



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 21 August 2019  
at the Yuna Multipurpose Community Centre  
commencing at 9:00am.

Maurice Battilana  
CHIEF EXECUTIVE OFFICER

# CONFIRMED MINUTES

## AUGUST 2019

*Shire's Vision*

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

# DISCLAIMER



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

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

The Shire of Chapman Valley warns that anyone who has any application or request with the Shire of Chapman Valley must obtain and should rely on **WRITTEN CONFIRMATION** of the outcome of the application or request of the decision made by the Shire of Chapman Valley.

A handwritten signature in black ink, appearing to read "M. Battilana", is written over a large, faint, circular watermark or background mark.

Maurice Battilana  
**CHIEF EXECUTIVE OFFICER**

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**ORDER OF BUSINESS:**

**1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS**

The President, Cr Farrell welcomed Elected Members and Staff and declared the meeting open at 9.00am

**2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER**

Nil

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

3.1 Present

a. Councillors

<b>Member</b>
Cr Anthony Farrell (President)
Cr Kirrilee Warr
Cr Nicole Batten
Cr Pauline Forrester
Cr Darrell Forth
Cr Peter Humphrey
Cr Ian Maluish

b. Staff

<b>Officer</b>	<b>Position</b>
Mr Maurice Battilana	Chief Executive Officer
Mr Simon Lancaster	Deputy Chief Executive Officer
Mrs Solataire Cameron	Community Development Officer
Mrs Karen McKay	Executive Services Administrator (Minute Taker)

c. Visitors

<b>Name</b>
Callan Alfieri – Item 10.1.1
Leah Singleton – Item 10.1.1
Douglas Harding – Item 10.1.1

3.2 Apologies

<b>Name</b>
Mrs Dianne Raymond   Manager Finance and Corporate Services

3.3 Previously Approved Leave of Absence (By Resolution of Council)

<b>Councillor</b>	<b>OCM Month &amp; Year</b>	<b>Date Approved</b>	<b>Minute Reference</b>

**4.0 PUBLIC QUESTION TIME**

4.1 Response to Previous Public Questions On Notice

Nil

4.2 Public Question Time

Nil

**5.0 APPLICATIONS FOR LEAVE OF ABSENCE (By Resolution of Council)**

Cr Forth requested Leave of Absence for the November 2019 OCM.

**COUNCIL RESOLUTION**

**MOVED: CR FORRESTER**

**SECONDED: CR WARR**

That Cr Forth be granted Leave of Absence for the November 2019 OCM

**Voting 7/0  
CARRIED  
Minute Reference: 08/19-1**

**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
Nil			

**7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS**

7.1 Petitions

Nil

7.2 Presentations

Nil

7.3 Deputations

Nil

**8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS**

**COUNCIL RESOLUTION**

**MOVED: CR WARR**

**SECONDED: CR FORRESTER**

8.1 Ordinary Meeting of Council held on Wednesday 17 July 2019

That the minutes of the Ordinary Meeting of Council held Wednesday 17 July 2019 be confirmed as a true and accurate.

8.2 Special Meeting of Council held on Wednesday 25 July 2019

That the minutes of the Special Meeting of Council held Wednesday 25 July 2019 be confirmed as a true and accurate.

**Voting 7/0  
CARRIED  
Minute Reference: 08/19-2**

**9.0 ITEMS TO BE DEALT WITH EN BLOC**

Nil

**10.0 OFFICERS REPORTS**

# 10.1

## Deputy Chief Executive Officer

### August 2019

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## Contents

### 10.1 AGENDA ITEMS

10.1.1 Proposed Outbuilding – 109 (Lot 160) Wittenoom Circle, White Peak

10.1.2 Proposed Subdivision – Lot 2462 White Peak Road White Peak & Lot 16 Brown Lane White Peak

10.1.3 Review of Outbuildings Local Planning Policy



<b>AGENDA ITEM:</b>	<b>10.1.1</b>
<b>SUBJECT:</b>	<b>PROPOSED OUTBUILDING</b>
<b>PROPONENT:</b>	<b>C ALFIERI</b>
<b>SITE:</b>	<b>109 (LOT 160) WITTENOOM CIRCLE, WHITE PEAK</b>
<b>FILE REFERENCE:</b>	<b>A1511</b>
<b>PREVIOUS REFERENCE:</b>	<b>N/A</b>
<b>DATE:</b>	<b>13 AUGUST 2019</b>
<b>AUTHOR:</b>	<b>SIMON LANCASTER</b>

**SUPPORTING DOCUMENT:**

Ref	Title	Attached to Report	Under Separate Cover
10.1.1(a)	Copy of application	√	
10.1.1(b)	Copy of complaint	√	
10.1.1(c)	Shire of Chapman Valley Sea Containers Local Planning Policy	√	

**DISCLOSURE OF INTEREST**

Nil.

**BACKGROUND**

Council is in receipt of an application for an outbuilding that involves the permanent siting of a sea container at 109 (Lot 160) Wittenoam Circle, White Peak. The application has been placed before Council as it exceeds the delegation limits of the Shire’s ‘Sea Containers’ Local Planning Policy. This report recommends approval of the application subject to the imposition of a 6 month timeframe for completion of the proposed works.

**COMMENT**

Lot 160 is a cleared, relatively flat 1.3979ha property located in the Parkfalls Estate that contains a recently completed residence and a sea container.

**Figure 10.1.1(a) – Location Plan for 109 (Lot 160) Wittenoam Circle, White Peak**



The applicant is proposing the following:

- construct a 12m x 9m (108m<sup>2</sup>) shed with a wall height of 4.5m and gable/total height of 5.5m, the shed would be clad in basalt (i.e. grey to match the existing residence and fencing) colorbond wall and roof cladding;

- construct a 6.9m x 9m (62.1m<sup>2</sup>) lean-to at the rear of the shed, falling from a height of 3.712m to a height of 3.119m, the lean to would utilise basalt colorbond roof cladding and wall cladding (on the northern elevation); &
- retain a '40 foot' (29.768m<sup>2</sup>, 12.2m in length, 2.44m in width, and 2.6m in height) sea container that is already located upon Lot 160 and continue the roofline of the lean-to over the sea container, basalt colorbond cladding would be utilised for the roof sheeting and cladding the northern and western walls of the sea container, and the southern facing sea container doors would be painted to match.

The total area of the proposed outbuilding would be 199.868m<sup>2</sup>, and it is proposed to be located 20.535m from the residence at its closest point and 5m from the closest (northern) side property boundary.

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

**Figure 10.1.1(b) – 2018 aerial photo of 109 (Lot 160) Wittenoorn Circle, White Peak**



**Figure 10.1.1(b) – 2019 aerial photo of 109 (Lot 160) Wittenoorn Circle, White Peak**



**Figure 10.1.1(d) – View of Lot 160 looking west from Wittenoom Circle**



**COMMENT**

The development history for the property is as follows:

- 28/2/06 DP47183 prepared that created Lot 160 as part of Stage 4 of the Parkfalls Estate.
- 8/1/16 Applicant purchases Lot 160.
- 17/7/17 Neighbour complains about the siting of a sea container upon Lot 160.
- 21/7/17 Shire writes to landowner of Lot 160 advising of requirements of Sea Container Local Planning Policy. Shire provides copy of policy to landowner and complainant.
- 28/7/17 Landowner of Lot 160 ('the landowner') contacts Shire and advises of their intention to construct a residence. Shire provides copy of planning application form to landowner.
- 8/8/17 Landowner contacts Shire to provide update on their preparation of an application for a residence. Shire provides copy of planning and building application forms to landowner.
- 16/8/17 Council advised of matter in August Information Report.
- 18/8/17 Neighbour complains about sea container.  
Shire staff contact landowner to seek update on progress of application, landowner advises that soil testing has been undertaken and a builder engaged to prepare the plans/application.  
Builder contacts Shire to advise they had been engaged by landowner.
- 25/8/17 Builder contacts Shire to advise of a delay in lodging residence application.
- 30/8/17 Sea container removed from Lot 160.
- 4/9/17 Builder lodges planning application for residence consisting of application form, site plan and floor plan.  
Shire advises builder and landowner that further information is required to be lodged including elevation plans, finished floor levels and payment of application fees.
- 20/9/17 Council updated on matter in September Information Report.
- 16/10/17 Landowner contacts Shire to enquire about constructing a shed upon Lot 160. Shire provides relevant information and forms to landowner.
- 24/5/18 New builder lodges planning application for residence upon Lot 160. Shire approves application.
- 8/6/18 Shire issues building permit for residence upon Lot 160.
- 30/7/18 Landowner advises Shire they will be returning sea container to Lot 160 noting they have a current building permit and the Shire Sea Container Policy permits temporary siting for up to 12 months under these circumstances.
- 1/8/18 Neighbour complains about sea container.
- 3/8/18 Shire writes to landowner to advise that site inspection had confirmed the siting of the sea container and that the temporary period of approval was therefore deemed to expire on 3/8/19.
- 6/8/19 Shire approves septic system relating to residence.
- 13/8/19 Neighbour complains about sea container. Shire advises that the sea container is able to be sited upon Lot 160 for 12 months.
- 15/8/19 Council updated on matter in August Information Report.
- 6/3/19 Shire issues approval to use septic system.

- 22/3/19 Builder lodges notice of completion of residence.
- 3/7/19 Shire writes to landowner to remind that date for relocation of sea container is 3/8/19.
- 2/8/19 Landowner lodges application seeking approval to construct outbuilding, lean-to and enclose and permanently site sea container upon Lot 160, copy provided as **Attachment 10.1.1(a)**.
- 2/8/19 Shire writes to landowner and complainant to advise application will be presented to 21/8/19 Council meeting for consideration.
- 12/8/19 Neighbour lodges complaint, copy provided as **Attachment 10.1.1(b)**.

## STATUTORY ENVIRONMENT

109 (Lot 160) Wittenoom Circle, White Peak is zoned 'Rural Residential 1' under the Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme').

Table 1 of the Scheme lists the objectives for the 'Rural Residential' zone as being:

- *To provide for lot sizes in the range of 1 ha to 4 ha.*
- *To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.*
- *To set aside areas for the retention of vegetation and landform or other features which distinguish the land."*

Section 37 of the Scheme states:

### *"Appearance of Land and Buildings*

- (1) *Unless otherwise approved by the local government, no person shall erect any building or other structure which by reason of colour or type of materials, architectural style, height or bulk, ornament or general appearance, has an exterior appearance which is out of harmony with existing buildings or the landscape character of the area.*
- (2) *All buildings and land on which they are located within the Scheme area shall be maintained in a manner, which preserves the amenity of the surrounding locality to the satisfaction of the local government.*
- (3) *Where in the opinion of the local government an activity is being undertaken that results in the appearance of the property having a deleterious effect on the amenity of the area in which it is located, the local government shall require the owner or occupier to restore or upgrade the conditions of that property to a standard commensurate with those generally prevailing in the vicinity."*

Schedule 6 of Scheme No.3 lists additional site and development requirements relating to the 'Rural Residential 1' zone including:

- (1) *For those lots which do not depict a building envelope, all structures including sheds, outbuildings, garages, storage areas and effluent disposal systems shall be sited not more than 22 metres from the closest wall of the dwelling, and must also comply with the setback and/or siting standards in the Scheme."*

The proposed outbuilding would comply with the maximum 22m separation distance requirement to the residence and also comply with the 5m minimum side boundary setback requirement for the 'Rural Residential' zone as established in Schedule 3 of the Scheme.

Schedule 5 of the Scheme makes the following requirement for the 'Rural Residential' zone:

- (2)(b) *All buildings constructed on the land shall be sympathetic to existing landscape features, predominantly landform, vegetation and amenity, in terms of their design, height, location, materials and cladding colours."*

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;...
- ...(g) any local planning policy for the Scheme area;...
- ...(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (n) the amenity of the locality including the following —
  - (i) environmental impacts of the development;
  - (ii) the character of the locality;
  - (iii) social impacts of the development;...
- ...(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved...
- ...(w) the history of the site where the development is to be located;
- (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;...
- ...(zb) any other planning consideration the local government considers appropriate.”

## **POLICY IMPLICATIONS**

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, and the Shire has 2 policies relevant to this application; the Outbuildings Local Planning Policy; and the Sea Containers Local Planning Policy.

The proposed 199.868m<sup>2</sup> outbuilding complies with the maximum 200m<sup>2</sup> outbuilding area listed under the Shire of Chapman Valley ‘Outbuildings’ Local Planning Policy for the ‘Rural Residential’ zone, and the outbuilding also complies with the policy requirements pertaining to height (4.5m wall height and 5.5m total height).

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

### *“Purpose*

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

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

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

### *Scope*

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

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

A copy of the Shire of Chapman Valley 'Sea Containers' Local Planning Policy has been provided as **Attachment 10.1.1(c)**.

The temporary 12 month approval period under Section 4.3 of the policy for the sea container upon Lot 160 has now expired and the matter has therefore been presented to Council for its deliberation.

Were the application to be approved and the proposed works undertaken then the sea container would comply with the permanent siting requirements under Section 4.2 of the policy.

However, it is noted that the applicant has had 12 months to consider this matter and chose to lodge an application the day before the temporary approval period's expiry. It is therefore considered, particularly given the repeated complaints that have been received concerning the sea container from the party most impacted by it, that should Council approve this application that a 6 month time limit be imposed for the works to be completed by.

Schedule 2 Part 9 Clause 70 of the *Planning and Development (Local Planning Schemes) Regulations 2015* establishes a common standard that development must be substantially commenced within 2 years of determination. However this clause also establishes Council's ability to impose variation to this timeframe, and clause 68 further establishes its ability to impose other conditions.

In the event that the works are not completed to the local government's satisfaction within this timeframe then it is suggested that the Shire instruct its solicitor to commence legal proceedings against the landowner of 109 (Lot 160) Wittenoom Circle, White Peak.

It is noted that person who commits an offence under the *Planning and Development Act 2005* is liable to a fine of up to \$200,000 and in the case of a continuing offence, a further fine of up to \$25,000 for each day during which the offence continues. The most recent legal precedent in relation to sea containers occurred on 4 June 2019 where a landowner was convicted in the Kalgoorlie Magistrates Court of an offence of failing comply with a direction under the *Planning and Development Act 2005*. In that instance the Court imposed a penalty of \$4,000 and ordered the landowner to pay costs exceeding \$8,000 to the City of Kalgoorlie-Boulder.

## **FINANCIAL IMPLICATIONS**

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

- **Long Term Financial Plan:**

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

## **STRATEGIC IMPLICATIONS**

- **Strategic Community Plan:**

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

## **CONSULTATION**

Council may consider that the application should be advertised for comment prior to making its determination.

## **RISK ASSESSMENT**

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

## **VOTING REQUIREMENTS**

Simple majority required

## STAFF RECOMMENDATION

That Council grant formal planning approval for a proposed outbuilding upon 109 (Lot 160) Wittenoom Circle, White Peak subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plans dated 21 August 2019 and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this approval) requires further application and planning approval for that use/addition.
- 3 The outbuilding (inclusive of the sea container) is required to be clad in uniform materials in a colour, and to a finish, to the approval of the local government.
- 4 The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and shall not be used for habitation, commercial or industrial purposes.
- 5 The works must be completed within 6 months of the date of this decision (i.e. prior to 21 February 2020) to the approval of the local government.

Advice Notes:

- (a) In relation to condition 5 in the event that the works are not completed prior to 21 February 2020 Council hereby instructs Shire staff and its solicitor to commence legal proceedings against the landowner of 109 (Lot 160) Wittenoom Circle, White Peak.
- (b) Further to advice note (a) the landowner is advised that a person who commits an offence under the *Planning and Development Act 2005* is liable to a fine of up to \$200,000 and in the case of a continuing offence, a further fine of up to \$25,000 for each day during which the offence continues.
- (c) If the landowner is aggrieved by any aspect of this determination there is a right pursuant to the *Planning and Development Act 2005* to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

## COUNCIL RESOLUTION

**MOVED: CR HUMPHREY**

**SECONDED: CR FORRESTER**

That Council grant formal planning approval for a proposed outbuilding upon 109 (Lot 160) Wittenoom Circle, White Peak subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plans dated 21 August 2019 and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 The outbuilding is to be sited further forward (i.e. east) upon the property in a location that is to the approval of the local government.
- 3 Any additions to or change of use of any part of the building or land (not the subject of this approval) requires further application and planning approval for that use/addition.
- 4 The outbuilding (inclusive of the sea container) is required to be clad in uniform materials in a colour, and to a finish, to the approval of the local government.
- 5 The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and shall not be used for habitation, commercial or industrial purposes.
- 6 The works must be completed within 6 months of the date of this decision (i.e. prior to 21 February 2020) to the approval of the local government.

