AUTHOR:</b>	<b>DIANNE RAYMOND, MANAGER FINANCE &amp; CORPORATE SERVICES</b>

**SUPPORTING DOCUMENTS:**

<b>Ref</b>	<b>Title</b>	<b>Attached to Report</b>	<b>Under Separate Cover</b>
10.2.2(a)	Long Term Financial Plan		√
10.2.2(b)	Asset Management Plan		√
10.2.2(c)	Draft Reviewed Workforce Plan		√

**DISCLOSURE OF INTEREST**

Nil.

**BACKGROUND**

The Shire of Chapman Valley Long Term Financial Plan (LTFP) and Workforce Plan (WP) were presented to Council's September 2013 OCM with the following resolved:

*MOVED: CR ROYCE                      SECONDED: CR HUMPHREY*

*"That Council:9/13-5*

- 1     Receive the Shire of Chapman Valley Long Term Financial Plan (subject to modification to section 8.2) and Shire of Chapman Valley Workforce Plan and forward the documents to the Department of Local Government; &*
- 2     Advise the Department of Local Government that the Asset Management Plan will be presented to the October meeting of Council and submitted thereafter.*

*Voting 8/0  
CARRIED  
Minute Reference 9/13-5"*

The Shire of Chapman Valley Asset Management Plan (AMP) was presented to the November 2013 OCM with the following being resolved:

*"That Council:*

- 1     Receive the Shire of Chapman Valley Asset Management Plan in its current format and forward the documents to the Department of Local Government; &*
- 2     Advise the Department of Local Government the Asset Management Plan may be subject to on-going review until Council is comfortable with its content.*

*Voting 7/0  
CARRIED  
Minute Reference 11/13-9"*

Council undertook a full review of the LTFP and AMP again in July 2017 with the following being resolved at the July 2017 OCM:

*Council endorse the reviewed Long Term Financial Plan and Asset Management Plan as presented, with the understanding these Plans are to be reviewed again by Council to reflect:*

- i. Outcomes of the current review being undertaken of the Shire's Strategic Community Plan and Corporate Business Plan; and*
- ii. Variations to the 2016/2017 endorsed Capital Works Programs (e.g. Roadworks, Plant and Building) as these have and will occur in the future.*

*Voting 5/1  
CARRIED  
Minute Reference 07/17-6*

The annual desktop review of the LTFP, AMP and WFP were undertaken by staff with the assistance of an external consultant to scrutinise and analyse the data and formulas within the documents. These documents were presented to the Finance Audit & Risk Management Committee early February 2019 then presented to Council's February 2109 OCM with the following being resolved:

*"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."*

Item 4 of the above resolution was acted on with the LTFP, AMP & WP presented to the May 2019 Concept Forum for further consideration by Council as resolved. This matter has now been presented back to Council for endorsement.

## **COMMENT**

Staff have continued to work on improvements to the LTFP, AMP & WP since the original adoption of these plans to try and make these more integrated, encompassing of all asset areas, cognisant of past actual expenditures incurred and revenues received and hopefully easier to follow and update annually.

The revised LTFP has now been fine tuned to better reflect past and future expenditure and revenue of the organisation and address the issues raised in the recent audit i.e.

*"Long Term Financial Plan and Asset Management Plan*

*During our review of the Financial ratio's, we noted the Shire's Long Term Financial Plan (LTFP) and Asset Management Plan (AMP) do not reflect 10 years' worth of forecast expenditure.*

*Whilst we are satisfied the current year ratios were supported by verifiable information and reasonable assumptions, management should consider developing a process of reviewing the LTFP and AMP, to ensure ratios are appropriately calculated in future years."*



The concern raised by the Auditors was specific to the Asset Renewal Funding Ratio, which had an incorrect formula in the previous LTFP. This formula has now been corrected and reflects the correct ratio in the revised LTFP.

As Councillors will be aware the Shire has completed the Strategic Community Plan (SCP) and Corporate Business Plan (CBP) review in accordance with legislative requirements (with the assistance of Marg Hemsley from LG People). The LTFP and AMP have been amended to accommodate endorsed SCP and CBP. The LTFP & AMP are also amended to reflect the adopted current year Budget and audited previous year Financial Statements. This ensures there is a true integration and recognition of current aspects across all the plans, budgets, etc. for the future.

The Integrated Planning and Reporting Framework is intended to integrate asset, service and financial plans to ensure local government resource capabilities are matched to their community's needs.

The Workforce Plan (WP) was reviewed in September 2015, and with the LTFP & AMP, is a working document to support the Strategic Community and Corporate Business Plans.

The purpose of a Workforce Plan is to identify the human resources and skills required to deliver the medium and long-term direction identified in the SCP and CBP.

The current WP has several strategies, which are predominantly related to recruitment processes, roles, performance management, improved technology, governance & employee procedure manuals, policy & procedure improvements. I am confident we have addressed (or are in the process of addressing) most of these within the annual administration operating budget, which form part of the operating expenditure allocated in the LTFP.

The one strategy listed in the current WP is a Service Delivery Review, which was budgeted for in 2018/2019. However; this review removed from the Budget at the February 2019 Budget Review process. This may be something the Shire may look at again in the long term.

The amendments to the WP reflect basic updates to dates, actions, statistics, etc. The WP is a working document which does not have any legislative requirement to be endorsed by Council; however, I have presented this to Council (via the Committee) to ensure there is a clear understanding of the amendments being made.

## **STATUTORY ENVIRONMENT**

Section 5.56 of the *Local Government Act 1995* states:

*"5.56 Planning for the Future*

- (1) A local government is to plan for the future of the district.*
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district."*

Section 19C of the *Local Government (Administration) Regulations 1996* addresses the Shire's requirements in relation to the Strategic Community Plan and Section 19D the requirements in relation to the Corporate Business Plan.

## **POLICY IMPLICATIONS**

Various Council policies and procedures have an effect on the Shire's integrated strategic planning e.g.