Advice Notes:

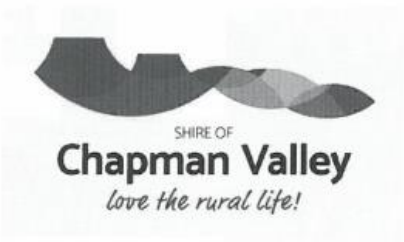
- (a) In relation to condition 2 Council delegates to the Shire CEO the authority to determine the final location of the outbuilding upon Lot 160, following Shire staff having met with the applicant on-site to discuss this matter, and the delegation includes the approval of the outbuilding in a location further forward than the residence front boundary setback line (this being 71.63m) should this provide an improved planning outcome.
- (b) In relation to condition 6 in the event that the works are not completed prior to 21 February 2020 Council hereby instructs Shire staff and its solicitor to commence legal proceedings against the landowner of 109 (Lot 160) Wittenoom Circle, White Peak.
- (c) Further to advice note (b) the landowner is advised that a person who commits an offence under the Planning and Development Act 2005 is liable to a fine of up to \$200,000 and in the case of a continuing offence, a further fine of up to \$25,000 for each day during which the offence continues.
- (d) If the landowner is aggrieved by any aspect of this determination there is a right pursuant to the Planning and Development Act 2005 to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

**Voting 6/1**  
**CARRIED**  
**Minute Reference: 08/19-3**

*Reason for Deviation from Staff Recommendation: Council attempting to reach an amiable resolution to the issue between neighbours.*

*Mr Alfieri, Ms Singleton and Mr Harding left Chambers at 9.16am*





**FORM OF APPLICATION FOR PLANNING APPROVAL**

(PLEASE COMPLETE ALL BOXES)

**OWNER DETAILS:**

Name(s): Callan Alfieri

Postal Address: 109 Wittensoom Circle White Peak Postcode: 6532

Contact Person: Callan

Phone: [REDACTED] Email: [REDACTED]

Signature: [Handwritten Signature] Date: 2/8/2019

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

NOTE: The signatures of ALL the owner(s) is required to process this application.

**APPLICANT DETAILS: (if different from owner)**

Name: \_\_\_\_\_

Postal Address: \_\_\_\_\_ Postcode: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PROPERTY DETAILS:**

Lot/Location No: 160 House/Street No: 109

Street Name: Wittensoom Circle Locality/Suburb: White Peak

Diagram/Plan No: 47183 Volume No: 2619 Folio No: 579

**EXISTING DEVELOPMENT/LAND USE:**

Nature of any Existing Development/Land Use: Residential Dwelling

**PROPOSED DEVELOPMENT/LAND USE:**

Description of Proposed Development/Land Use: Outbuilding for Residential dwelling

Approximate Cost: \$40,000

Estimated Time of Completion: 7 months

**REQUIRED INFORMATION & FEES:**

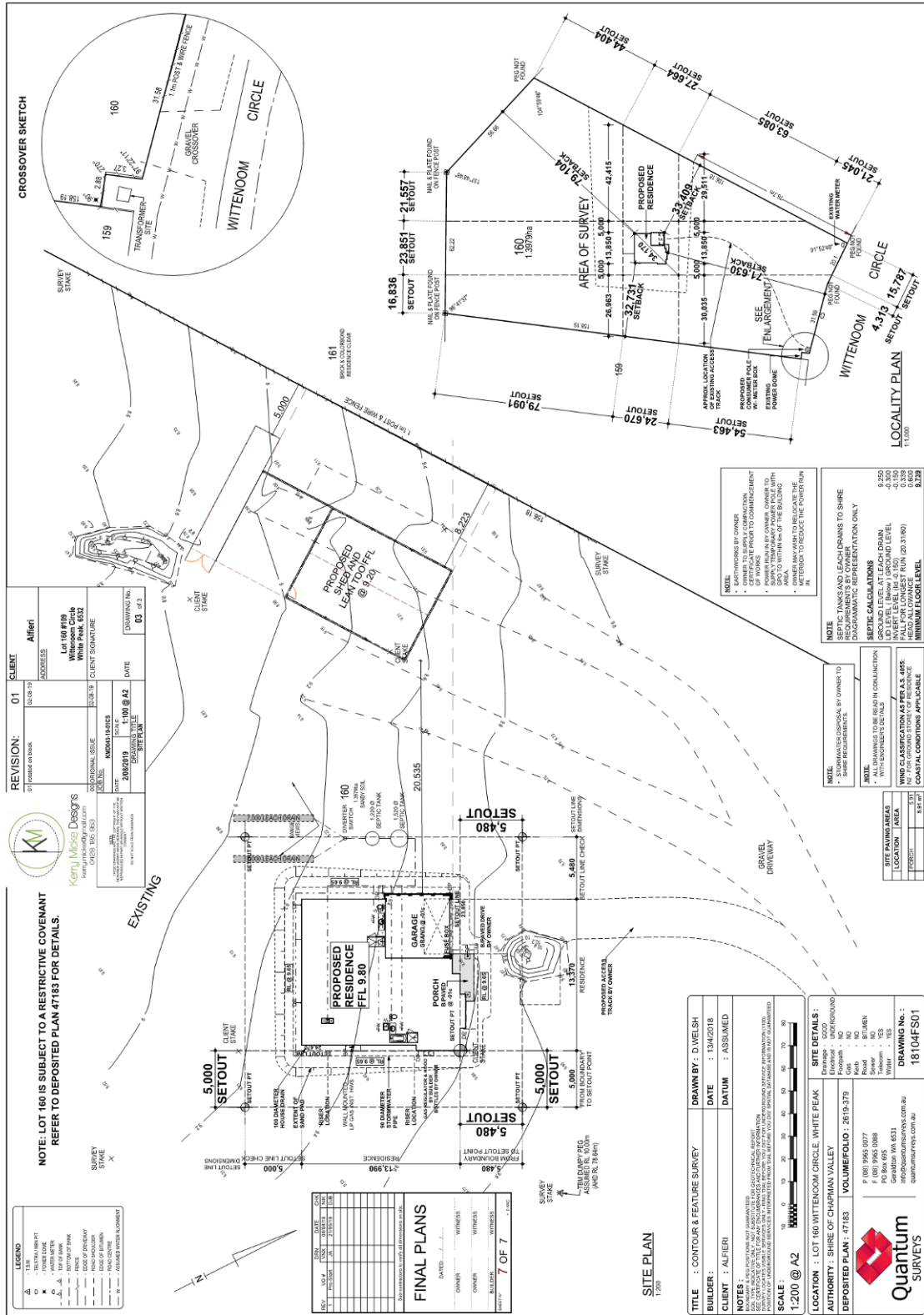
Please refer over for the information required to be submitted with this application and the schedule of fees. This application will not be processed without all required information including payment of the appropriate fee.

**OFFICE USE ONLY:**

Date Received: \_\_\_\_\_ Application No: \_\_\_\_\_

Accepting Officer's Initials: \_\_\_\_\_ File Number: \_\_\_\_\_

Required Fee: \$ \_\_\_\_\_ Date Paid: \_\_\_\_\_



**NOTE: LOT 160 IS SUBJECT TO A RESTRICTIVE COVENANT REFER TO DEPOSITED PLAN 47183 FOR DETAILS.**

**REVISION:** 01 CLIENT  
 ADDRESS: Alfrei  
 Lot 160 #199 White Peak  
 WITTENOOM CIRCLE  
 CLIENT SIGNATURE  
 KERRY MIXE DESIGNS  
 200 BROADBENT DRIVE WITTENOOM  
 PHONE: (08) 945 8633 FAX: (08) 945 8634  
 SCALE: 1:2000  
 DATE: 13/04/2018  
 DRAWING NO.: 03.dfs  
 SHEET: 1 OF 7

**TITLE:** CONTOUR & FEATURE SURVEY  
**BUILDER:**  
**CLIENT:** ALFIERI  
**DATE:** 13/04/2018  
**DATUM:** ASSUMED  
**SCALE:** 1:200 @ A2  
**NOTE:** THIS DRAWING IS FOR INFORMATION ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION OR AS A BASIS FOR ANY OTHER DOCUMENTATION WITHOUT THE WRITTEN CONSENT OF KERRY MIXE DESIGNS. ALL DIMENSIONS SHOWN ARE AS SURVEYED UNLESS OTHERWISE SPECIFIED.  
**SITE DETAILS:**  
 AUTHORITY: SHIRE OF CHAPMAN VALLEY  
 DEPOSITED PLAN: 47183  
 VOLUME/FOLD: 2619/379  
 P: (08) 9562 0377  
 F: (08) 9562 0088  
 PO Box 675  
 Geraldton WA 6331  
 quantum@qmv.com.au  
 quantum.com.au

REVISION	NO.	DATE	DESCRIPTION
1	1	13/04/2018	ISSUED FOR PERMIT

**Quantum SURVEYS**

OWNER:	ALFIERI
WITNESS:	
BUILDER:	
WITNESS:	

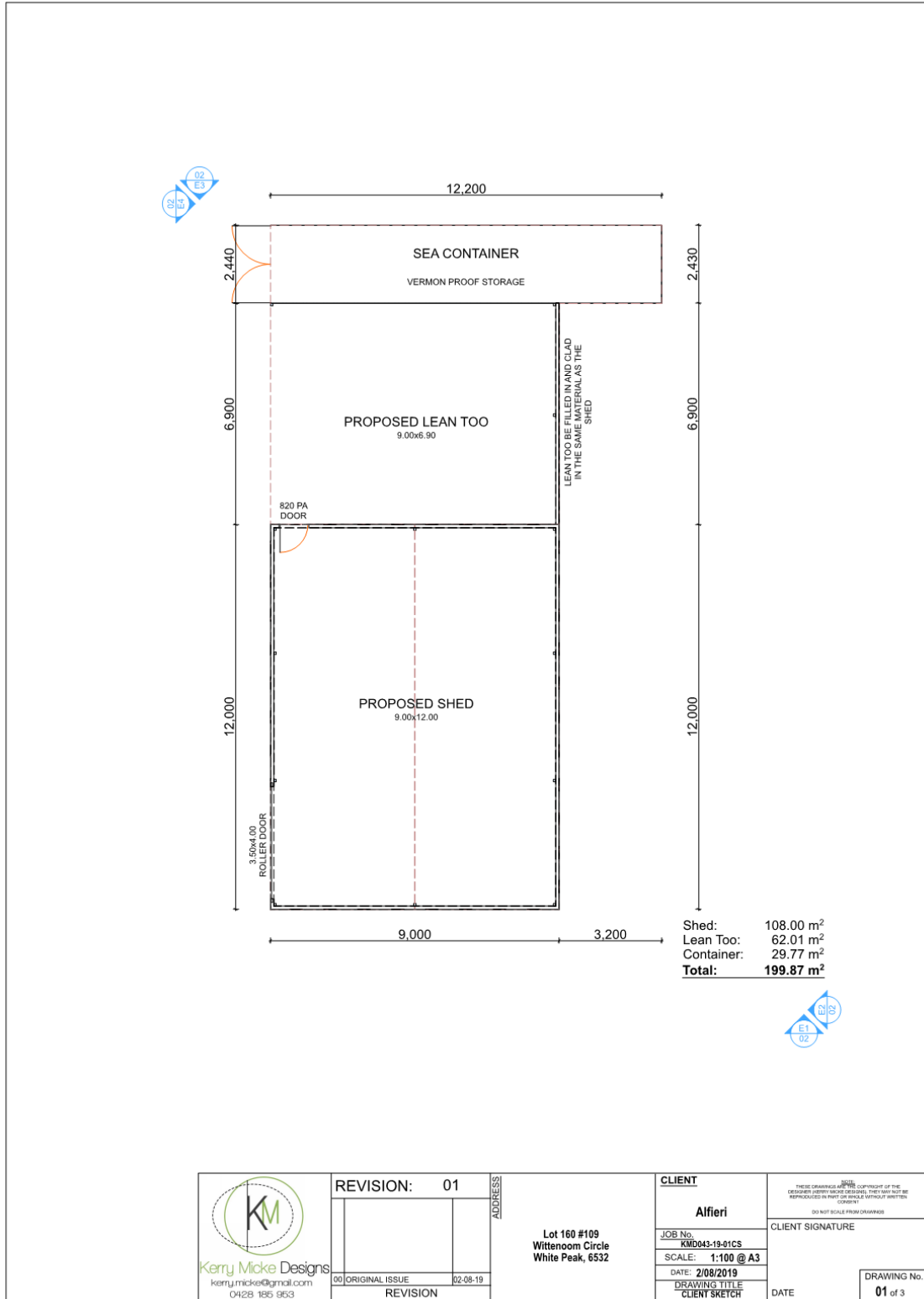
- NOTE:**
- EARTHWORKS BY OWNER
  - OWNER TO VERIFY ALL DIMENSIONS
  - CERTIFICATE PRIOR TO COMMENCEMENT
  - POWER MAIN BY OWNER, OWNER TO VERIFY WITH SUPPLIER AND PROVIDE TO OWNER WITHIN 60 DAYS OF THE BUILDING START
  - OWNER MAY WANT TO RELOCATE THE POWER MAIN IN ORDER TO REDUCE THE POWER RUN

**NOTE:** THIS PLAN IS LEAN DRAWS TO SHIRE REQUIREMENTS BY OWNER DIAGRAMMATIC REPRESENTATION ONLY

**NOTE:**

- ALL DRAWINGS TO BE READ IN CONSULTATION WITH ENGINIERS DETAILS
- WIND CLASSIFICATION AS PER AS 4055
- NOT FOR CONSTRUCTION OF PRESENCE
- LOCAL CONDITIONS APPLICABLE

ITEM	DESCRIPTION	UNIT	AMOUNT
1	MINIMUM FLOOR LEVEL	mm	9.279
2	MINIMUM FLOOR LEVEL	mm	9.279
3	MINIMUM FLOOR LEVEL	mm	9.279
4	MINIMUM FLOOR LEVEL	mm	9.279

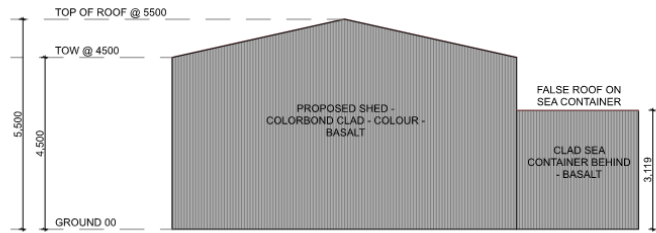


REVISION: 01	
00 ORIGINAL ISSUE	02-08-19
REVISION	

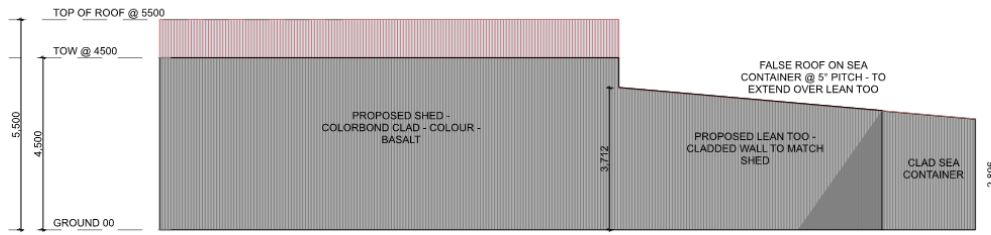
ADDRESS  
Lot 160 #109  
Wittenoom Circle  
White Peak, 6532

CLIENT	
Alfieri	
JOB No.	KMD043-19-01CS
SCALE:	1:100 @ A3
DATE:	2/08/2019
DRAWING TITLE	CLIENT SKETCH

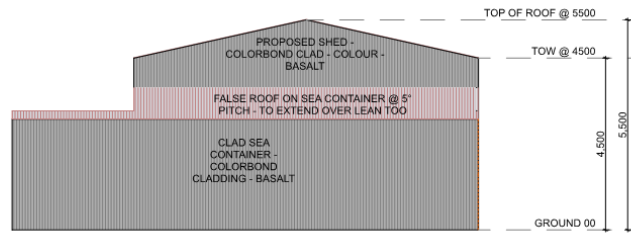
THESE DRAWINGS ARE THE COPYRIGHT OF THE DESIGNER. NO PART OF THESE DRAWINGS MAY BE REPRODUCED IN ANY FORM OR BY ANY MEANS WITHOUT THE WRITTEN PERMISSION OF THE DESIGNER. DO NOT SCALE FROM DRAWINGS	
CLIENT SIGNATURE	
DATE	DRAWING No. 01 of 3