- 10 Year Road Works Program;
- Road Hierarchy;
- Plant Replacement Program;
- Building Capital Upgrade & Maintenance Programs;
- Disability Access & Inclusion Plan;
- Various Master/Concept Plans;
- Town Planning Policies, Procedures, Strategies, etc.

## **FINANCIAL IMPLICATIONS**

The Strategic Community Plan should be used as a guiding tool in the preparation of Council's ongoing Annual Budgets, and inform the Shire's Corporate Business Plan, Long-Term Financial Plan, Asset Management Plan

and Workforce Plan. However, the identification of a project within the Strategic Community Plan does not guarantee it will be completed in any given year as circumstances change.

It is considered essential Council remains flexible in its approach to ensure community expectations are balanced with financial responsibility and to achieve this the Strategic Community Plan should be reviewed on a 2 to 4 yearly basis in accordance with Section 19C(4) of the *Local Government (Administration) Regulations 1996*, and the Corporate Business Plan, Long Term Financial Plan, Asset Management Plan be reviewed on an annual rolling basis during the budget preparation phase.

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

The LTFP will be directly affected by the annual update process.

### 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.
5.2	Be accountable and transparent in managing resources	Asset Management	Review Asset Management Plan regularly and maintain integration with other Strategic Plans within the Shire
		Long Term Financial Management	Review Long Term Financial Plan regularly and maintain integration with other Strategic Plans within the Shire
		Workforce Planning	Review Workforce Plan regularly and maintain integration with other Strategic Plans within the Shire

### CONSULTATION

Ongoing consultation has occurred with:

- Council – Committee, Concept Forum & Ordinary Council Meetings
- Executive Staff; and
- Financial Consultants

### RISK ASSESSMENT

It is a legislative requirement to have a Strategic Community Plan and a Corporate Business Plan. These Plans are expected to be supported by working documents such as LTFP, AMP & WP. We are bringing the plans & working documents to a level where they are integrated and making more sense, therefore providing the organisation with a clearer indication of the future direction of the shire. However; it must be understood these are forecast documents and many unknown factors may vary the predictions and figures.

Based the forecast figure within the LTFP, AMP & WP presented the risk is considered ***insignificant*** at this stage i.e.

<b>Measures of Consequence</b>							
<b>Rating (Level)</b>	<b>Health</b>	<b>Financial Impact</b>	<b>Service Interruption</b>	<b>Compliance</b>	<b>Reputational</b>	<b>Property</b>	<b>Environment</b>
<b>Insignificant (1)</b>	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

**STAFF RECOMMENDATION**

Council endorse the reviewed Long Term Financial Plan, Asset Management Plan and Workforce Plan as presented.

# **10.3**

# **Chief Executive Officer**

# **June 2019**

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## **Contents**

### **10.3 AGENDA ITEMS**

10.3.1 Local Government Elections

10.3.2 National Redress Participations

10.3.3 Yuna Golf Club Management Licence

<b>AGENDA ITEM:</b>	<b>10.3.1</b>
<b>SUBJECT:</b>	<b>LOCAL GOVERNMENT ELECTIONS</b>
<b>PROPONENT:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>SITE:</b>	<b>WHOLE OF SHIRE</b>
<b>FILE REFERENCE:</b>	<b>402.00</b>
<b>PREVIOUS REFERENCE:</b>	<b>MINUTE REFERENCE: 02/15-10</b>
<b>DATE:</b>	<b>19<sup>th</sup> JUNE 2019</b>
<b>AUTHOR:</b>	<b>MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER</b>

**SUPPORTING DOCUMENTS:**

Ref	Title	Attached to Report	Under Separate Cover
10.3.1(a)	WA Electoral Commission Correspondence	√	

**DISCLOSURE OF INTEREST**

Nil

**BACKGROUND**

Council resolved the following at the February 2015 OCM:

*“That Council:*

*Resolve, in accordance with section 4.61(2) of the Local Government Act 1995, the method of conducting the all Local Government Elections and Polls will be as Postal Election (Ordinary and Extraordinary) up to and including the 2019 Ordinary Election;*

*Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Western Australian Electoral Commissioner to be responsible to conduct all Local Government Election and Polls as Postal Elections (Ordinary and Extraordinary) up to and including the 2019 Ordinary Election;*

*Council reserves the right to review this position at any time, subject to budgetary constraints and subject to any decision to terminate the contract with the Western Australian Electoral Commissioner not being able to be made after the 80th day being the legislative cut-off period of an election process as any time after this date renders the services from the WAEC having already commenced.*

*Minute Reference 02/15-10”*

The estimate cost of \$15,000 for Western Australian Electoral Commissioner (WAEC) to conduct a postal election for the 2019 Ordinary Election is based on the following criteria:

- 1050 Electors;
- Response rate of approximately 55%;
- 4 Vacancies;
- Count to be conducted at the Shire of Chapman Valley Administration offices;
- Appointment of a Returning Officer;
- Regular Australia Post delivery service to apply for the lodgement of the election packages

Costs not incorporated in this estimate include:

- Any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns.
- One local government staff member to work in the polling place on Election Day with the returning officer;
- Any additional postage rate increased by Australia Post

## COMMENT

The 2013 was the first Council Ordinary Election conducted by postal election with the 2015, 2017 and 2019 also being Postal Elections. This has resulted in a significant increase in voter participation i.e.

Year	North East Ward	South East Ward
2011 (In-Person Election)	18.6% Voter Participation	23.9% Voter Participation
2013 (Postal Election)	52.9% Voter Participation	44.4% Voter Participation
2015 (Postal Election)	No Election Councillors Elected Unopposed	37.28% Voter Participation
<b>No Ward System</b>		
2017 (Postal Election)	51.66%	

The above figures indicate a significant increase in voter participation between the last *In-Person* Election (2011) and the subsequent three *Postal Elections* (2013, 2015 & 2017) along with the fact the cost are basically the same when compared with staff time and resources to contracting the WAEC to undertake this function. This make it imperative to retain the *Postal Election* process for all future Elections to be continued. It would be disappointing for the Shire to revert back to the old *In-Person* procedure for conducting Local Government Elections as this would obviously minimise interest and participation in the elections.