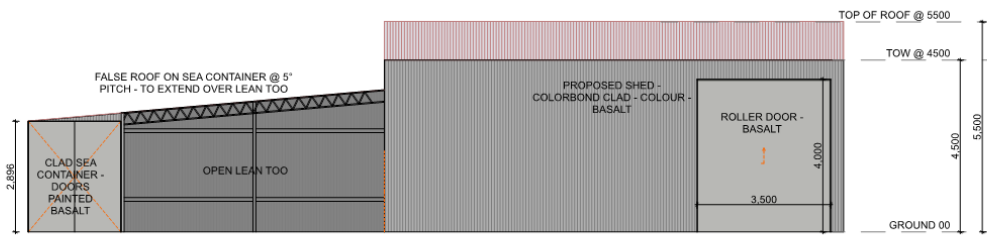
ELEVATION 1



ELEVATION 2



ELEVATION 3



ELEVATION 4

SHED, LEAN TOO AND SEA CONTAINER TO BE CLAD AND PAINTED IN BASALT TO MATCH EXISTING FENCE

REVISION:	01
00 ORIGINAL ISSUE	02-08-19
REVISION	

ADDRESS  
**Lot 160 #109  
 Wittenoom Circle  
 White Peak, 6532**

<b>CLIENT</b>
<b>Alfieri</b>
JOB No. <b>KMD043-19-01CS</b>
SCALE: <b>1:100 @ A3</b>
DATE: <b>2/08/2019</b>
DRAWING TITLE <b>ELEVATIONS</b>

<small>THESE DRAWINGS ARE THE COPYRIGHT OF THE DESIGNER (KERRY MICKE DESIGNS). THEY MAY NOT BE REPRODUCED IN PART OR WHOLE WITHOUT WRITTEN CONSENT.</small> <small>DO NOT SCALE FROM DRAWINGS</small>	
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DATE	DRAWING No. <b>02</b> of 3

DATE	12/08/19
FILE	A1512
RECORD	CR1914502

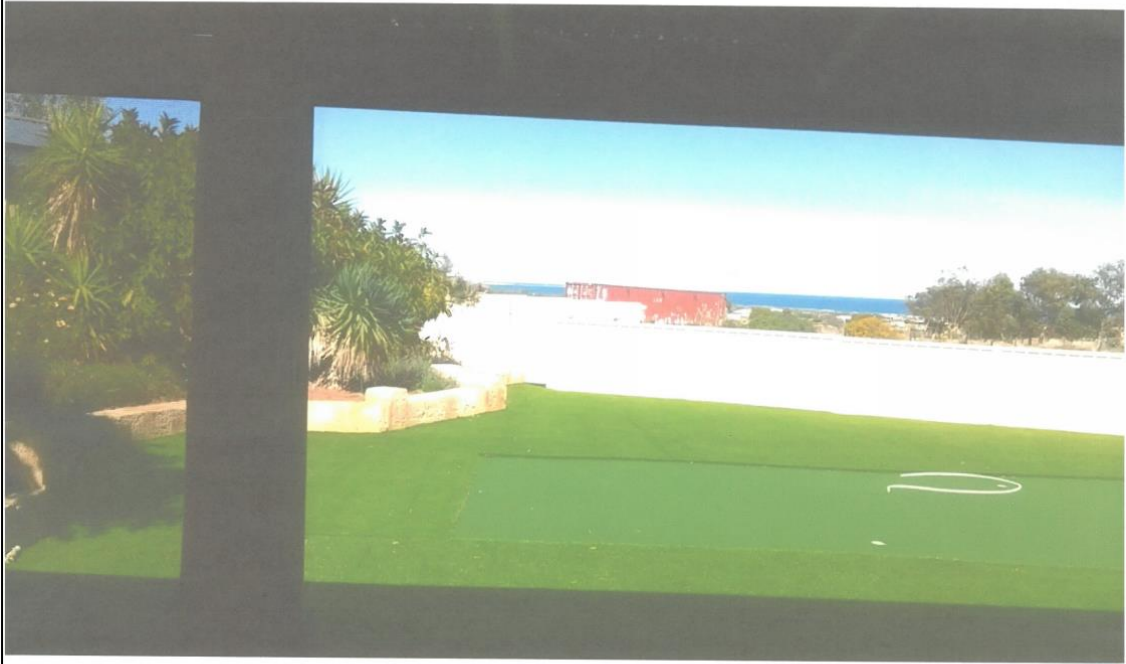
DOUG HARDING  
131 WITTENOOM CRE  
WHITE PEAK  
6532  
12-8-19

TO  
C.E.O  
CHAPMAN VALLEY SHIRE

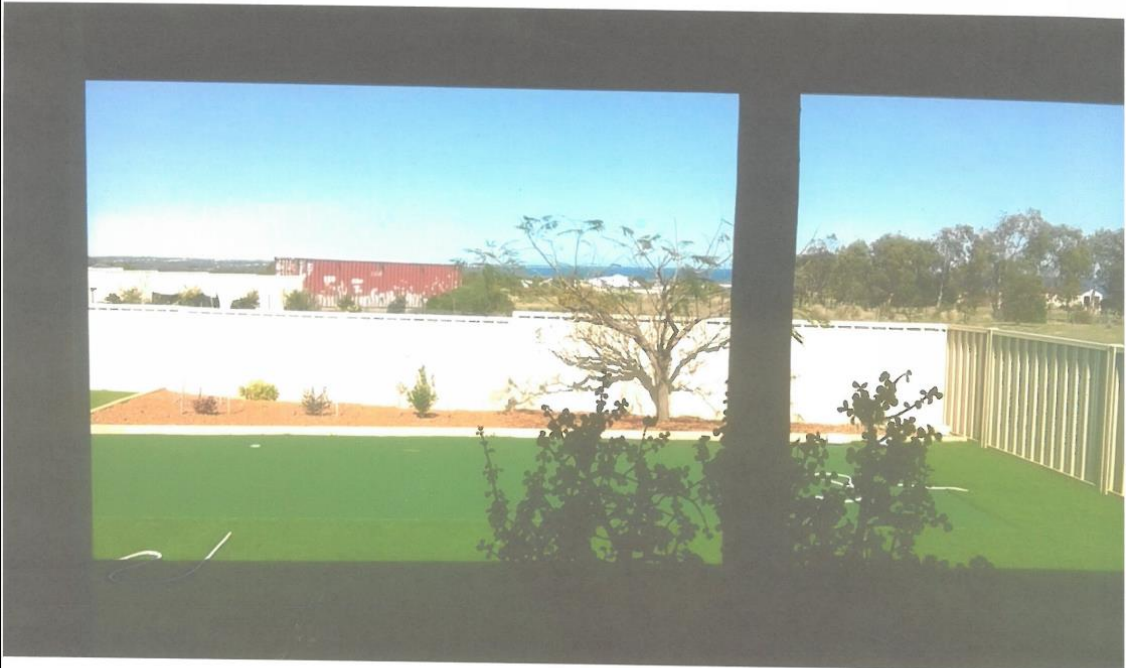
IN REGARDS TO 40FT SEA CONTAINER AT LOT 160 WITTENOOM CIRCKE WHITE PEAK IT WAS FIRST PLACED ON THE BLOCK ABOUT APRIL 2018 ILLEGALLY I GOT IN TOUCH WITH SIMON IT WAS REMOVED ABOUT 2 MONTHS LATER. IT WAS RETURNED TO THE BLOCK 30TH JULY 2018 SO IVE BEEN LOOKING AT IT FOR 15 MONTHS NOT FAIL. IT NEEDS TO BE REMOVED OR PLACED NEXT TO HIS HOUSE PAINTED OR CHAD THE SAME COLOUR AS HIS HOUSE. IVE ONLY SPOCKEN TO THE OWNER OF THE BLOCK ONCE. DONT KNOW HIS NAME. HE WAS BEGING OUT AN AEREA FOR HIS SHED. I ASKED HIM IF HE COULD PUT IT A BIT FURTHER UP OR DOWN THE BLOCK. HE REPIED IF YOU DIDNT WANT TO LOOSE YOUR VIEWS YOU SHOULD HAVE BOT A BLOCK CLOSER TO THE OCEAN. 2 WEEKS LATER HE PLACED THE CONTAINER THERE. I WILL BE ATTENDING YOUR NEXT COUNCIL MEETING ON THE 21-8-19 TO TALK ABOUT IT.

REGARDS -  
DOUG HARDING

VIEW FROM KITCHEN WINDOW



VIEW FROM MAIN BED ROOM



VIEW FROM FAMILY ROOM



VIEW FROM BACK YARD





VIEW FROM BACK YARD



## SEA CONTAINERS

### 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.

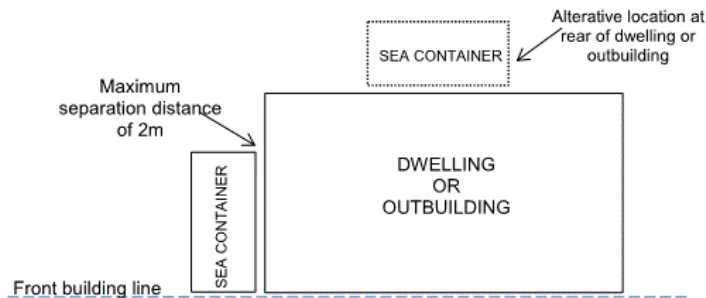
#### 3. OBJECTIVE

- 3.1 To ensure an acceptable quality of development is achieved that does not detrimentally affect the amenity and streetscape of the locality.
- 3.2 Establish guidelines for the placement of sea containers or other similar re-locatable storage units on land within the municipality.

#### 4. POLICY STATEMENT

- 4.1 For the purposes of this Policy a sea container shall include a sea container (both '20 foot' (6.1m in length, 2.4m in width, and 2.6m in height) and '40 foot' (12.2m in length, 2.4m in width and 2.6m in height) in dimension) or any other re-locatable 'box type' storage container or unit. A sea container modified for the purpose of human habitation is NOT addressed in this Policy but subject to the separate necessary applications and approvals for a dwelling.
- 4.2 A sea container proposed to be permanently sited upon a property is required to comply with the following criteria:
  - (a) A maximum of one (1) sea container on a lot (excepting industrial or rural zoned land).

- (b) The sea container is to be sited behind the front building line of an existing or under construction built development upon the property and must not impinge on any boundary setbacks as required by the Local Planning Scheme.
- (c) The sea container is to be positioned at a maximum separation distance of 2m.
- (d) The sea container is to be used for general storage purposes only associated with the predominant use of the land and shall NOT be used for habitation, commercial or industrial purposes.
- (e) The sea container is required to be painted or clad in materials the same colour as the existing structure up against which the sea container is positioned.



- 4.3 A sea container proposed to be temporarily sited upon a property is only required to comply with Clauses 4.2(a), 4.2(b) and 4.2(d) (but not Clauses 4.2(c) and 4.2(e)) providing the sea container is removed within 12 months of its initial siting upon property and a current building permit has been issued for that property.
- 4.4 The permanent placement of a sea container or other similar relocatable storage unit will not be permitted on land zoned residential.
- 4.5 A sea container is considered in the calculation of the total aggregate outbuilding area as permitted under the Shire's 'Outbuildings' Local Planning Policy.
- 4.6 Should the sea container NOT meet the requirements of Clauses 4.2 & 4.3 of this policy a planning application is required to be lodged.

**5. REFERENCES AND ADOPTION**

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

*Adopted for advertising at the 19 March 2009 meeting of Council.  
 Adopted at the 19 August 2009 meeting of Council.  
 Adopted for advertising and amended at the 19 February 2014 meeting of Council.  
 Adopted for advertising and amended at the 18 March 2015 meeting of Council.*

<b>AGENDA ITEM:</b>	<b>10.1.2</b>
<b>SUBJECT:</b>	<b>PROPOSED SUBDIVISION</b>
<b>PROPONENT:</b>	<b>LANDWEST FOR B &amp; H WALLACE &amp; R EASTOUGH</b>
<b>SITE:</b>	<b>LOT 2462 WHITE PEAK ROAD, WHITE PEAK &amp; LOT 16 BROWN LANE, WHITE PEAK</b>
<b>FILE REFERENCE:</b>	<b>A104 &amp; A1673</b>
<b>PREVIOUS REFERENCE:</b>	<b>09/03-4, 03/14-3, 09/15-10, 10/15-2, 12/15-4, 09/17-4 &amp; 02/19-5</b>
<b>DATE:</b>	<b>12 AUGUST 2019</b>
<b>AUTHOR:</b>	<b>SIMON LANCASTER</b>

**SUPPORTING DOCUMENT:**

Ref	Title	Attached to Report	Under Separate Cover
10.1.2(a)	Subdivision Plans	√	
10.1.2(b)	Applicant's Subdivision Report		√

**DISCLOSURE OF INTEREST**

Nil.

**BACKGROUND**

Council is in receipt of correspondence from the Western Australian Planning Commission seeking its comment on the proposed subdivision of Lot 2462 White Peak Road, White Peak and Lot 16 Brown Lane, White Peak into 4 lots. This report recommends that Council conditionally support the application.

**Figure 10.1.2(a) - Subject Landowners - Lot 2462 White Peak Road (B. & H. Wallace) marked in red & Lots 16, 17 & 18 Brown Lane (R. Eastough) marked in blue**



**COMMENT**

Lot 2462 is a 367.75ha property owned by WB & HJ Wallace, located at the eastern end of the constructed portion of White Peak Road.

Lot 2462 is used for grazing purposes and contains several tributary lines that run eastwards towards the Chapman River. The property is largely cleared with the exception of an approximately 51ha steeply sloped area

of remnant vegetation in the south-western corner of Lot 2462 that adjoins the Wokatherra Nature Reserve, an approximately 35ha area of remnant vegetation around a hilltop along the lot's southern boundary, and a 5.5ha portion in the north-western corner that adjoins the Yetna Nature Reserve.

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

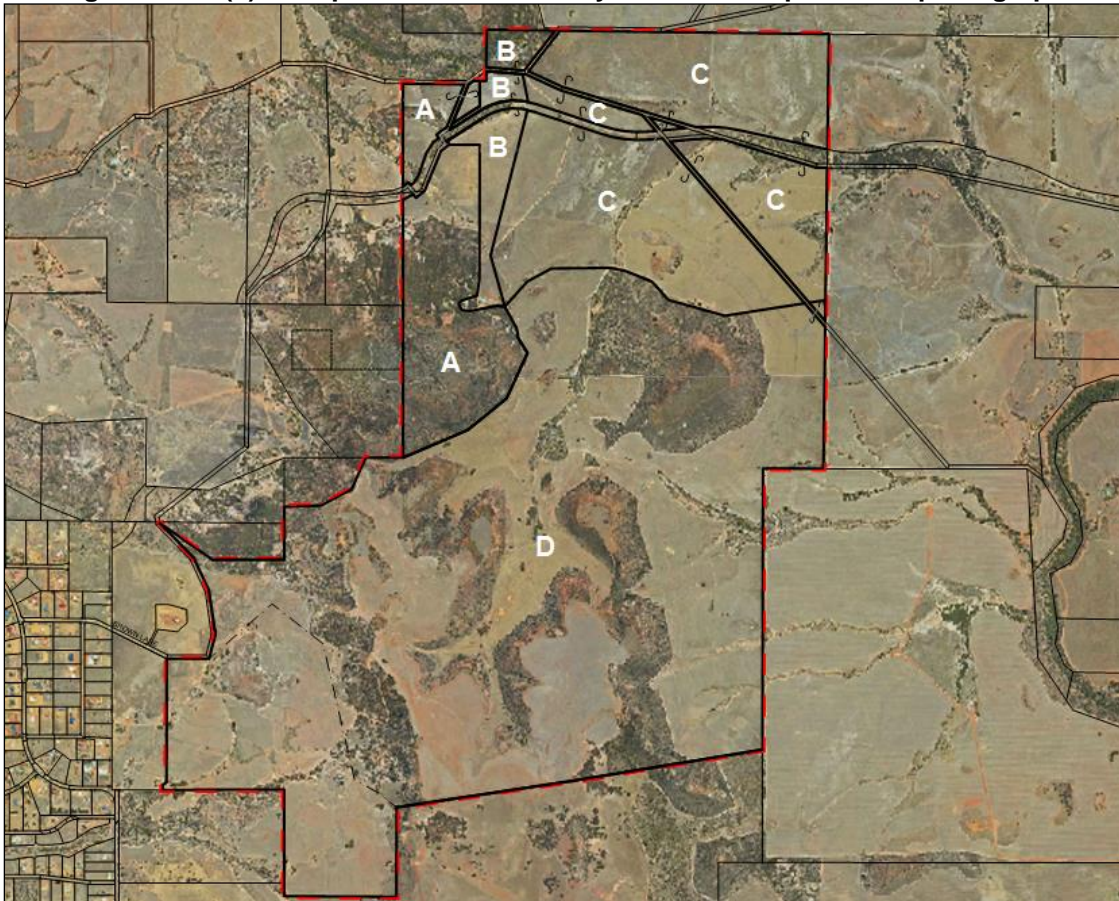
Lot 16 is 565.95ha property owned by RE Eastough, that is used for farming purposes and contains a number of outbuildings and a small family cemetery. Lot 16 is predominantly cleared and the western section contains several tributary watercourses that run into the Dolby Creek that have remnant vegetation along them. Lot 16 rises steeply further to the east, and this vegetated area forms part of the western face of the Moresby Range. A steep vehicle track climbs the Moresby Range to access the cleared flat-top that comprises the middle farming section of Lot 16. The eastern face of the Moresby Range is also vegetated and slopes steeply downward to a farmed area at the eastern end of the property that includes some watercourse tributary lines that run into the Chapman River. The landowner of Lot 16 also owns Lots 17 & 18 to the west that are zoned 'Rural Residential' but which do not form part of this application.

The application seeks to subdivide Lot 2642 into 3 lots consisting of:

- Proposed Lot A – 75.3166ha conservation lot containing significant remnant vegetation;
- Proposed Lot B – 24.7212ha lot containing the existing residence (the homestead lot);
- Proposed Lot C – 199.0295ha balance lot containing the farmed area.

The remaining 68.2345ha of Lot 2642, which largely comprises remnant vegetation, is proposed to be amalgamated into adjoining Lot 16 to create a 634.634ha proposed Lot D.

**Figure 10.1.2(b) – Proposed subdivision layout overlaid upon aerial photograph**



Proposed Lots A, B & C would gain access via White Peak Road and proposed Lot D would have frontage to Brown Lane.

A copy of the submitted subdivision plans are provided as **Attachment 10.1.2(a)** and a copy of the consultant's subdivision report submitted in support of their application, which includes a subdivision plan, detail on the basis for application and literature review is provided as **separate Attachment 10.1.2(b)**.

## STATUTORY ENVIRONMENT

Lots 16 & 2462 are zoned 'Rural' under the Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme') and also lie within the 'Moresby Range Landscape Protection Special Control Area' zone.

Table 2 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."*

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

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

Table 6 of the Scheme requirements sets the purpose and objective of the 'Moresby Range Landscape Protection Special Control Area' zone.

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

## POLICY IMPLICATIONS

### State Policy

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

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

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

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

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

- Statement of Planning Policy 2.5 - Rural Planning

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

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

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

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

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

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

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

*“5 General policy provisions*

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

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

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

*6 Circumstances under which rural subdivision may be considered*

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

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

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

The applicant is seeking to create proposed Lot A (the conservation lot) under Section 6.5 of WAPC Development Control Policy 3.4:

*“6.5 Conservation of biodiversity and natural heritage*

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

- (a) the application includes advice from the Department of Parks and Wildlife, National Trust of Australia (WA), or another relevant agency, endorsing the suitability of the new lot for the intended purpose of retaining environmental values including:
  - (i) the adequacy of the lot size proposed (if it is less than 40 hectares) to retain the conservation value in perpetuity; and
  - (ii) in-principle agreement to administer the necessary conservation covenant.
- (b) generally at least 85 per cent of the area of the conservation lot has high environmental values or is covered by endemic or regenerated vegetation and/or wetland;
- (c) the proposed conservation lot has an appropriate shape having regard for the native vegetation, natural features, bush fire management, water resources, property management and existing or proposed structures;
- (d) a conservation covenant in perpetuity with the Department of Parks and Wildlife, the National Trust of Australia (WA), or an alternative authority acceptable to the WAPC, is registered on the certificate of title as a condition of subdivision for the proposed conservation lot and that the covenant includes provisions that:
  - (i) prohibit further clearing (other than for necessary land and fire management requirements);
  - (ii) clearly delineate a building envelope and/or building exclusion area which is also shown on the subdivision plan; and
  - (iii) prohibit stocking outside any existing cleared area.
- (e) bushfire risk can be managed in accordance with WAPC guidelines without resulting in loss of conservation values; and
- (f) the balance lot is suitable for the continuation of the rural land use and retains where practical, native or regenerated vegetation as an integral part of sustainable primary production, provided that this does not result in the division of significant endemic vegetation in order to include a portion of that vegetation within the agricultural lot.

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

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

The applicant is seeking to create proposed Lot B (the homestead lot) under Section 6.6 of WAPC Development Control Policy 3.4:

#### “6.6 Homestead lots

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

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

- (a) the land is in the DC 3.4 Homestead lot policy area (refer Appendix 2);
- (b) the homestead lot has an area between one and four hectares, or up to 20 hectares to respond to the landform and include features such as existing outbuildings, services or water sources;
- (c) there is an adequate water supply for domestic, land management and fire management purposes;
- (d) the dwelling is connected to a reticulated electricity supply or an acceptable alternative is demonstrated;
- (e) the homestead lot has access to a constructed public road;
- (f) the homestead lot contains an existing residence that can achieve an appropriate buffer from adjoining rural land uses;
- (g) a homestead lot has not been excised from the farm in the past;



- (h) the balance lot is suitable for the continuation of the rural land use, and generally consistent with prevailing lot sizes, where it can be shown that this is consistent with the current farming practices at the property; and
- (i) the dwelling on a homestead lot must be of a habitable standard and may be required to be certified as habitable by the local government.

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

### Local Policy

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

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

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

LPP16.190 includes the following:

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

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

### **FINANCIAL IMPLICATIONS**

Nil

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 meeting, Section 1 of the Plan ‘The Challenges We Face’ notes that:

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

### **STRATEGIC IMPLICATIONS**

#### Shire of Chapman Valley Local Planning Strategy

The western portion of Lot 2462 that is proposed to be excised from the balance of the property into 2 lots (the conservation lot and the homestead lot) are located within ‘Precinct No.4 - Moresby Range’ of the Shire of Chapman Valley Local Planning Strategy, the majority of Lot 16 also falls within the Moresby Range Precinct, the vision for which is:

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

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

- “4.1 *Community Objectives*
- 4.1.1 *Maintain the existing cadastral pattern, except where subdivision can be supported on environmental and conservation grounds in accordance with current Planning Policy.*
- 4.1.2 *Encourage the protection and restoration of places and buildings of heritage/historical significance.*
- 4.2 *Economic Objectives*
- 4.2.1 *Promote sustainable agricultural production in suitable areas with due regard of the high conservation values and visual amenity of the Moresby Ranges.*
- 4.2.2 *Encourage agricultural diversification in appropriate areas where there will be no detrimental impact to the surrounding land.*
- 4.2.3 *Promote low-key tourist related land use/development associated with the conservation values and scenic qualities of the Moresby Ranges. To be assessed in conjunction with related strategies and policies.*
- 4.3 *Environmental Objectives*
- 4.3.1 *Protect the scenic values and visual amenity of the Moresby Ranges while encouraging suitable tourist development.*
- 4.3.2 *Encourage revegetation and retention of existing vegetation in order to minimise soil erosion.*
- 4.3.3 *Protect and enhance existing catchments, botanical linkages and vegetation/wildlife corridors.*
- 4.3.4 *Promote sound land management practices in consideration of the high conservation values of the area.*
- 4.3.5 *Ensure that land use conflicts (i.e. noise, dust, odour, spray drift, vermin etc) are avoided through appropriate environmental and planning controls.*
- 4.3.6 *Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements as a minimum.*
- 4.3.7 *Encourage conservation of biodiversity and farm sustainability.*
- 4.3.8 *Promote a detailed planning exercise be undertaken in partnership with all relevant stakeholders for Area A of the Moresby Ranges, depicted on the Precinct Maps as ‘Special Investigation Area – Conservation and Development’, to identify a range opportunities in consideration of current environmental values and constraints.*
- 4.4 *Infrastructure Objectives*
- 4.4.1 *Ensure adequate levels of servicing and infrastructure, as determined by Council, exist or will be provided when supporting proposals for a change in land use/development or subdivision, to avoid burden (financial or otherwise) on the Council’s resources.*
- 4.4.2 *Identify, support and facilitate the efficient and coordinated use of existing road linkages.”*

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

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

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

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

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

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

**Figure 10.1.2(c) – View looking west from Lot 16 Brown Lane, White Peak**



Oakajee Narngulu Infrastructure Corridor ('ONIC')

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

The ONIC alignment as it relates to Lot 2462 is illustrated upon the subdivision plans provided in **Attachment 10.1.2(a)** and **separate Attachment 10.1.2(b)**.

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

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

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

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

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

The acquisition and construction of the ONIC would enable strategic industrial projects that do not require deep water port access to establish at the Oakajee site, rather than be lost to the Mid West region due to the Narngulu Industrial Estate being constrained by its cumulative emissions modelling. Further general/lighter industrial and logistic/transport uses might consider the Oakajee Industrial Estate a viable location were the ONIC to be in place and providing suitable road and power servicing. The acquisition and construction of the ONIC will also serve as an outer bypass to reduce the current heavy vehicle movements and conflicts through built up areas in Geraldton and enable triple road trains to travel between Carnarvon and Perth.

## Proposed Land Exchange and Acquisition

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

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

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

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

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

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

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

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.

On 6 May 2019 the Premier and Minister for State Development, 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."*

Council resolved at its 19 June 2019 meeting

*"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."*

Greater Geraldton Structure Plan

The Greater Geraldton Structure Plan was updated in 2011 by the WAPC to provide a framework for the future management, protection and coordination of regional planning in the region. The Region Plan incorporates a Structure Plan for the Greater Geraldton area which identifies much of Lot 2462 (and proposed Lots A & B) as being within 'Development Investigation Area 1 – White Peak' noting that:

*“This area is identified as ‘rural’ with general farming currently being the predominant land use. It will be considered for future intensification. It is acknowledged that in the Shire of Chapman Valley Local Planning Strategy a portion of the subject area is proposed for rural living purposes. The northern boundary of this area is adjacent to the proposed Oakajee-Narngulu Infrastructure Corridor. Finalisation of the alignment of the corridor and resolution of its associated buffers will effectively inform the northern extent of this precinct. An amendment to the local planning scheme will be necessary for any eventual change in zoning. This may require an environmental assessment to be undertaken by the Environmental Protection Authority; and regard for natural features in any potential subdivision design.”*

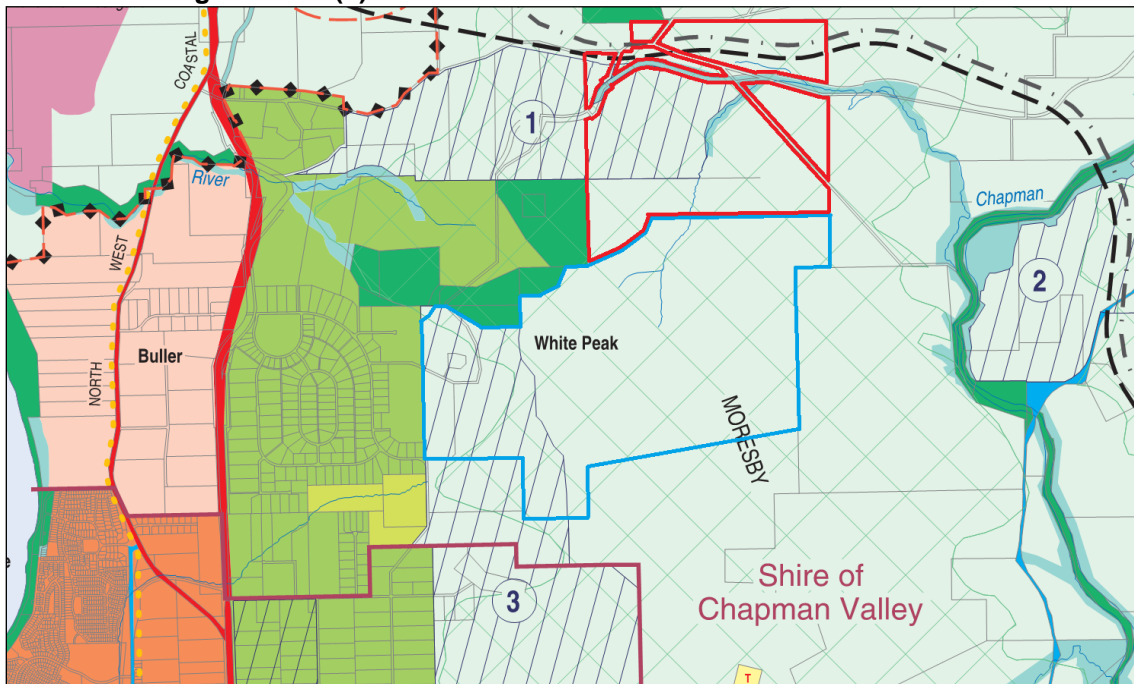
The Region Plan also identifies the western end of Lot 16 (and the western end of proposed Lot D) as being within 'Development Investigation Area 3 – Rural land adjacent to the Moresby Range' noting that:

*“This area is situated immediately adjacent to the Moresby Range and is identified as ‘rural.’ It will be considered for future intensification. The relative proximity of the southern portion to Central Geraldton and the northern portion to the northern coastal corridor will be significant considerations in determining the most appropriate level of intensification.*

*General farming currently constitutes the predominant land use and as such most of the land is extensively cleared. Significant remnant vegetation however, does remain in parts of the development investigation area. The surrounding area is of significant visual landscape value and it is essential that the interface between any future development and the Moresby Range is considered.*

*An amendment to the applicable local planning schemes will be necessary for any eventual change in zoning. Amendments may be subject to environmental studies and plans, including the Geraldton Regional Flora and Vegetation Survey and Moresby Range Management Strategy. Depending on the sensitivity of the proposed land use, the rezoning of land may require an environmental assessment to be undertaken by the Environmental Protection Authority.”*

**Figure 10.1.2(d) – extract from Greater Geraldton Structure Plan**



Moresby Range Management Strategy

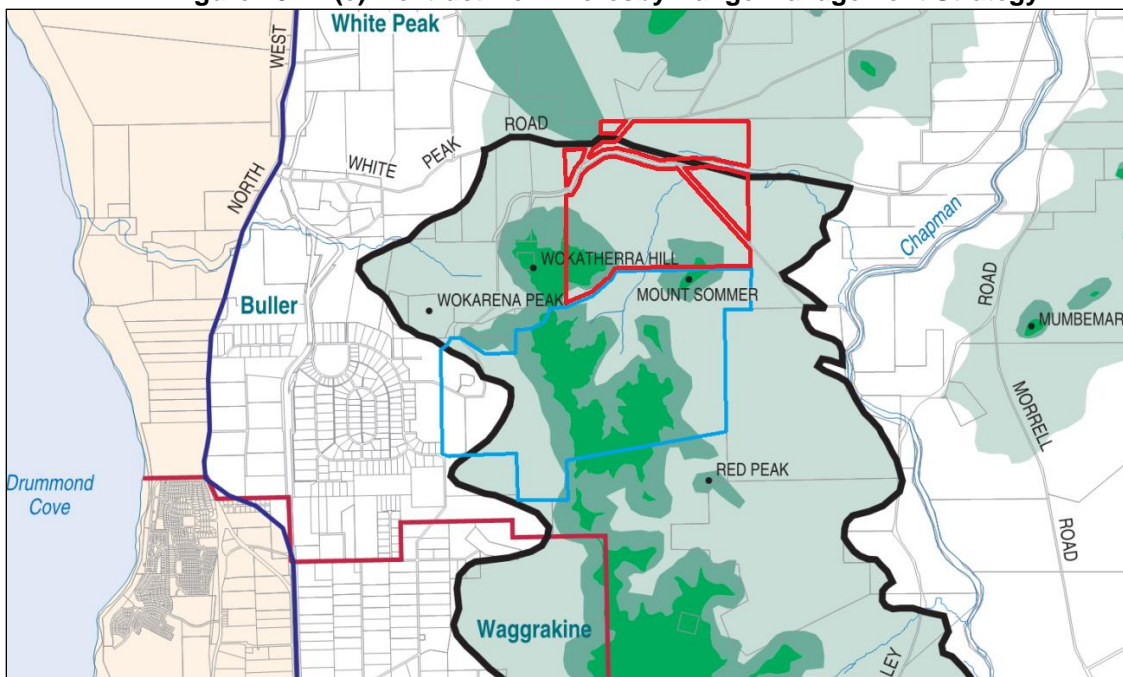
The WAPC's Moresby Range Management Strategy addressed a 55,000ha study area from Isseka in the north, to Mount Erin to the east (27km inland) and the Geraldton-Mount Magnet Road to the south. The Strategy recognised that there were particular issues relating to the southern section of the Range (which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

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

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

Lot 16 and the portion of Lot 2462 south of the ONIC fall within the ‘Development Investigation Area’ boundary as identified by the Moresby Range Management Strategy.