The other important advantage with the WAEC being the contractor for the *Postal Election* process is the fact this distances the Chief Executive Officer and most Shire staff from the election process, therefore removing any accusations of staff influence throughout the election process.

The current procedure required by the *Local Government Act 1995* is the Electoral Commissioner's written agreement has to be obtained before the vote by Council is taken for a postal vote to be conducted by the Electoral Commission. To facilitate the process the WAEC will provide Council with their standard agreement for them to be responsible for the conduct of Ordinary Elections. However, I am advocating in the Staff Recommendation the Shire advises the WAEC they wish to utilise their services for all future Elections (Ordinary and Extraordinary) for the Shire of Chapman Valley. The condition associated with this arrangement with the WAEC remaining as per the previous resolution i.e.

*"Council reserves the right to review this position at any time, subject to budgetary constraints and any decision to terminate the contract not being able to be implemented after the 80 day legislative cut-off period of an election day as this renders the services from the WAEC having commenced."*

## STATUTORY ENVIRONMENT

Local Government Act 1995 and Local Government (Election) Regulations

### **4.20. CEO to be returning officer unless other arrangements made**

*A local government may, having first obtained the written agreement of the Electoral Commissioner, declare\* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*

*\* Absolute majority required.*

### **4.61. Choice of methods of conducting election**

- (1) The election can be conducted as a —  
**postal election** which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or  
**voting in person election** which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.
- (2) *The local government may decide\* to conduct the election as a postal election.*  
*\* Absolute majority required.*
- (3) *A decision under subsection (2) has no effect if it is made after the 80th day before Election Day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.*

- (4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.
- (5) A decision made under subsection (2) on or before the 80th day before election day cannot be rescinded after that 80th day.
- (6) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.
- (7) Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.

## POLICY/PROCEDURE IMPLICATIONS

No Policy or Procedure affected

## FINANCIAL IMPLICATIONS

Below is an analysis of cost to conduct the past 5 Ordinary Elections:

Year	Election Type	Cost (GST Excl) (Estimates/Actuals)	Total No Electors	% Increase Electors	Average Cost per Electors	Cost as % Rate Revenue Per Election	Cost as % Rate Revenue Per Annum
2011	In-Person	\$9,000 (SoCV estim.)	739	-	\$12.18	0.484%	0.242%
2013	Postal	\$9,660.35 (WAEC actual)	813	10.01	\$11.88	0.467%	0.233%
2015	Postal	\$9,220.61 (WAEC actual)	868	6.77	\$10.62	0.419%	0.209%
2017	Postal	\$11,709.95 (WAEC actual)	935	7.72	\$12.52	0.452%	0.226%
2019	Postal	\$13,363.00 (WAEC estim.)	1050 (est)	12.30 (est)	\$12.72 (est)	0.469 (est) Based on a 5% Rate Inc.	0.234%

In the 2011 Local Government In-Person election there were 3 polling places at Yuna, Nabawa and Drummond Cove with the cost for conducting the 2011 election being approximately \$9,000 excl GST.

The WAEC's estimated cost conduct the 2019 Election is \$13,363 (GST Excl). Based on an estimated 42% increase in Electors registered on the Shire's Electoral Roll from 2011 to 2019 and an annual average increase of approximately 2.0% CPI over the same period the 2019 estimate provided by the WAEC appears fair.

It will be noted the WAEC cost to conduct Ordinary Council Election is less than ½ percent of Rate Revenue raised in the year of the Election. If this is annualised the figure would be less than ¼ percent annum as Elections are only held every two years. Therefore, the costs is insignificant in the overall annual expenditure, specifically when considered as part of Council attempt to maximise participation in the local government election process

A copy of the WAEC quote for them to conduct the 2019 Postal Ordinary Election is provided at **Attachment 10.3.1(a)**

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

No effect. Cost to conduct Postal Elections into the future has been factored into the LTFP's operational costs.

## STRATEGIC IMPLICATIONS

Maximising Elector participation at Local Government Elections should be the main priority when deciding the form in which the election process should be undertaken. It is proven the percentage of voter participation at *Postal Elections* significantly exceeds participation at *In-Person Elections*.

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

Ref	Objective	Strategy	Action
1.1	Nurture the sense of community	Development of plans relevant to population needs	Review existing plans and develop new plans as required
		Determine a whole of Shire community integration approach	Advocate a sense of community when opportunity arises.

**CONSULTATION**

Informal discussions have occurred between the WAEC and Chief Executive Officer.

**RISK ASSESSMENT**

Reverted back to the In-Person Election process, rather than the Postal Election process will create a significant risk of voter participation dropping substantially. I believe the reputational risk in doing this would be **moderate** i.e.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies

**VOTING REQUIREMENTS**

Absolute Majority

**STAFF RECOMMENDATION**

That Council:

1. Resolve, in accordance with section 4.61(2) of the *Local Government Act 1995*, the method of conducting all future Local Government Elections and Polls will be as *Postal Election* (Ordinary and Extraordinary);
2. Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Western Australian Electoral Commissioner to be responsible to conduct all future Local Government Election and Polls as *Postal Elections* (Ordinary and Extraordinary);
3. Council reserves the right to review this position at any time, subject to budgetary constraints and any decision to terminate the contract with the Western Australian Electoral Commissioner not being able to be made after the 80<sup>th</sup> day being the legislative cut-off period of an election process as any time after this date renders the services from the WAEC having already commenced.