**Figure 10.1.2(e) – extract from Moresby Range Management Strategy**



Moresby Range Management Plan

The southern portion of Lot 2462 and the eastern portion of Lot 16 fall within the area identified as ‘Range Precinct’ by the Moresby Range Management Plan. The Plan defines the ‘Range Precinct’ as the area that includes the flat tops and major slopes of a section of the Moresby Range but excludes the flatter areas of land that surround the Range. The Plan has the vision for a community park that would ultimately turn the Range Precinct into an iconic regional resource. The Plan identifies the community park not as a formal planning description, rather a statement of aspiration and intent, ideally, when a park eventuates it will be formally recognised under an appropriate planning framework.

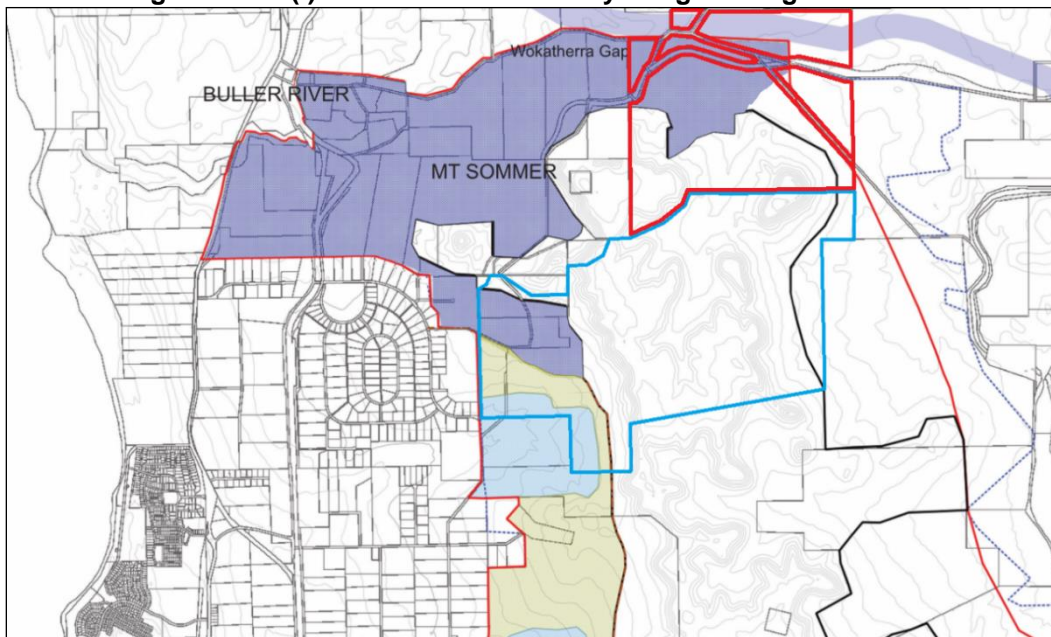
The boundary of the Range Precinct was selected according to a number of criteria including topography, cadastral boundaries, biogeographical and biodiversity features, and existing developments. The Plan makes recommendations for land uses around the Range Precinct, particularly on the western side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

Section 13.1 of the Moresby Range Management Plan noted that:

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

Given the private ownership status of the majority of the Range Precinct, and the uncertain timeframe, funding mechanism and management model to create a community park, the Plan makes recommendations with regard to covenanting sections of properties to protect bush land and areas that have been identified for inclusion in the park, and it can be considered that the proposed subdivision (and creation of Lot A) would align with the overall strategic direction of the Moresby Range Management Plan. The creation of Lots A, B & C would also align with the direction in Section 4.5 of the Management Plan that sought the creation of lots that had regard for the landscape and ecological character.

**Figure 10.1.2(f) – extract from Moresby Range Management Plan**



• **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was endorsed by Council at its 15 November 2017 meeting and Council’s support for this subdivision application would assist in addressing the Plan’s environmental objective of *“preserve the natural environment and address environmental risks as they arise”*.

**CONSULTATION**

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

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

**RISK ASSESSMENT**

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

**VOTING REQUIREMENTS**

Simple majority required

## COUNCIL RESOLUTION / STAFF RECOMMENDATION

**MOVED: CR HUMPHREY**

**SECONDED: CR WARR**

That Council advise the Western Australian Planning Commission that it supports the subdivision of Lot 2462 White Peak Road, White Peak and Lot 16 Brown Lane, White Peak (WAPC 158280) as shown upon Plans 19165-01 & 19165-02 (WAPC date stamped 29/7/19) subject to the following:

Conditions:

- 1 The portion of the Oakajee Narngulu Infrastructure Corridor that is within proposed Lots A & B, being shown on the diagram or plan of survey (deposited plan) as a road reserve and vested in the Crown, such land to be ceded free of cost and without any payment of compensation by the Crown.
- 2 A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificates of title of proposed Lots A, B & C. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: *"This lot is affected by the alignment of the proposed Oakajee Narngulu Infrastructure Corridor. Land may be required in the future for the construction of the corridor and the lot may in the future be affected by transport noise."*
- 3 A restrictive covenant, to the benefit of the local government, pursuant to section 129BA of the *Transfer of Land Act 1893* is to be placed on the certificates of title of proposed Lots A, B, C & D advising of the existence of a restriction on the use of the land. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows: *"No buildings and effluent disposal systems are to take place outside the defined building envelope(s), as approved by the local government, unless otherwise approved by the local government."*
- 4 A notification, pursuant to Section 165 of the *Planning and Development Act 2005*, is to be placed on the certificates of title of proposed Lots A, B, C & D with a Bushfire Attack Level (BAL) rating of 12.5 or above, advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: *"This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is/may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land"*.
- 5 A restrictive covenant, to the benefit of the Department of Biodiversity, Conservation and Attractions, pursuant to Section 129BA of the *Transfer of Land Act 1893* is to be placed on the certificate of title of proposed Lot A advising of the existence of a restriction on the use of the land to protect areas identified for conservation. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan).

Advice Notes:

- (a) In relation to condition 1 the Shire of Chapman Valley agrees to initiate the closure process for the unrequired 14.88ha road reserves and former Geraldton-Yuna rail reserve that run across Lot 2462 (that are located south of the ONIC) to enable the amalgamation of an equivalent land area into Lot 2462 to that area being ceded by the landowner of Lot 2462 for the ONIC. It is noted that this action relevant to Lots A & B will eliminate the introduction of additional lot owners to the Oakajee Narngulu Infrastructure Corridor land acquisition process. It is further noted that the subdivision and road closure/amalgamation process are contained within the one state government department being the Department of Planning, Land and Heritage and as such there is the opportunity for this to be achieved as a means to resolve this issue.
- (b) In relation to condition 1 the Shire of Chapman Valley is willing to forego any requirement for the subdivider to upgrade or make contribution to the upgrade of White Peak Road in lieu of the land area being ceded for the Oakajee Narngulu Infrastructure Corridor.
- (c) In relation to condition 5 the conservation covenant shall apply only to the 51.33ha area of native vegetation in the southern portion of proposed Lot A (and not the entirety of Lot A to remove future complications relating to the Oakajee Narngulu Infrastructure Corridor).

**Voting 7/0  
CARRIED**

**Minute Reference: 08/19-4**



# ATTACHMENT 10.1.2(a)

SUBDIVISION CALCULATIONS	
GROSS SUBDIVISIONAL AREA	933.7019 Ha
EXISTING LOT YIELD	2
PROPOSED LOT YIELD	4
SHIRE OF CHAPMAN VALLEY LOCAL PLANNING SCHEME No. 2 ZONING	RURAL

<ul style="list-style-type: none"> <li><span style="color: red;">---</span> SUBJECT LAND BOUNDARY</li> <li><span style="border-bottom: 1px solid black; width: 20px; display: inline-block;"></span> PROPOSED CADASTRAL</li> <li><span style="border-bottom: 1px dashed black; width: 20px; display: inline-block;"></span> EXISTING LOT BOUNDARY</li> <li><span style="color: orange;">●</span> POWER POLE</li> <li><span style="color: orange;">—</span> OVERHEAD POWER</li> <li><span style="border-bottom: 1px dotted black; width: 20px; display: inline-block;"></span> PROPOSED/FUTURE BOUNDARIES (SUBJECT TO SEPARATE APPLICATIONS)</li> </ul>	<ul style="list-style-type: none"> <li><span style="border-bottom: 1px solid grey; width: 20px; display: inline-block;"></span> INDICATIVE ONC ALIGNMENT (see Note 5)</li> <li><span style="background-color: yellow; width: 20px; height: 10px; display: inline-block;"></span> UCL</li> <li><span style="background-color: orange; width: 20px; height: 10px; display: inline-block;"></span> ROAD RESERVE</li> <li><span style="background-color: cyan; width: 20px; height: 10px; display: inline-block;"></span> PROPOSED INTERNAL ACCESS</li> <li><span style="color: blue;">●</span> EXISTING INTERNAL WATER MARK ALIGNMENT</li> <li><span style="color: blue;">—</span> EXISTING WATER SOURCE</li> </ul>	
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**NOTES**

1. Approval sought in accordance with WAPC DC Policy 3.4 s6.3 (Property Rationalisation) and s6.3 (Promote Lot) and s6.5 (Conservation Lot) (Previously approved WAPC 157962).
2. Final lot boundary determined on site at time of survey. Dimensions and areas are subject to lot pre-calculation and survey.
3. Preliminary survey provided by Quantum Surveys Ref 9050
4. All service information as provided by relevant agencies from DEWD.
5. This plan is prepared for planning approval from the Western Australian Planning Commission and should not be used for any other purpose. No liability will be accepted where this plan is used for purposes other than that indicated, including marketing of the proposed lots.
6. This plan is prepared using information provided by Landgate. The data extracted from Geospatial Database is intended for informational purposes only.
7. ONC alignment depicted as indicated on Draft Land Owner Consultation plan and is indicative only.
8. All lot areas noted exclude UCL.

AERIAL PHOTOGRAPHY - LANDGATE ~ 2018 (INTS)

<p><b>LANDWEST</b> URBAN AND RURAL PLANNING CONSULTANTS</p> <p>8 Anzac Terrace Geraldton WA 6530 PO BOX 1597 Geraldton WA 6531 Email: info@landwest.net.au Phone: (08) 9965 0550</p>	<p><b>TITLE: PROPOSED SUBDIVISION AND BOUNDARY RATIONALISATION LOT 2462 ON PLAN 231997 WHITE PEAK ROAD AND LOT 16 ON PLAN 58237 BROWN LANE, WHITE PEAK</b></p>	<p><b>CLIENT: HJ &amp; WB WALLACE AND RE EASTOUGH</b></p> <p>CERTIFICATE OF TITLE(S): 1690 / 663 &amp; 2704 / 902 DATE LAST MODIFIED: 22/07/2019</p> <p>SCALE: 1:20 000 @ A3</p>
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INSET A - 1:2500

INSET B - 1:2000

**NOTES**

1. Final lot boundary determined on site at time of survey. Dimensions and areas are subject to lot pre-calculation and survey.
2. Preliminary survey provided by Quantum Surveys Ref 9050
3. All service information as provided by relevant agencies from DEWD.
4. This plan is prepared for planning approval from the Western Australian Planning Commission and should not be used for any other purpose. No liability will be accepted where this plan is used for purposes other than that indicated, including marketing of the proposed lots.
5. This plan is prepared using information provided by Landgate. The data extracted from Geospatial Database is intended for informational purposes only.
6. ONC alignment depicted as indicated on Draft Land Owners Consultation plan and is indicative only.
7. All lot areas noted exclude UCL.

<b>AGENDA ITEM:</b>	<b>10.1.3</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, 05/15-4 &amp; 06/19-4</b>
<b>DATE:</b>	<b>8 AUGUST 2019</b>
<b>AUTHOR:</b>	<b>SIMON LANCASTER</b>

**SUPPORTING DOCUMENT:**

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

**DISCLOSURE OF INTEREST**

Nil.

**BACKGROUND**

Council resolved at its 19 June 2019 meeting to advertise a draft Outbuildings Local Planning Policy for comment. The draft policy is now returned to Council along with the received submissions for consideration. This report recommends that the draft policy be adopted.

**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 10.1.3(a)**.

A copy of the proposed Shire of Chapman Valley Outbuildings Local Planning Policy is provided as **Attachment 10.1.3(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, crapyots, 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 10.1.3(a) & (b)**, addresses the issue of consultation in the event an application is received that does not accord with the policy.

The advertising of the draft Outbuildings policy commenced on 3 July 2019 with a notice being placed in the Mid West Times, and a copy of the policy placed on the Shire website, and concluded on 31 July 2019.

10 submissions were received, 6 in support of the draft policy, 2 opposed to the draft policy, and 2 submissions making comment that the draft policy did not increase the permitted shed sizes sufficiently and that they should be further increased. A copy of the received submissions is provided as **separate Attachment 10.1.3(c)**.

A summary of the issues raised during the submission period is provided below:

### Comments in Support

- ability to put lean-to on a shed will be better at blocking sun, look neater, and be less hazardous than shadesails;
- blocks in Parkfalls are large enough for additional buildings of this scale to not effect the spacious outlook of the area;

- Parkfalls attracts residents in search of more space than a suburban property, this allows them to raise pets and livestock, own and store caravans and boats, and enjoy hobbies such as woodwork or other crafts, these require shed space. Residents should have the opportunity to use the space they have paid for without being restricted by a policy that does not suit the semi-rural setting;
- Views are not the property of the landowner and this is not a shed specific issue since trees and homes could also restrict views;
- Streetscape has been addressed by the current planning laws which prevent people building sheds closer to the street than their homes, in addition this is still a new development and trees are yet to grow to full size, eventually most homes and sheds will be screened by vegetation;
- allowing larger sheds in White Peak will give landowners more options for secure storage rather than leaving personal items exposed to the elements and attracting unwanted attention, also items left out in the open can be more unattractive than allowing a few metres on a shed;
- due to size of our blocks I think most people would like a decent shed to lock away their things e.g. lawn mowers, boats, caravans than paying for storage in town;
- in the area I live (Buller) feel that larger shed sizes needed for protection of property from weather and general neatness in keeping possessions under cover, even though I only have small acreage I still have machinery along with my boat and van;
- need for security of possessions and being locked up instead of being laid out in the paddock where anyone can see, rather look at bits and pieces packed away out of site than laid out on the block with blue tarps placed over the top of these articles giving them protection from the elements but still not theft.

#### Comments in Objection

- purchased in Parkfalls because of the stringent and restrictive building guidelines, some of these have been eroded away over time which have impacted on our reasons for living in this area, bigger sheds is not something I would like to see on the land around me;
- didn't buy a block and build a house in Parkfalls to have people build sheds and block the views of the ocean and I'm sure other owners feel the same, never known so many rule changes in a Shire, people seem to be able to do as they want.