LTE 028

WESTERN AUSTRALIAN  
Electoral Commission

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

Dear Mr Battilana

Local Government Ordinary Election: 2019

The next local government ordinary elections are being held on 19 October 2019. While this is still some distance in the future, I have enclosed an estimate for your next ordinary election to assist in your 2019/2020 budget preparations.

The estimated cost for the 2019 election if conducted as a postal ballot is \$15,000 inc GST, which has been based on the following assumptions:

- 1,050 electors
- response rate of approximately 55%
- 4 vacancies
- count to be conducted at the offices of the Shire of Chapman Valley
- appointment of a local Returning Officer
- regular Australia Post delivery service to apply for the lodgement of the election packages.

An additional amount of \$210 will be incurred if your Council decides to opt for the Australia Post Priority Service for the lodgement of election packages. The Commission is of the view that the regular service is adequate for outgoing mail for most local governments, particularly in the metropolitan area.

Costs not incorporated in this estimate include:

- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
- one local government staff member to work in the polling place on election day
- any additional postage rate increase by Australia Post.

151616

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The Commission is required by the *Local Government Act* to conduct local government elections on a full cost recovery basis and you should note that this is an estimate only and may vary depending on a range of factors including the cost of materials or number of replies received. The basis for charges is all materials at cost and a margin on staff time only. Should a significant change in this figure become evident prior to or during the election you will be advised as early as possible.

The current procedure required by the Act is that my written agreement has to be obtained before the vote by Council is taken. To facilitate the process, you can take this letter as my agreement to be responsible for the conduct of the ordinary elections in 2019 for the Shire of Chapman Valley in accordance with section 4.20(4) of the *Local Government Act 1995*, together with any other elections or polls that may also be required. My agreement is subject to the proviso that the Shire of Chapman Valley also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

In order to achieve this, your council would need to pass the following two motions by absolute majority:

- Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2019 ordinary elections together with any other elections or polls which may be required
- Decide, in accordance with section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election.

I look forward to conducting this election for the Shire of Chapman Valley in anticipation of an affirmative vote by Council. If you have any further queries please contact Phil Richards Manager, Election Events on 9214 0400.

Yours sincerely



David Kerslake  
ELECTORAL COMMISSIONER

19 October 2018

<b>AGENDA ITEM:</b>	<b>10.3.2</b>
<b>SUBJECT:</b>	<b>NATIONAL REDRESS SCHEME (NRS)</b>
<b>PROPONENT:</b>	<b>WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA)</b>
<b>SITE:</b>	<b>AUSTRALIA WIDE</b>
<b>FILE REFERENCE:</b>	<b>404.01</b>
<b>PREVIOUS REFERENCE:</b>	<b>MINUTE REFERENCE: 09/18-8</b>
<b>DATE:</b>	<b>19<sup>th</sup> JUNE 2019</b>
<b>AUTHOR:</b>	<b>MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER</b>

#### SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.2(a)	WALGA NRS - Discussion Paper (April '19)		√
10.3.2(b)	LGIS NRS- Update (April '19)		√

#### DISCLOSURE OF INTEREST

Nil

#### BACKGROUND

WALGA has provided the following background on the NRS:

*“The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) was established in January 2013, to investigate systemic failures of public and private institutions, and to protect, report and respond to child sexual abuse*

*The Royal Commission released three reports throughout the inquiry: Working with Children Checks (August 2015), Redress and Civil Litigation (September 2015) and Criminal Justice (August 2017). The Final Report (Final Report) incorporated findings and recommendations of the previously released reports and was handed down on 15 December 2017.*

*The National Redress Scheme formally commenced operation on 1 July 2018 and involves:*

- *People who have experienced institutional child sexual abuse who can apply for redress*
- *The National Redress Scheme team — Commonwealth Government staff who help promote the Scheme and process applications*
- *Redress Support Services — free, confidential emotional support and legal and financial counselling for people thinking about or applying to the Scheme*
- *Participating Institutions that have agreed to provide redress to people who experienced institutional child sexual abuse, and*
- *Independent Decision Makers who will consider applications and make recommendations and conduct reviews.*

*The National Redress Scheme offers eligible applicants three elements of redress:*

- *A direct personal response from the responsible institution, if requested*
- *Funds to access counselling and psychological care, and*
- *A monetary payment of up to \$150,000 (average payment expected to be approximately \$76,000).*

*The Scheme is being administered by the Commonwealth Government and all State and Territory Governments have formally joined the Scheme. Institutions that agree to join the Scheme are required to adhere to the legislative requirements set out in the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth).*

The WA Parliament passed the legislation required to allow the Government and WA based non-government institutions to participate in the Scheme. The National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018 (WA) took effect on 21 November 2018.

The WA Government commenced participation in the Scheme from 1 January 2019.

The State Government's Redress Coordination Unit has been established within the Office of the Commissioner for Victims of Crime, Department of Justice and will:

- Act as the State Government's single point of contact with the Scheme
- Coordinate information from State Government agencies to the Scheme, and
- Coordinate the delivery of Direct Personal Responses (DPR) to redress recipients (at their request) by responsible State Government agencies to redress recipients.

State Government, through the Department of Local Government, Sport and Cultural Industries (DLGSC), with the support of WALGA, are consulting all Local Governments' on their preference and capacity to join the National Redress Scheme, with one option to join as a State Government agency under the definitions contained within the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth).

In considering the preferred options there are three critical considerations for Council to be cognisant of in regarding the local government authorities' capacity as a participating organisation including:

1. Source and provide records within prescribed timeframes
2. Deliver a Direct Personal Response in the requested manner
3. Financially compensate the claim"

This matter presented to Council September 2018 OCM with the following resolved:

Council provide the following response to the Department of Local Government, Sport & Cultural Industries (DLGSC) Information and Discussion Paper on the Royal Commission into Institutional Responses to Child Sexual Abuse:

- a) Local Governments Child Safety Officer positions from existing staff profiles:
  - a) This position must be fully funded by the State and/or Commonwealth government and cost is not an imposition on the local government (i.e. not another costs-shifting exercise);
  - b) A regional approach could be considered by a group of local government authorities if this is considered appropriate and effective, rather than expecting every individual local government authority to establish a new position, or incorporate the tasks required of the position into existing staff profiles;
  - c) There must stringent legal processes and protections in place to ensure the reporting officer is not exposed for not reporting an incident, or reporting something, which is false or vexatious.
- b) Areas of the local government to establish the Child Support Officer designation in supporting the community to create child safe environments
  - a) There is no specific position is small local government authorities, which is best suited to undertaking the role as a Child Safety Officer and this should be determined by the individual local government authority;
  - b) The Working With Children Check should be all a sporting and recreation institution, including arts, culture and hobby groups, engaging with or providing services to children should be required to implement and comply with the Child Safety Standards (i.e. the status quo to remain for these groups);
- c) Training, resources and support required by the local government to successfully implement designated Child Safety Officers:

- a) *Initial and ongoing training, resources and support of the local government authority and the proposed Child Support Officer needs to be fully funded by the Commonwealth and/or State government and not be at the cost of the local government;*
  - b) *Any agency established for administering the reporting requirements of local government authorities must be there to support the process, not simply a regulatory body with a focus on compliance by a local government authority;*
  - c) *Help desk, legal support and advice needs to be provided and readily available to the Child Support Officer and the local government authority, with this being the predominant purpose of any such agency.*
- d) *Supporting local government with the implementation of child safety officers*
- a) *Any agency established for accepting and determining outcomes of matters reported by the local government should provide legal representation on behalf of the local government and any staff in the event of legal action taken against the Child Support Officer and/or local government. Any legal costs must not be the local government authority's responsibility;*
  - b) *Legislation introduced for the proposed reportable conduct scheme must incorporate stringent processes and protections in place to ensure the reporting officer and local government authority is not legally exposed for not reporting an incident, or reporting something, which is proven to be false or vexatious;*
  - c) *There must be strong legal processes and procedures in place to deal with the vexatious complainants creating issues based on conspiracy theories, rumour and innuendo and for those proven to have submitted complaints without basis dealt with under any proposed legislation (e.g. prosecution, infringement).*

## COMMENT

The following is stated in the Department of Local Government, Sport & Cultural Industries (DLGSC) *Information and Discussion Paper – Local Government Summary* (the *Summary*) which was provided to Council at the September 2019 OCM:

### **“Brief Overview**

*The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) was established in January 2013, to investigate systemic failures of public and private institutions to protect children from child sexual abuse, report abuse, and respond to child sexual abuse.*

*The Final Report was handed down on 15 December 2017.*

*The Western Australian Government’s (the State Government) response was released on 27 June 2018, committing to working on the recommendations with the Commonwealth Government, other states and territories, **local government**, non-government institutions (including religious institutions) and community organisations.*

*The findings of the Royal Commission are extensive and require careful and thorough consideration as to how implementation of the recommended reforms will occur. Reform will be a long-term commitment. Given the large scale and scope of the Royal Commission’s recommendations, some reforms will be implemented in early phases, with others over a longer timeframe.*

*In the second half of 2018, the State Government will develop a staged implementation plan which will identify reform priorities, timeframes and resourcing options.”*

As previously reported, it is clear local government authorities are going to be directly affected by the Royal Commission’s recommendations as is indicated from the following statement from the *Summary*:

### **“Local Government**

*The Royal Commission made one key recommendation specifically for local government:*

- **With support from governments at the national, state and territory levels, local governments should designate child safety officer positions from existing staff profiles to carry out the following functions:**
  - a. developing child safe messages in local government venues, grounds and facilities;
  - b. assisting local institutions to access online child safe resources;
  - c. providing child safety information and support to local institutions on a needs basis;
  - d. supporting local institutions to work collaboratively with key services to ensure child safe approaches are culturally safe, disability aware and appropriate for children from diverse backgrounds. This recommendation acknowledges local government as the closest tier of government to the community; one that frequently provides an expansive range of direct services, as well as information, support and guidance to community-based organisations and individuals.”

I have again reiterated Council's concern with the recommendation local government authorities will be required to “...designate child safety officer positions from existing staff profiles.” to carry out a number of functions. The response from WALGA to this concern is highlighted in the response email (see below):

“From: Kirstie Davis <[KDavis@walga.asn.au](mailto:KDavis@walga.asn.au)>  
 Sent: Wednesday, 1 May 2019 1:36 PM  
 To: Maurice Battilana <[ceo@chapmanvalley.wa.gov.au](mailto:ceo@chapmanvalley.wa.gov.au)>  
 Cc: [Damien.Gaughan@lgiswa.com.au](mailto:Damien.Gaughan@lgiswa.com.au)  
 Subject: RE: National Redress and Local Government Directions Paper

Hi Maurice,  
 Thanks for making contact on this topic.  
 In response to the questions below:

1. There is no cost to join the Scheme
2. Implementing a Child Safety Officer is part of a separate conversation to which the first round of consultation covered. DLGSC has received feedback from Local Government sector on this topic which essentially states there is limited and diverse capacities across the sector to respond to the Commonwealth recommendation to nominate a child safety officer from existing workforces. The message that State Government assistance and partnership to drive this notion is welcomed and necessary. We anticipate hearing from State Government toward the end of the year as to how this element of child protection will unfold. In the meantime, Local Governments are encouraged to continue to conduct Working With Children Checks and to ensure the robust process that sits behind that function.
3. Similarly, to the response provided in number 2 above, the intricate details of how this will unfold are yet to be determined. However; WALGA will continue to promote a strong partnership arrangement with State Government to ensure that all Local Governments are provided will the level of assistance required to ensure the appropriate safety measures for children are in place.
4. This relates back to the National Redress Scheme which a section on financial matters has been outlined in the WALGA Directions Paper sent out by WALGA CEO on Friday 26 April (attached again for your convenience). LGIS have been engaged with WALGA and other key stakeholders in most of the discussions about Redress from the beginning and were urged by members to develop a position (attached). You will see that LGIS have not mentioned insurance premium increases as they have communicated that: “neither the protection offered by LGIS or a conventional liability insurance policy would respond to redress awards”. WALGA will continue to work with LGIS to ensure that Members are considered first and foremost in all decision making processes to achieve suitable outcomes, and will communicate with the sector should any changes occur. The WALGA Directions Paper outlines that a partnership agreement with State Government is best. One that demarcates the roles and responsibilities of financial assurity with State Government and Local Government to acknowledge responsibility, conduct personal apologies and complete all necessary tasks in the sourcing and provision of records and other information that may substantiate a claim.