#### Comments requesting that policy should be relaxed further

- in keeping up with progress and uniformity of neighbouring Geraldton Shire with 400m<sup>2</sup> shed sizes I feel we are being left behind in having this huge restriction on our properties;  
*Shire comment: The respondent's property is zoned 'Residential R2.5'. The draft Outbuildings Policy sets the maximum outbuilding area at 180m<sup>2</sup> in the R2.5 zone which is unchanged from the current policy. The draft policy proposes increasing the permitted wall height from 3.5m to 4.0m and the total height from 4.5m to 5m in the R2.5 zone. The City of Greater Geraldton Outbuildings Policy sets the maximum outbuilding size for the R2.5 zone at 210m<sup>2</sup> and in addition 60m<sup>2</sup> unenclosed i.e. 270m<sup>2</sup> total outbuilding area. The City Outbuildings Policy sets the maximum wall height at 4.2m and the maximum total height at 5m in the R2.5 zone with provision to increase the maximum total height to 5.5m subject to criteria.*
- support an increase in shed size and would also like to see building envelope extended;  
*Shire comment: The respondent's property is zoned 'Rural Residential 1' and the Shire Scheme rather than the Outbuildings Policy sets the requirement that outbuildings must be sited not more than 22m from the dwelling in this zone.*
- Point 4.4 of the Outbuilding Policy should be amended, lots greater than 2ha and less than 4ha should be segregated into an additional category with a larger allowable outbuilding size.  
*Shire comment: Shire comment: The respondent's property is zoned 'Rural Residential 2'. The draft Outbuildings Policy addresses Rural Residential lots less than 4ha, and lots greater than 4ha are exempt from the policy. The draft Outbuildings Policy proposes the same outbuilding sizes for the Rural Residential zone as the Shire of Northampton Outbuildings Policy The draft Outbuildings Policy proposes that the maximum outbuilding area in the Rural Residential zone be increased from 200m<sup>2</sup>, to 240m<sup>2</sup> and in addition 120m<sup>2</sup> unenclosed area i.e. 360m<sup>2</sup> total outbuilding area (subject to surrounding landowner consultation). The draft Outbuildings Policy proposes no change to the current policy height requirements of 4.5m wall height and 5.5m total height. The City of Greater Geraldton Outbuildings Policy sets the maximum outbuilding size for the Rural Residential zone at 300m<sup>2</sup> and in addition 120m<sup>2</sup> unenclosed i.e. 420m<sup>2</sup> total outbuilding area, with a wall height of 4.8m and a total height of 6.5m. Neither the Shire of Northampton or City of Greater Geraldton Outbuildings Policies set a criteria based upon lot size for the Rural Residential zone.*

## **RISK ASSESSMENT**

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

**VOTING REQUIREMENTS**

Simple majority required.

**COUNCIL RESOLUTION / STAFF RECOMMENDATION**

**MOVED: CR FORTH**

**SECONDED: CR WARR**

That Council:

- 1 Receive the submissions as contained within Attachment 10.1.3(c); &
- 2 Resolve, pursuant to Schedule 2 Part 2 Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to adopt the Shire of Chapman Valley 'Outbuildings' Local Planning Policy as contained in Attachment 10.1.3(b) and proceed to give notice to this effect.

**Voting 5/2  
CARRIED  
Minute Reference: 08/19-5**

## 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

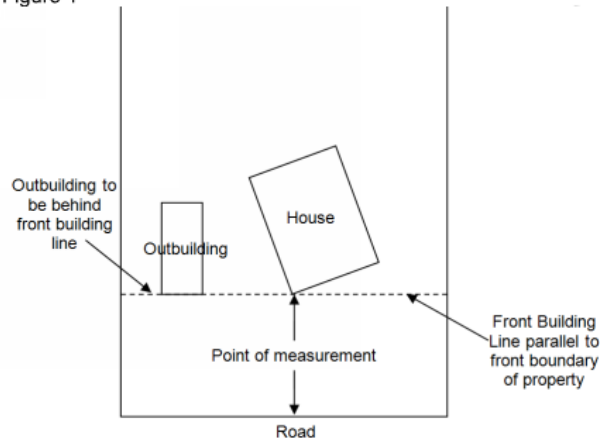
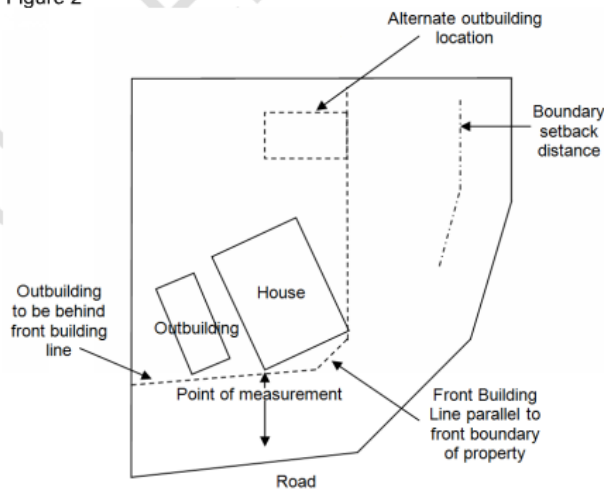


Figure 2



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

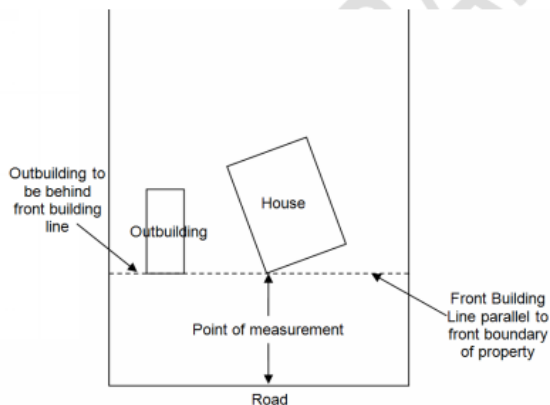
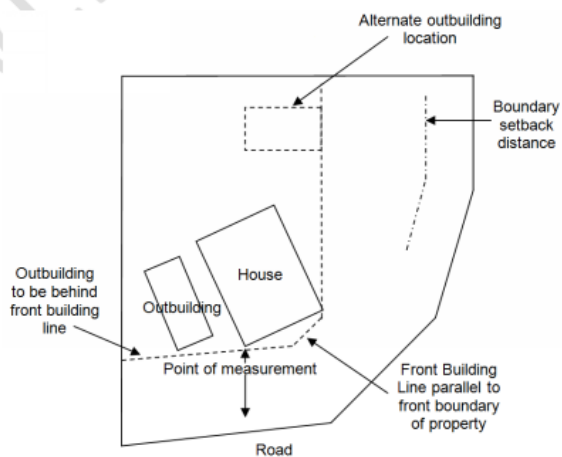


Figure 2



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 August 2019**

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## **Contents**

### **10.2 AGENDA ITEMS**

- 10.2.1 Financial Reports for July 2019
- 10.2.2 Finance Audit & Risk Committee Minutes



<b>AGENDA ITEM:</b>	<b>10.2.1</b>
<b>SUBJECT:</b>	<b>FINANCIAL MANAGEMENT REPORT FOR JULY 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>21 AUGUST 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)	July 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 July 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 July 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

## COUNCIL RESOLUTION / STAFF RECOMMENDATION

**MOVED: CR FORRESTER**

**SECONDED: CR HUMPHREY**

That Council receives the financial management report supplied under separate cover for the month July 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
  - Summary of Payments

**Voting 7/0  
CARRIED  
Minute Reference: 08/19-6**

<b>AGENDA ITEM:</b>	<b>10.2.2</b>
<b>SUBJECT:</b>	<b>FINANCE, AUDIT &amp; RISK MANAGEMENT COMMITTEE</b>
<b>PROPONENT:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>SITE:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>FILE REFERENCE:</b>	<b>403.05</b>
<b>PREVIOUS REFERENCE:</b>	<b>NIL</b>
<b>DATE:</b>	<b>21<sup>ST</sup> AUGUST 2019</b>
<b>AUTHOR:</b>	<b>DI RAYMOND , MANAGER FINANCE &amp; CORP SERVICES</b>

**SUPPORTING DOCUMENTS:**

Ref	Title	Attached to Report	Under Separate Cover
10.2.2(a)	Finance, Audit & Risk Committee Minutes 17 <sup>th</sup> July 2019		√

**DISCLOSURE OF INTEREST**

Nil

**BACKGROUND**

The Shire of Chapman Valley Finance, Audit & Risk Management Committee met on the 17<sup>th</sup> July 2019 in the Council Chambers Nabawa. The Minutes of the meeting have been included. **(Supplied under separate cover - Attachment 10.2.2(a)).**

**COMMENT**

The Minutes and recommendations from the Finance, Audit & Risk Management Committee meeting 17<sup>th</sup> July 2019 are presented for Council consideration.

**STATUTORY ENVIRONMENT**

*Local Government Act 1995 & Local Government Audit Regulations 1996.*

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

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

**CONSULTATION**

Staff have discussed with the Auditors (Moore Stephens) outcomes and recommendations from the May 2019 Interim Audit Management Report.

## RISK ASSESSMENT

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

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

## VOTING REQUIREMENTS

Simple Majority

## COUNCIL RESOLUTION / COMMITTEE RECOMMENDATION

**MOVED: CR WARR**

**SECONDED: CR FARRELL**

Council receives the Minutes of the Finance, Audit & Risk Management Committee meeting held on the 17<sup>th</sup> July 2019 and endorse the recommendations within:

- The Committee recommend the following to Council regarding items identified in the Interim Audit Management Report:

FINDINGS	ACTIONS
1. Whilst monthly fixed asset reconciliations are done, they are not reviewed and signed by a senior staff member independent of preparation as evidence of review.	<p>A senior officer, independent of preparation of the fixed asset reconciliation, will review the reconciliation and evidenced accordingly.</p> <p><b>Responsible person: Manager Finance &amp; Corporate Services</b>  <b>Completion date: 30<sup>th</sup> June 2019</b></p>
2. We noted interest on some trust fund moneys were not retained in trust or repaid to the entitled recipient on return of their moneys. Rather the Shire recognised this interest as revenue.	<p>a. Council confirm the interest not allocated to past funds held in Trust are considered insignificant and therefore immaterial to the overall operations of the Shire. Therefore, resources will not be allocated to determining the actual unallocated interest earned on these Trust Funds.</p> <p><b>Responsible person: Manager Fin &amp; Corp Serv</b>  <b>Completion date: 31st July 2019</b></p> <p>b. All future funds to be held in Trust will be place into non-interest-bearing bank account so the matter of interest earned will not be an issue.</p> <p><b>Responsible person: Manager Fin &amp; Corp Serv</b>  <b>Completion date: 1st July 2019</b></p> <p>c. In the event amounts are to be held in Trust by Council, and it is determined by a legal arrangement/agreement for interest to be earned on these funds and allocated back to the specific funds held then a separate bank account will be established.</p> <p><b>Responsible person: Manager Fin &amp; Corp Serv</b>  <b>Completion date: Ongoing</b></p>

2. The Finance, Audit & Risk Management Committee recommends to Council the the following action being endorsed for items identified in the Moore Stephens Financial Management Review 2019:

Cost and Administration Allocations	At the time of review, cost and administration overheads were materially overallocated.
	Improvement: Costs and administration overheads should be reconciled, and rates reviewed at least monthly for proper monthly financial reporting purpose.
	<u>Management Comment</u> Costs and administration allocations are monitored monthly; the over/under allocations are dealt with periodically and finalised as an End of Year process, as this is considered more appropriate from a resource aspect of the organisation.
Fixed Assets	Noted instances where the depreciation rates used were not in line with the accounting policy.
	Improvement: To help ensure the correct calculation of depreciation expense, management must review the depreciation policy to ensure this is in-line with any adjustments to the estimated asset useful lives as a result of recent revaluation processes.
	<u>Management Comment</u> The aspect of depreciation within the significant accounting policies will be reassessed as will the internal procedures which will review the assets residual values and remaining useful lives regularly throughout the reporting periods.
Fixed Assets	Monthly fixed asset reconciliations are not signed by a senior staff member independent of preparation as evidence of review.
	Improvement: To help confirm the accuracy of the fixed asset reconciliation, a senior officer independent of preparation should review the reconciliation and this should be evidenced accordingly.
	<u>Management Comment</u> The monthly subsidiary ledger reconciliations will be reviewed and evidenced with signed off by senior staff member independent of the preparation process.
Fixed Assets	Noted instances where assets under the \$5,000 capitalisation threshold have been incorrectly capitalised.
	Improvement: To help ensure compliance with Local Government (Functions and Management) Regulation 17A(5) and the Shire's adopted accounting policies, all assets under the \$5,000 capitalisation threshold should be expensed.
	<u>Management Comment</u> The Asset Register will be brought into line with the new Regulations to ensure compliance.
Fixed Assets	At the time of review, we noted two instances where the sale value of an asset was not recognised.

	<p>Improvement:</p> <p>To ensure loss on disposal is not overstated, the sale value of all assets disposed of should be appropriately recognised.</p> <p><u>Management Comment</u> Internal procedures are in place and will be adhered to in regard to recognising profit/loss on the disposal of assets.</p>
Purchases, Payments and Payables	<p>The sundry creditors reconciliation for the month of October 2018 was not signed by a senior staff member independent of preparation as evidence of review.</p> <p>Improvement:</p> <p>To ensure that creditor reconciliation is documented and signed by both preparer and reviewer.</p> <p><u>Management Comment</u> A one-off administrative oversight, which is obviously not the norm. Will continue to be monitored.</p>
Borrowing	<p>Whilst borrowings and repayments were updated in the loan register on a regular basis, the register was not reconciled to the general ledger from July 2018 to December 2018.</p> <p>Improvement:</p> <p>To ensure that borrowings reconciliations are reconciled regularly and reviewed by a senior officer independent of preparation. The independent review should seek to confirm the accuracy of the reconciliation and should be evidenced accordingly.</p> <p><u>Management Comment</u> Internal procedures are now in place to ensure subsidiary ledger reconciliations of Loan Register are reviewed and evidenced monthly.</p>
Trust	<p>We noted interest earnings on some trust fund moneys were not retained in trust or repaid to the entitled recipient on return of their moneys. Rather the Shire recognised this interest as revenue.</p> <p>Improvement:</p> <p>Section 6.9 of the Local Government Act 1995 (Act) requires:</p> <p>Where money or other property is held in the trust fund, the local government is to - in the case of money, pay it to the person entitled to it together with, if the money has been invested, any interest earned from that investment.</p> <p>Although the cumulative value of interest revenue may not be material, the necessary steps to identify any obligations to return moneys incorrectly retained from the current and previous years should be undertaken.</p> <p>The Shire should ensure future trust fund moneys and associated interest are managed in accordance with the Act.</p>

Management Comment (as per Recommendation at Item 8.1)

- a. Council confirm the interest not allocated to past funds held in Trust are considered insignificant and therefore immaterial to the overall operations of the Shire. Therefore, resources will not be allocated to determining the actual unallocated interest earned on these Trust Funds.
- b. All future funds to be held in Trust will be place into non-interest-bearing bank account so the matter of interest earned will not be an issue
- c. In the event amounts are to be held in Trust by Council, and it is determined by a legal arrangement/agreement for interest to be earned on these funds and allocated back to the specific funds held then a separate bank account will be established.

**Voting 7/0  
CARRIED  
Minute Reference: 08/19-7**

# 10.3

## Chief Executive Officer

### August 2019

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## Contents

### 10.3 AGENDA ITEMS

10.3.1 2020/2021 – Mid West Regional Road Group Submissions

10.3.2 Notice of Council Meetings 2020

10.3.3 Pesticides Regulation Review in WA

10.3.4 Select Committee into Local Government

10.3.5 Batavia Local Emergency Management Arrangements



<b>AGENDA ITEM:</b>	<b>10.3.1</b>
<b>SUBJECT:</b>	<b>2020/2021 – MID WEST REGIONAL ROAD GROUP SUBMISSIONS</b>
<b>PROPONENT:</b>	<b>CHIEF EXECUTIVE OFFICER</b>
<b>SITE:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>FILE REFERENCE:</b>	<b>1003.02</b>
<b>PREVIOUS REFERENCE:</b>	<b>NA</b>
<b>DATE:</b>	<b>21<sup>st</sup> AUGUST 2019</b>
<b>AUTHOR:</b>	<b>MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER</b>

**SUPPORTING DOCUMENTS:**

Ref	Title	Attached to Report	Under Separate Cover
	NIL		

**DISCLOSURE OF INTEREST**

Nil

**BACKGROUND**

The 2020/2021 Mid West Regional Road Group (MWRRG) grant applications need to be lodged with Main Roads WA (MRWA) by the 31<sup>st</sup> August 2019.

During the process of compiling the submissions listed for funding it became evident some of the projects may score better than expected at the time the Ten (10) Roadworks Program was developed and endorsed by Council. Therefore, the submissions were modified to maximise success possibilities for funding allocations.

The purpose of this Agenda Report is to seek Council's endorsement of the variations made to the MWRRG submissions for 2020/2021, which is outside the endorsed Ten (10) Roadworks Program.

**COMMENT**

Below is a summary of submission for MWRRG grant funding for 2020/2021:

Valentine Road – Expected Score 103.00

This project is listed in the endorsed Ten (10) Roadworks Program and is expected to score the highest of all proposed projects for 2020/2021.

No change recommended.