For any further queries, please don't hesitate to contact me.

Cheers

Kirstie Davis | Policy Manager Community | WALGA  
(p) (08) 9213 2044 | (mob) 0407 423 585 | (f) (08) 9213 2077 | (e) [kdavis@walga.asn.au](mailto:kdavis@walga.asn.au)

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From: Maurice Battilana [<mailto:ceo@chapmanvalley.wa.gov.au>]  
Sent: Friday, April 26, 2019 3:18 PM  
To: Kirstie Davis <[KDavis@walga.asn.au](mailto:KDavis@walga.asn.au)>  
Cc: [Damien.Gaughan@lgiswa.com.au](mailto:Damien.Gaughan@lgiswa.com.au)  
Subject: FW: National Redress and Local Government Directions Paper

Hi Kristie

A couple of questions:

1. Is there a cost for an LGA to join the National Redress Scheme?
2. If an LGA decided to join the Scheme does that mean they are obliged to install a child safety officer (either externally or from within existing staff resources)?
3. If the LGA is required to install a child safety officer will the State compensate the LGA the costs for this new position or additional task responsibility to an existing staff member?
4. How will LG insurance premiums be affected through LGIS (or any other provider) for claims made against any LGA in the State?

Regards

**Maurice Battilana | CHIEF EXECUTIVE OFFICER**

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I maintain the concern I have with the recommendation to establish *reportable conduct schemes*. It is understandable for a reporting mechanism to be established; however, there must be stringent processes and protections in place to ensure the reporting officer is not legally exposed for not reporting an incident (or reporting something, which is false or vexatious).

As previously mentioned, the current concerning trend in the local government industry of vexatious complainants creating issues based on conspiracy theories, rumour and innuendo (predominantly using social media as their platform) I fear this could be a serious issue, for both the person being accused and the reporting officer. How is the reporting officer going to differentiate between a vindictive, baseless accusation and one which may have merit or possible validity? Is the reporting officer therefore exposed if they deem the complaint to be baseless, or should they simply report everything presented to them?

I believe there must be strong legal processes and procedures in place to deal with the vexatious complainants creating issues based on conspiracy theories, rumour and innuendo and for those proven to submitting complaints without basis to be dealt with under any proposed legislation (e.g. prosecution, infringement). Otherwise this could simply be another process for the innocently accused (and/or the reporting officer) to be defamed, irrespective of the outcomes of a vindictive, vexatious, baseless complaint.

Another concern I have reiterated is how the proposed recommendation within the Paper will affect sporting clubs and community groups. Recommendation 14.1 states:

*“All sporting and recreation institutions, including arts, culture and hobby groups, that engage with or provide services to children should implement the Child Safety Standards identified by the Royal Commission”*

I am assuming this will include local junior sport activities & events, playgroups, toy library, etc. If this is the case what is expected of these groups under the proposed *Child Safety Standards* and what resources will be required of them. If maintaining the *Working With Children Check* is all these groups need to do, then this shouldn't be an issue, because this is (or should be) already happening. If; however, these groups need to establish additional processes and procedures to satisfy the proposed *Child Safety Standards* then this could be a resource issue for these groups.

WALGA has provided the following list of *Opportunities* and *Challenges* regarding the chose to join, or not join the National Redress Scheme as a State Government entity:

<b>Join Scheme (National Redress Scheme)</b>	
<b>Opportunities</b>	<b>Challenges</b>
<ul style="list-style-type: none"> <li>Clearly defined eligibility criteria</li> <li>Consistency and capping of compensation payments</li> <li>Releases institution from civil liability</li> <li>Minimising likelihood of re-traumatisation for victim/survivor</li> <li>Increased perception of justice and procedural fairness is promoted provided protection for LGs</li> <li>Display of accountability and transparency of Local Government</li> <li>National consistency and legislative safeguarding</li> <li>Supports the principle of accountability promoted by the Royal Commission</li> </ul>	<ul style="list-style-type: none"> <li>Ratepayers don't get a say</li> <li>WA Criminal Code may produce conflicting complexity.</li> </ul>

<b>Do Not Join Scheme (Civil Litigation Process)</b>	
<b>Opportunities</b>	<b>Challenges</b>
<ul style="list-style-type: none"> <li>Potential for negotiated settlement</li> <li>Independence in achieving resolutions</li> <li>Unlimited timeframes for action</li> <li>WA Redress Scheme may have addressed some claims.</li> </ul>	<ul style="list-style-type: none"> <li>A potentially more difficult process for survivors/victims</li> <li>Additional legal and other expenses</li> <li>No capped financial claim amount (could exceed \$150k)</li> <li>Eligibility criteria and standard of proof unrestricted</li> <li>Unlimited timeframes for action therefore may incur higher legal fees</li> <li>Potential for socio-political consequences.</li> </ul>

## **STATUTORY ENVIRONMENT**

*National Redress Scheme for Intuitional Child Sexual Abuse Act 2018*



## POLICY/PROCEDURE IMPLICATIONS

Procedure CMP-025 is directly affected (see below). However; as this matter evolves there may be a need for the Shire to establish and introduce processes and procedures to accommodate any legal obligations imposed upon the local government regarding this matter.