Dartmoor Road – Expected Score 99.59

It appears the traffic volumes/type have not altered significantly (as anticipated) resulting in the expected score to extend the seal on this road a further 3.40 kms being high.

The Ten (10) Roadworks Program removed Dartmoor Road as a Regional Road Group Project due to an anticipated low score as this project moved further north. This didn't eventuate; therefore it is being recommended this project continue until the scores reduce to the point of the project no longer being capable of attracting MWRRG grant funds.

Northampton Nabawa Road – Expected Score 96.00

This project is listed in the endorsed Ten (10) Roadworks Program and is expected to score high enough for 2020/2021 MWRRG grant funds.

No change recommended.

East Nabawa Road (West) – Expected Score 95.80

This project is listed in the endorsed Ten (10) Roadworks Program and is expected to score high enough for 2020/2021 MWRRG grant funds.

No change recommended.

East Nabawa Road (East) – Expected Score 81.94

This project is listed in the endorsed Ten (10) Roadworks Program and may to score high enough for 2020/2021 MWRRG grant funds. However; it may be appropriate to discontinue with the concept of upgrading two separate section of the East Nabawa Road and focus on the four highest expected scoring projects in 2020/2021. This complies with the endorsed Ten (10) Roadworks Program.

It also remains the case where the traffic data collected for the eastern end of East Nabawa Road will only allow MWRRG grants funds for a 4m seal. It will be recalled the last time submissions where presented to the MWRRG Council agreed to cover the additional 3.2 seal cost totally from its own resources, rather than install a 4m seal.

Indicative score estimates on MWRRG 2020/2021 are as follows:

Road	Works Description	Expected Score	Total Project Cost Estimate	MWRRG Grant Request	Shire Contrib
<i>2020/2021 Recommended Projects</i>					
Valentine	3.00km x 7.2m seal continuation	103.00	\$464,500	\$300,000	\$164,500
Dartmoor	3.40km x 7.2m seal continuation	99.59	\$454,000	\$300,000	\$154,000
Northampton Nabawa	2.00km Drainage, Shoulder Upgrades & reseal	96.00	\$453,500	\$300,000	\$153,500
East Nabawa (West)	2.75km x7.2m seal continuation	95.80	\$453,500	\$300,000	\$153,500
<b>Estimated Totals</b>			<b>\$1,825,500</b>	<b>\$1,200,000</b>	<b>\$625,500</b>
<i>Project(s) Not Recommended</i>					
East Nabawa (East)	3.00km x 7.2m seal continuation	81.94	\$487,000	\$300,000	\$187,000

The MWRRG Policies and Procedures include the following restrictions:

- \$300,000 - Maximum allowable grant fund per individual project;
- 20% of Total Pool - Maximum total grant funds for an individual LGA in one year.

Based on the 2019/2020 total pool amount of \$6,455,562 the 20% maximum per LGA in this year was \$1,291,112. It is anticipated the 2020/2021 total funds will at least be at the same level as 2019/2020, which would confirm the above-mentioned four recommended 2020/2021 MWRRG Projects being eligible.

The approved 2019/2020 Roadworks Budget and subsequent more detailed costs for each project resulted in the following MWRRG projects allocations made in the Budget:

Road	Works Description	Actual Score	Total Project Budgeted Cost	MWRRG Grant Approved	Shire Contrib
Valentine	3.30km x 7.2m seal continuation	96.14	\$495,053	\$298,667	\$196,386
Dartmoor	4.80km x 7.2m seal continuation	84.78	\$553,297	\$299,333	\$253,964
East Nabawa (West)	2.75km x7.2m seal continuation	91.37	\$437,309	\$243,000	\$194,609
East Nabawa (East)	2.80km x7.2m seal continuation	71.88	\$452,874	\$299,333	\$153,541
<b>Estimated Totals</b>			<b>\$1,938,533</b>	<b>\$1,140,333</b>	<b>\$798,200</b>

Therefore, based on the 2019/2020 endorsed Budget amounts and the 2020/2021 MWRRG Grant project estimates this should be financially achievable in the Shire's 2020/2021 Budget.

## STATUTORY ENVIRONMENT

Mid West Regional Road Group – Grant Policies, Procedures & Guidelines.

## POLICY/PROCEDURE IMPLICATIONS

As previously mentioned, it was considered necessary to deviate from the current endorsed Ten-Year Road Works Program to maximise grant opportunities on Shire roads. Though the Ten-Year Road Works Program is not necessarily a Policy or Procedure it is the basis upon which Council has historically made MWRRG grant submissions.

## FINANCIAL IMPLICATIONS

As previously mentioned, based on the 2019/2020 MWRRG Roadworks Project Budget allocations and the proposed 2020/2021 MWRRG Roadworks Project submissions the Shire should have the financial capacity to complete the 2020/2021 projects. However; future budget determinations and a more detailed costs analysis of each project will provide a clearer indication on the Shire's ability to complete all projects in 2020/2021.

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

The LTFP does take into consideration the Council endorsed Ten-Year Roadworks Program.

If Council endorses the variation to the MWRRG funding applications and the submissions are successful the LTFP will need to be amended to reflect these changes.

## STRATEGIC IMPLICATIONS

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

Ref	Objective	Strategy	Action
1.3	Maintain and enhance safety and security for the community	Review safe roads and infrastructure	Continue annual review of Road Hierarchy, Road Works Program, Plant Replacement Program

## CONSULTATION

The CEO and Manager Works & Services have been in discussions with Greenfield Technical Services (consultant engineers) on the variations to the MWRRG 2020/2021 grant applications.

## RISK ASSESSMENT

The risk in this instance is considered *insignificant*.

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated, low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

## VOTING REQUIREMENTS

Simple Majority

**COUNCIL RESOLUTION / STAFF RECOMMENDATION**

**MOVED: CR FORRESTER**

**SECONDED: CR FARRELL**

Council endorse the CEO's action to vary the Ten-Year Road Works Program by applying for 2020/2021 MWRRG grant projects as follows:

<b>Road</b>	<b>Works Description</b>	<b>Total Project Cost Estimate</b>	<b>MWRRG Grant Request</b>	<b>Shire Contrib.</b>
Valentine	3.00km x 7.2m seal continuation	\$464,500	\$300,000	\$164,500
Dartmoor	3.40km x 7.2m seal continuation	\$454,000	\$300,000	\$154,000
Northampton Nabawa	2.00km Drainage, Shoulder Upgrades & reseal	\$453,500	\$300,000	\$153,500
East Nabawa (West)	2.75km x7.2m seal continuation	\$453,500	\$300,000	\$153,500

**Voting 7/0  
CARRIED  
Minute Reference: 08/19-8**

<b>AGENDA ITEM:</b>	<b>10.3.2</b>
<b>SUBJECT:</b>	<b>NOTICE OF COUNCIL MEETINGS 2020</b>
<b>PROPONENT:</b>	<b>CHIEF EXECUTIVE OFFICER</b>
<b>SITE:</b>	<b>SHIRE OF CHAPMAN VALLEY</b>
<b>FILE REFERENCE:</b>	<b>401.09</b>
<b>PREVIOUS REFERENCE:</b>	<b>NA</b>
<b>DATE:</b>	<b>21<sup>st</sup> AUGUST 2019</b>
<b>AUTHOR:</b>	<b>MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER</b>

#### SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
	NIL		

#### DISCLOSURE OF INTEREST

Nil

#### BACKGROUND

Council is required under the Local Government Act 1995 to at least once a year set and advertise meeting dates, times and venues for Ordinary Council meetings for the next 12 month period.

Council has previously resolved to reach out to the community, with one of the proposals being to move the Ordinary Monthly Council Meeting(s) around the shire. In 2019 Council held two of its OCM away from the Nabawa Administration Building i.e.

- April 2019 OCM –; Bill Hemsley Park Community Centre; &
- August 2019 OCM - Yuna Multipurpose Community Centre

It is being recommended Council maintain this activity in 2020.

#### COMMENT

Council meetings are usually held at Nabawa on the third Wednesday of the month, commencing at 9:00am, with the exception of January when no Ordinary Council Meeting is held.

The meeting date for December has occasionally been brought forward to the second Wednesday of the month to avoid clashes with Christmas/New Year break period. This should not be necessary in 2020 as the third Wednesday is the 16<sup>th</sup> December. However; this meeting can be brought forward to the 9<sup>th</sup> December 2020 if Council wishes to do so. This would result in a three week period between the November 2020 OCM (18/11/20) and an earlier December 2020 (9/12/2020). It is not being recommended to change the December 2020 OCM date.

Below are recommended meeting locations and dates for the 2020 Ordinary Council Meeting (OCM):

DATE	MEETING LOCATION
19 February	Nabawa Chambers
<b>18 March</b>	<b>Bill Hemsley Park Community Centre</b>
15 April	Nabawa Chambers
20 May	Nabawa Chambers
17 June	Nabawa Chambers
15 July	Nabawa Chambers
<b>19 August</b>	<b>Yuna Multipurpose Community Centre</b>
16 September	Nabawa Chambers
21 October	Nabawa Chambers
18 November	Nabawa Chambers

## STATUTORY ENVIRONMENT

Local Government (Administration) Regulations 1996 Clause 12 (1) states: Public notice of Council or Committee meetings – s 5.25(G)

At least once each year a local government is to give local public notice:

1. Of the dates, time and place of the ordinary council meetings;
2. The committee meetings that are required under the Act to be open to the members of the public or that are proposed to be open to members of the public are to be held in the next 12 months.

## POLICY & PROCEDURE IMPLICATIONS

No Policy or Procedure affected.

## FINANCIAL IMPLICATIONS

No additional costs envisaged.

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

No effect on the LTFP is envisaged.

## STRATEGIC IMPLICATIONS

It is important for Council to include and engage all sectors of our community and the concept of structuring meeting times, dates and location to reach out to the community is one means of improving this.

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

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

## CONSULTATION

This matter of relocating the Council has previously been discussed and I believe this practice has proved successful with a clear indication Council will continue to reach out to the community.

## RISK ASSESSMENT

There is a risk of Council being perceived as not engaging the community by insisting OCMs are always held at Nabawa.

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 Ordinary Meeting time, dates and locations for the next Calendar Year as listed below be adopted and advertised in accordance with the Local Government (Administration) Regulations:

DATE	MEETING LOCATION
19 February	Nabawa Chambers
<b>18 March</b>	<b>Bill Hemsley Park Community Centre</b>
15 April	Nabawa Chambers
20 May	Nabawa Chambers
17 June	Nabawa Chambers
15 July	Nabawa Chambers
<b>19 August</b>	<b>Yuna Multipurpose Community Centre</b>
16 September	Nabawa Chambers
21 October	Nabawa Chambers
18 November	Nabawa Chambers
16 December	Nabawa Chambers

## COUNCIL RESOLUTION

**MOVED: CR WARR**

**SECONDED: CR BATTEN**

Council Ordinary Meeting time commencing at 9.00am, dates and locations for the next Calendar Year as listed below be adopted and advertised in accordance with the Local Government (Administration) Regulations:

DATE	MEETING LOCATION
19 February	Nabawa Chambers
<b>18 March</b>	<b>Bill Hemsley Park Community Centre</b>
15 April	Nabawa Chambers
20 May	Nabawa Chambers
17 June	Nabawa Chambers
15 July	Nabawa Chambers
<b>19 August</b>	<b>Yuna Multipurpose Community Centre</b>
16 September	Nabawa Chambers
21 October	Nabawa Chambers
18 November	Nabawa Chambers
16 December	Nabawa Chambers

That the start times of the meeting be reviewed post 2019 ordinary elections.

**Voting 6/1  
CARRIED  
Minute Reference: 08/19-9**

*Reason for Deviation from Staff Recommendation: Start time needed to be included into resolution and opportunity to be Elected Members after the October 2019 Local Government Elections to review the meeting start times.*

<b>AGENDA ITEM:</b>	<b>10.3.3</b>
<b>SUBJECT:</b>	<b>PESTICIDES REGULATION REVIEW IN WA</b>
<b>PROPONENT:</b>	<b>DEPARTMENT OF HEALTH</b>
<b>SITE:</b>	<b>WESTERN AUSTRALIA</b>
<b>FILE REFERENCE:</b>	<b>404.09</b>
<b>PREVIOUS REFERENCE:</b>	<b>NA</b>
<b>DATE:</b>	<b>21<sup>st</sup> AUGUST 2020</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)	Discussions Paper (the Paper) on <i>Managing Public Health Risks Associated with Pesticides in Western Australia</i>		✓
10.3.3(b)	Correspondence - DoH	✓	

**DISCLOSURE OF INTEREST**

Nil

**BACKGROUND**

The Department of Health (DoH) has released Discussions Paper (the Paper) on *Managing Public Health Risks Associated with Pesticides in Western Australia* (see **Attachment 10.3.3(a)** under separate cover).

The Executive Summary of the Paper states:

*“...This discussion paper presents 3 options for regulating the application of pesticides. The primary focus of this paper has identified 25 questions that will assist stakeholders in providing input into the decision making process to modernise pesticide management.”*

Submissions on the Paper to the DoH close at **5:00pm (WST), Thursday 10<sup>th</sup> October 2019.**

**COMMENT**

The concern with Options listed in the Paper is mention of local government becoming the enforcement and administrative agency under any revised Regulation (i.e. removing this responsibility away from the DoH to LGAs). This is simply another attempted cost shifting suggestion from the State to local government.

Option A (see Page 25 of Paper) states:

*6.1 Take no action (repeal without replacement)*

*Without action, the existing Regulations would be repealed without replacement and individual local government authorities would become responsible for determining pesticide application safety within their jurisdiction.*

*Local government would have the potential to draft and publish local laws to regulate the use of pesticides within their jurisdiction boundary.*

*The DOH would provide guidance documents on minimising health risks in pesticide management. These would be enforced using the general public health duty provided by the Public Health Act 2016. The documentation would primarily be aimed at assisting local government to achieve a level of standardisation among local government local laws.*

The Advantages and Disadvantages listed for this Option include:

- *reduced regulatory burden for State government and industry; and*



- *no cost recovery for local government, and no fines are able to be issued under the general public health duty.*

Option A obviously identifies the advantage being to the State Government and a distinct disadvantage to local government. A blatant Cost-Shift option.

Therefore, I would recommend Council respond to Question 1 as:

- ~ Do not support this Option due it being a distinct transfer of costs and liability away from the State to Local Government.

Option B was basically a *No Change* Option.

Option C advocates new, updated regulations under the *Public Health Act, 2016*, yet does list consideration of the State Government – v – Local Government as the enforcement agency. This still reflects the opportunity for the State the shift responsibility and costs to Local Government. Something which should be strongly opposed.

Therefore, I would recommend Council respond to Question 5 as:

- ~ Do not support this Option if the proposal is to transfer costs and liability away from the State to Local Government. New regulation must ensure the responsibility stays with the State Government.

Section 7.7 of the Paper (Page 36) deals specifically with Local Government replacing the DoH as the enforcement agency. The Paper states:

*“The DOH is currently the sole regulatory authority in approving and issuing pest management technicians licenses and pest management business registrations.*

*Proposal: Authorise local government enforcement agencies to perform all administrative, assessment, inspection and approvals tasks required under the regulations including the authorisation to issue registrations for pest management businesses and licences for pest management technicians.”*

It is also stated:

*“Proposal 7 has been recommended to address the logistical considerations of regulating local services from a centralised agency. The DOH is located in the metropolitan area and has minimal exposure to regional and remote sites across the state. Local government by contrast has authorised officers located throughout the state and is better placed to regulate and monitor activities of pesticide operators in their jurisdictions.”*

It is a miserable excuse made on the logistical constraints because the DoH is located in the metropolitan area and has no presence in the regions as being a reason to move this responsibility to local government. Perhaps it should a task a local government may choose to take on at a fee for service to the DoH, rather than the proposal to move responsibility, liability and cost from the State to local government.

Therefore, I would recommend Council respond to Question 19 as:

- ~ Do not support this Proposal as this is simply a transfer of responsibility, costs and liability away from the State to Local Government. New regulation must ensure this responsibility stays with the State Government, with the individual local government determining if it want to act as an agent on behalf of the DoH on a full cost recovery basis.

All administrative records, registers, etc. associated with the local government acting as the DoH agency will remain the responsibility of DoH to maintain, not the local government authority.

## **STATUTORY ENVIRONMENT**

*Public Health Act 2016;  
Health (Miscellaneous Act), 1911  
Health (Pesticide) Regulations 2011*

**POLICY IMPLICATIONS**

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.