## FINANCIAL IMPLICATIONS

WALGA has stated:

*“There are no financial requirements to join the Scheme.*

*If the preferred recommendation is endorsed as a Statewide position of Local and State Government, there will be no requirement for the local government authority to provide a redress payment in the instance of a claim. There will however need to be a consideration into workforce requirements for the allocation of staff to source records within prescribed timeframes.*

However; there may be a resource implication imposed on local government authorities if legislation imposes additional roles and responsibilities on local governments. What the extent of the resource requirements is unknown.

Council does have a procedure in place regarding additional administrative functions and tasks (see CMP-025 below). This is an internal procedure and State legislation takes precedence over such policies/procedures.

MANAGEMENT PROCEDURE No.	CMP-025
MANAGEMENT PROCEDURE	ADDITIONAL ADMINISTRATIVE FUNCTIONS & TASKS
RESPONSIBLE OFFICER	CHIEF EXECUTIVE OFFICER
PREVIOUS POLICY/PROCEDURE No.	6.80
RELEVANT DELEGATIONS	

### OBJECTIVES:

Set what additional administrative tasks will be undertaken by Council as a result of impositions being placed on the Shire by other tiers of government.

### MANAGEMENT PROCEDURE STATEMENT/S:

1. The Shire of Chapman Valley will not undertake any additional functions/tasks until an independent analysis has been undertaken, at the cost of the Australian Government, State Government, Department or any other organisation involved in imposing these additional functions/tasks, to determine if additional resources are required to adequately cater for the additional functions/tasks being expected of the Shire.
2. If the outcome of the analysis is the Shire would need additional resources to undertake the additional functions/tasks then the Shire will refuse to perform these functions/tasks until such resources are made available.
3. In the event additional resources are not made available functions/tasks being requested of the Shire, the Shire will formally advise the relevant organisation(s) and all relevant parliamentarians that they cannot perform these functions/tasks. This advice is to state that in the event of any claim against the Shire, due to non-compliance with the requirement to perform the additional functions/tasks, the Shire will use as a defence the fact they informed the relevant individuals and organisations of their inability to comply due to adequate resources not accompanying the additional functions/tasks.

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

It is not expected there will be a significant effect on the Shire's LTFP.

## STRATEGIC IMPLICATIONS

- Strategic Community Plan/Corporate Business Plan:

Ref	Objective	Strategy	Action
1.3	Maintain and enhance safety and security for the community	Enhance community and property security	Encourage improved communications and security across the Shire

## CONSULTATION

This Agenda Item forms part of the consultation process being undertaken by the DLGSC and WALGA with submissions and comments being requested by the DLGSC provided in accordance with Council's resolution at the September 2019 OCM (Minute Reference 09/18-8).

WALGA is now recommending Local Government Authorities adopt the following position and put this to their Zones for formal adoption:

*"It is recommended that the Council resolve to:*

- 1) *Join National Redress Scheme as a State Government entity and support the following specifications for joining:*
  - a. *To be responsible for sourcing and providing records within prescribed timeframes.*
  - b. *To be responsible for delivery of a Direct Personal Response in the requested manner.*
  - c. *That State Government is responsible for financial compensation of the claim"*

I believe this recommendation basically reflects Council's position. However; also believe it is important Council reiterate its existing position with WALGA along the same lines as its submission to the DLGSC (i.e. Minute Reference 09/18-8). Therefore, the Staff Recommendation below reflects a combination of both the WALGA recommendation and Councils current resolution.

## RISK ASSESSMENT

It is difficult to determine the risk in this instance as the cost and resource imposition is unknown at this stage. However; I anticipate the risk would be **minor**.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Minor (2)	First aid injuries	\$1,001 - \$10,000	Short term temporary interruption – backlog cleared < 1 day	Some temporary non compliances	Substantiated, low impact, low news item	Localised damage rectified by routine internal procedures	Contained, reversible impact managed by internal response

## VOTING REQUIREMENTS

Simple majority.

## STAFF RECOMMENDATION

Council advise the Western Australian Local Government Association, through the Northern Country Zone of WALGA, it agrees to join National Redress Scheme as a State Government entity under the following conditions:

- i. Local Governments Child Safety Officer positions from existing staff profiles:
  - a) This position must be fully funded by the State and/or Commonwealth government and cost is not an imposition on the local government (i.e. not another costs-shifting exercise);

- b) A regional approach could be considered by a group of local government authorities if this is considered appropriate and effective, rather than expecting every individual local government authority to establish a new position, or incorporate the tasks required of the position into existing staff profiles;
  - c) There must be stringent legal processes and protections in place to ensure the reporting officer is not exposed for not reporting an incident, or reporting something, which is false or vexatious.
- ii. Areas of the local government to establish the Child Support Officer designation in supporting the community to create child safe environments
- a) There is no specific position in small local government authorities, which is best suited to undertaking the role as a Child Safety Officer and this should be determined by the individual local government authority;
  - b) The *Working With Children Check* should be all a sporting and recreation institution, including arts, culture and hobby groups, engaging with or providing services to children should be required to implement and comply with the Child Safety Standards (i.e. the status quo to remain for these groups);
- iii. Training, resources and support required by the local government to successfully implement designated Child Safety Officers:
- a) Initial and ongoing training, resources and support of the local government authority and the proposed Child Support Officer needs to be fully funded by the Commonwealth and/or State government and not be at the cost of the local government;
  - b) Any agency established for administering the reporting requirements of local government authorities must be there to support the process, not simply a regulatory body with a focus on compliance by a local government authority;
  - c) Help desk, legal support and advice needs to be provided and readily available to the Child Support Officer and the local government authority, with this being the predominant purpose of any such agency.
- iv. Supporting local government with the implementation of Child Safety Officers
- a) Any agency established for accepting and determining outcomes of matters reported by the local government should provide legal representation on behalf of the local government and any staff in the event of legal action taken against the Child Support Officer and/or local government. Any legal costs must not be the local government authority's responsibility;
  - b) Legislation introduced for the proposed reportable conduct scheme must incorporate stringent processes and protections in place to ensure the reporting officer and local government authority is not legally exposed for not reporting an incident, or reporting something, which is proven to be false or vexatious;
  - c) There must be strong legal processes and procedures in place to deal with the vexatious complainants creating issues based on conspiracy theories, rumour and innuendo and for those proven to have submitted complaints without basis dealt with under any proposed legislation (e.g. prosecution, infringement).
- v. Source and Provide Records
- Agree to being responsible for sourcing and providing records within prescribed timeframes under the condition such responsibility will not result in any additional resources being required of the Shire;
- vi. Deliver and Provide Personal Response
- Agree to being responsible for delivery of a Direct Personal Response in the requested manner timeframes under the condition such responsibility will not result in any additional resources being required of the Shire;

vii. Financially Compensate the Claim

The State Government is responsible for financial compensation of all claims;

viii. Insurance

The Local Government Government's insurance policies and premiums are in no way adversely affected by its agreement to join National Redress Scheme as a State Government entity.

<b>AGENDA ITEM:</b>	<b>10.3.3</b>
<b>SUBJECT:</b>	<b>MANAGEMENT LICENCE – YUNA GOLF CLUB</b>
<b>PROPONENT:</b>	<b>YUNA GOLF CLUB INC.</b>
<b>SITE:</b>	<b>PART OF RESERVES 28869 YUNA</b>
<b>FILE REFERENCE:</b>	<b>803.15</b>
<b>PREVIOUS REFERENCE:</b>	<b>MINUTE REFERENCE: 10/18-2</b>
<b>DATE:</b>	<b>19<sup>th</sup> June 2019</b>
<b>AUTHOR:</b>	<b>MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER</b>

#### SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.3(a)	Amended Yuna Golf Club Management Licence		√

#### DISCLOSURE OF INTEREST

Nil

#### BACKGROUND

Council resolved the following at the October 2018 OCM:

*“Council endorses the “Management Licence for the use of Portion of Part of Reserves 29968 & 28869” between the Shire of Chapman Valley and the Yuna Golf Club as presented and authorise the Chief Executive Officer to finalise the Licence and implement the conditions immediately.”*

Since the above resolution I have been working with the Department of Planning, Lands & Heritage (DPLH) to obtain Ministerial endorsement for the Management Licence between the Shire and the Yuna Golf Club.

The DPLH has recently advise the Shire does not have the ability to lease/licence any part of Reserve 28868 as there is no Management Order over this Reserve. Therefore, any request to establish a Management Order and to then lease/licence all or part of this Reserve will be subject to Native Title. The email from the DPLH and the Map below explains the situation:

**From:** Lisa Nicholas <[Lisa.Nicholas@dplh.wa.gov.au](mailto:Lisa.Nicholas@dplh.wa.gov.au)>  
**Sent:** Monday, 20 May 2019 4:50 PM  
**To:** Maurice Battilana <[ceo@chapmanvalley.wa.gov.au](mailto:ceo@chapmanvalley.wa.gov.au)>  
**Subject:** RE: Touching Base

**Our Reference No: 00536-2001 Case No: 1900430**  
**Re: Management of Reserves 28868 and 28869 – Shire of Chapman Valley**

Hi Maurice

*As you are aware, the Shire currently only has a management order over Reserve 28869. The other adjoining reserve, Reserve 28868, has been unmanaged since its creation in 1967.*

*I have undertaken a preliminary assessment of the status of native title for both reserves which has confirmed the following:*

- *Native title will not be an issue for Reserve 28869 if the Shire wishes to proceed with amending their current management order over the reserve to include the power to lease/licence;*
- *Native title will be an issue for Reserve 28868 and a “future act” process under the Native Title Act 1993 will need to be undertaken if the Shire wishes to acquire a management order over the reserve.*

*In light of the above, can you please provide written confirmation of how the Shire wishes to proceed forward.*

*Thank you.  
 Regards*



## COMMENT

The only change to the Management Licence endorsed by Council at the October 2018 OCM is the removal of all reference to Reserve 28868 (**see Attachment 10.3.3 under separate cover**)

## STATUTORY ENVIRONMENT

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

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

All liability associated with Reserve 28868 will be with the State Government.

## POLICY IMPLICATIONS

As reported at the October 2018 OCM, Council has a number of Policies/Procedures, which deal with specific conditions associated with the use of properties under the control/ownership of the Shire. The ongoing process of developing Management Licences for the various land/facilities under the Shire ownership or control has incorporate some of these Policies/Procedures resulting in these being removed as policy/procedures.

There are no current policies or procedures affected by the Yuna Golf Club Amended Management Licence.

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

Ref	Objective	Strategy	Action
1.1	Nurture the sense of community	Development of plans relevant to population needs	Review existing plans and develop new plans as required

## CONSULTATION

The establishment of the initial Draft and now Amended Management Licence for the Yuna Golf Club facilities has been through a consultation process with the Club Executive and members.

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

## RISK ASSESSMENT

The risk in this instance is considered *insignificant* i.e.

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

## STAFF RECOMMENDATION

Council endorses the amended "*Management Licence for the use of Part of Reserves 28869*" between the Shire of Chapman Valley and the Yuna Golf Club Incorporated as presented and authorise the Chief Executive Officer to finalise the Licence and implement the conditions immediately.

- 11.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 12.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING**
- 13.0 DELEGATES REPORTS**
- 14.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**
- 15.0 MATTERS FOR WHICH MEETING TO BE CLOSED TO MEMBERS OF THE PUBLIC**
  - 15.1 Mobile Phone Usage
- 16.0 CLOSURE**