MANAGEMENT PROCEDURE No.	CMP-029
MANAGEMENT PROCEDURE	DECONTAMINATION OF AGRICULTURAL SPRAYING VEHICLES WITHIN TOWNSITES
RESPONSIBLE OFFICER	DEPUTY CHIEF EXECUTIVE OFFICER
PREVIOUS POLICY/PROCEDURE No.	7.10
RELEVANT DELEGATIONS	

**OBJECTIVES:**

To set conditions for the decontamination of agricultural spraying vehicles within townsites including Western Region localities (e.g. Parkfalls Estate, Dolby Creek Estate, Harbour Lights Estate, Coffee Pot Estate, Buller and Waggrakine)

**MANAGEMENT PROCEDURE STATEMENT:**

This Operational Procedure applies to all registered agricultural spraying operators and private operators (farmers) in the townsites of the Chapman Valley Shire:

The scope of registered pesticides covers the control of plants (herbicides), insects (pesticides), and fungi (fungicides).

If an operator requires decontaminating a vehicle within a townsite, there are two options available which may be used only at a registered premises or other site approved premises or other site approved by the Shire i.e.

1. Hand washed, using a damp cloth. There should be no run-off or ground contamination from this option. Any liquid used for washing is deemed pesticides reinstated and must be disposed of in accordance with Health (Pesticides) Regulations 2011 (No running water).
2. A pest control vehicle may be washed down using running water if it is on an impervious bunded area, with an impervious lined sump and protected from rain (roofed). Any liquid from the wash down is deemed pesticide reinstated and must be disposed of in accordance with Health (Pesticides) Regulations 2011.

## FINANCIAL IMPLICATIONS

If the pesticide regulations are amended to recognise local government authorities and being the responsible organisation to enforce and administer the legislations, there will no doubt be additional resources required. The actual extent of the additional cost and ability to recover these costs is unknown.

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

Additional resources imposed on the Shire would need to be recognised in the LTFP operational costs as there is no contingency in the current LTFP for this task.

## STRATEGIC IMPLICATIONS

It is imperative local government as an industry opposes the State & Commonwealth governments tendency to shift responsibility, liability and cost to local government authorities without adequate, ongoing financial support. The concept of incorporating the additional resource requirements into the grant structure is insecure as future governments can remove this funding source. The most appropriate proposal for local government to take on State &/or Commonwealth responsibilities is to charge as an agency on a full cost recovery based system.

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

Ref	Objective	Strategy	Action
3.1	Preserve the Natural Environment and address environmental risks as they arise.	Manage the impact of waste, water, weed and vermin control on the environment	Continue to review resource allocation to control declared weeds on Shire owned/controlled land.

## CONSULTATION

The DoH Paper is the first opportunity the Shire has had to comment on the review of the Pesticide Regulations.

## RISK ASSESSMENT

It is difficult to determine the financial impact as the costs are unknown. However; the areas of Health and Compliance could be anywhere between Minor and Major.

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
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
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of	Non-compliance results in	Substantiated, public	Significant damage	Uncontained, reversible impact

			services – additional resources; performance affected < 1 month	termination of services or imposed penalties	embarrassment, high impact, high news profile, third party actions	requiring internal & external resources to rectify	managed by a coordinated response from external agencies
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**VOTING REQUIREMENTS**

Simple majority

**STAFF RECOMMENDATION**

Council respond to the following questions posed in the Discussions Paper on *Managing Public Health Risks Associated with Pesticides in Western Australia* only, with no comment submitted on all other questions:

Question 1 - *Do you support the adoption of Option A: Repeal without replacement? Why or why not?*

Response - Do not support this Option due it being a distinct transfer of costs and liability away from the State to Local Government;

Question 5 - *Do you support the adoption of **Option C: Provide new, updated regulations under the Public Health Act 2016?** Why or why not?*

Response - Do not support this Option if the proposal is to transfer costs and liability away from the State to Local Government. New regulation must ensure the responsibility stays with the State Government;

Question 19 - *Do you support the proposal that local government replaces Department of Health as the enforcement agency?*

Response - Do not support this Proposal as this is simply a transfer of responsibility, costs and liability away from the State to Local Government. New regulation must ensure this responsibility stays with the State Government, with the individual local government determining if it want to act as an agent on behalf of the DoH on a full cost recovery basis.

All administrative records, registers, etc. associated with the local government acting as the DoH agency will remain the responsibility of DoH to maintain, not the local government authority.

**COUNCIL RESOLUTION**

**MOVED: CR HUMPHREY**

**SECONDED: CR FORTH**

Question 1 - *Do you support the adoption of Option A: Repeal without replacement? Why or why not?*

Response - Do not support this Option due it being a distinct transfer of costs and liability away from the State to Local Government;

Question 5 - *Do you support the adoption of **Option C: Provide new, updated regulations under the Public Health Act 2016?** Why or why not?*

Response - Do not support this Option if the proposal is to transfer costs and liability away from the State to Local Government. New regulation must ensure the responsibility stays with the State Government;

Question 19 - *Do you support the proposal that local government replaces Department of Health as the enforcement agency?*

Response - Do not support this Proposal as this is simply a transfer of responsibility, costs and liability away from the State to Local Government. The legislative responsibility must remain with one head of power (i.e. DoH) and not spread across 138 individual government authorities. The spreading of responsibility across numerous individual local government authorities will only lead to interpretation issues and an inconsistency with how the legislation is implemented and/or enforced.

New regulation must ensure this responsibility stays with the State Government, with the individual local government determining if it want to act as an agent on behalf of the DoH on a full cost recovery basis.

All administrative records, registers, etc. associated with the local government acting as the DoH agency will remain the responsibility of DoH to maintain, not the local government authority.

**Voting 7/0  
CARRIED  
Minute Reference: 08/19-10**

*Reason for Deviation from Staff Recommendation: Expanding upon submission to highlight to issues associated with individual local government authorities enforcing legislation resulting in a disjointed situation.*



Government of **Western Australia**  
 Department of **Health**  
 Public and Aboriginal Health Division

Contact: [publichealthact@health.wa.gov.au](mailto:publichealthact@health.wa.gov.au)

Shire of Chapman Valley  
 PO Box 1  
 Nabawa WA 6532

DATE	
FILE	
RECORD	

Dear Sir/Madam

**PUBLIC CONSULTATION – PESTICIDES REGULATION REVIEW IN WESTERN AUSTRALIA**

As part of the implementation of the *Public Health Act 2016* (the Public Health Act), the Department of Health (DOH) must review the *Health (Pesticides) Regulations 2011* (the Pesticides Regulations) to examine the risks to public health and safety from commercial uses of pesticides, and discuss options for their management into the future.

As part of the review of the Pesticides Regulations, the DOH must determine whether this public health risk must continue to be regulated under the framework provided by the Public Health Act, or whether the risk can be effectively managed through an alternative approach such as a guideline or other legislation.

The DOH has prepared the discussion paper entitled '*Managing public health risks associated with pesticides in Western Australia*' examining three options for Western Australia (WA) for regulating the application of pesticide chemicals:

- **Option A:** Repeal the existing regulations without replacement. Without action, the existing Regulations would be repealed without replacement and individual local government authorities would become responsible for determining pesticide chemical application safety within their jurisdiction. Local government would have the potential to draft and publish local laws to regulate the use of pesticides with their jurisdiction boundary;
- **Option B:** Retention of the existing regulatory regime by making new regulations under the *Public Health Act 2016* identical to those in force under the *Health (Miscellaneous Provisions) Act 1911*;
- **Option C:** Develop new, updated regulations to manage public health risks to uphold the current regulatory requirements including suggested changes in Proposals 7-9 listed below:
  - Proposal 1: Registration under the new Public Health Act
  - Proposal 2: Licensing under the new Public Health Act
  - Proposal 3: Licensing exemption criteria for individuals
  - Proposal 4: Pesticides in public places
  - Proposal 5: Safe fumigations
  - Proposal 6: Management of registered pesticides

**Chief Health Officer**  
 All correspondence to: PO Box 8172, PERTH BUSINESS CENTRE WA 6849  
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 Telephone (08) 9222 2000 Fax (08) 9388 4907  
 ABN 28 684 750 332  
[www.health.wa.gov.au](http://www.health.wa.gov.au)

- Proposal 7: Local government as the enforcement agency
- Proposal 8: Multi-year validity for registrations and licences
- Proposal 9: Introduce substance management plans

Options help decision makers to identify the most effective management response for WA to ensure that the impacts on consumers, business and government have been appropriately considered. The discussion paper can be downloaded from the consultation webpage: <https://consultation.health.wa.gov.au/environmental-health-directorate/pesticides-regulation-review>

Consultation is now open for a 12 week period. Local government are encouraged to advise the DOH of their preferred option and help to identify how these options may present impacts or opportunities for your local district. You also have the opportunity to identify alternative options that may not have been considered as part of this review. This helps to make sure there are no unintended and undesirable consequences, particularly where regulation is the preferred option.

You are also encouraged to invite any businesses conducting pesticides application in your jurisdiction to make comment.

**Who is being consulted?**

Consultation is occurring across WA and is open to everyone.

**How to participate**

You are invited to read through the discussion paper and submit feedback on the online survey page:

<b>Online Survey (preferred)</b>	<a href="https://consultation.health.wa.gov.au/">https://consultation.health.wa.gov.au/</a> (Select the link for pesticides regulation review)
<b>Email</b>	<a href="mailto:publichealthact@health.wa.gov.au">publichealthact@health.wa.gov.au</a>
All submissions are due by <b>Thursday 10 October 2019</b> .	

**Next steps**

Following consultation, a summary report will be made publically available on the DOH's website. The DOH will use the feedback from the consultation to inform the best option for future public health risk management. Where regulation is the preferred option, further consultation will occur prior to the implementation of any legislation.

Thank you in advance for your participation.

Yours sincerely



Dr Andrew Robertson  
**CHIEF HEALTH OFFICER**

10 July 2019

<b>AGENDA ITEM:</b>	<b>10.3.4</b>
<b>SUBJECT:</b>	<b>SELECT COMMITTEE INTO LOCAL GOVERNMENT</b>
<b>PROPONENT:</b>	<b>WA STATE GOVERNMENT</b>
<b>SITE:</b>	<b>WA LOCAL GOVERNMENT</b>
<b>FILE REFERENCE:</b>	<b>404.01</b>
<b>PREVIOUS REFERENCE:</b>	<b>NA</b>
<b>DATE:</b>	<b>21<sup>st</sup> AUGUST 2019</b>
<b>AUTHOR:</b>	<b>10.3.4</b>

**SUPPORTING DOCUMENTS:**

Ref	Title	Attached to Report	Under Separate Cover
10.3.4(a)	WALGA Draft Submission		✓
10.3.4(b)	WALGA Info Page	✓	

**DISCLOSURE OF INTEREST**

Nil

**BACKGROUND**

The WA State Government Legislative Council passed a motion to establish a Select Committee into Local Government.

The Western Australian Local Government Association (WALGA) InfoPage (see **Attachment 10.3.4(b)**) explains the Terms of Reference of this Committee.

**COMMENT**

WALGA has produced a Draft Submission to be presented to the Select Committee (see **Attachment 10.3.4(a)** provided under separate cover) which presents a significant collection of comments based predominantly on previous data collected from the industry through various other process (e.g. LG Act review).

I believe the WALGA Draft Submission covers the areas identified in the Select Committee's Terms of Reference quite extensively and they should be congratulated on this effort, given such short notice for submissions to be made.

The Select Committee requested submission be made by the 13<sup>th</sup> August 2019, which was unrealistic given the initial notice of this Committee was not received until late July 2019, making it difficult to accommodate the monthly meeting cycle most local governments function under.

WALGA has been successful in extending the submission period to the 13<sup>th</sup> September 2019.

Following are some observations and comments I have made on the WALGA Draft Submission:

- a) Size & Scale Compliance Regime (Page 11) – This could probably go further by stressing the irrelevance of most Standards forced upon local government by the Australian Accounting Board (AAB) to the smaller local government authorities. The one size fits all taken by the AAB when imposing Standards across the nation is frustrating and resource consuming with little or no benefit on most occasions.



- b) The Minister needs to have the discretion to endorse or ignore AAB Standards based on the local benefit to the local government and community.
- c) Rates, Fees & Charges (Pages 12 to 14) - The current legislative process for the imposition of differential rate is poorly timed and steeped in bureaucratic red tape. This process should be revised to remove the legislative burden, specifically the need to seek Ministerial approval in some instances. Ministerial input should only be required if the community feedback (after advertising) requests this action.
- d) Emergency Management (Pages 22 to 23) – All areas of emergency management should be the responsibility of one head of power under legislation (i.e. DFES). Local government responsibility for the Bushfire Act, 1954, should be reallocated to DFES, which would result in all facets emergency management being part of DFES. Individual Local Governments could then choose to take on the role of an agent to DFES if they wish and continue the *local government – volunteer* structure currently in place.
- e) Grants (Page 45) – The terminology needs to be changed from “*Financial Assistance Grants*” to “*Commonwealth Revenue Allocations*” to remove the perception local governments are grant reliant and stress the fact this is an *as-of-right revenue stream* for local governments to provide services. The revenue allocated to all other State & Commonwealth departments/organisations is based on the revenue needed for them to provide the government services relevant to their department/organisation. Why should local government be any different to Police, Education, Health, etc.?

**STATUTORY ENVIRONMENT**

*Local Government Act, 1995 and associated Regulations*

**POLICY/PROCEDURE IMPLICATIONS**

No Policy or Procedure directly affected

**FINANCIAL IMPLICATIONS**

No financial implications envisaged.

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

No effect on the LTFP envisaged.

**STRATEGIC IMPLICATIONS**

The Select Committee is seeking feedback on the review into local government so it is wise to highlight any concerns or issues we may have.

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

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

**CONSULTATION**

The Legislative Council Select Committee is consulting with the local government industry seeking feedback.

## RISK ASSESSMENT

I believe the risk in this instance is *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.

## COUNCIL RESOLUTION / STAFF RECOMMENDATION

**MOVED: CR WARR**

**SECONDED: CR BATTEN**

Council congratulate the Western Australian Local Government Association on their excellent Draft Submission in response to the Legislative Council Select Committee's into Local Government Discussion Paper and provide the following additional comments for consideration:

- a) Size & Scale Compliance Regime (Page 11) – This could probably go further by stressing the irrelevance of most Standards forced upon local government by the Australian Accounting Board (AAB) to the smaller local government authorities. The one size fits all taken by the AAB when imposing Standards across the nation is frustrating and resource consuming with little or no benefit on most occasions.

The Minister needs to have the discretion to endorse or ignore AAB Standards based on the local benefit to the local government and community.

- b) Rates, Fees & Charges (Pages 12 to 14) - The current legislative process for the imposition of differential rate is poorly timed and steeped in bureaucratic red tape. This process should be revised to remove the legislative burden, specifically the need to seek Ministerial approval in some instances. Ministerial input should only be required if the community feedback (after advertising) requests this action.
- c) Emergency Management (Pages 22 to 23) – All areas of emergency management should be the responsibility of one head of power under legislation (i.e. DFES). Local government responsibility for the Bushfire Act, 1954, should be reallocated to DFES, which would result in all facets of emergency management being part of DFES. Individual Local Governments could then choose to take on the role of an agent to DFES if they wish and continue the *local government – volunteer* structure currently in place.
- d) Grants (Page 45) – The terminology needs to be changed from “*Financial Assistance Grants*” to “*Commonwealth Revenue Allocations*” to remove the perception local governments are grant reliant and stress the fact this is an *as-of-right revenue stream* for local governments to provide services. The revenue allocated to all other State & Commonwealth departments/organisations is based on the revenue needed for them to provide the government services relevant to their department/organisation. Why should local government be any different to Police, Education, Health, etc.?

**Voting 7/0  
CARRIED  
Minute Reference: 08/19-11**

# INFOPAGE

**To: All Elected Members and Local Government Officers**      **From: Tony Brown**  
**Executive Manager, Governance and Organisational Services**

**Date: 9 July 2019**  
**Priority: High**



**Subject: Select Committee into Local Government**

## IN BRIEF:

Operational Area:	<b>Chief Executive Officer – Council</b>
Key Issues:	<ul style="list-style-type: none"> <li>• The Legislative Council passed a motion to establish a Select Committee into Local Government.</li> <li>• The Terms of Reference are broad and listed below</li> <li>• WALGA will prepare a draft submission for sector input</li> <li>• Local Governments are encouraged to prepare submissions and request an appearance before the Committee.</li> </ul>
Action Required:	<b>Note: Feedback on WALGA's draft submission required between 26 July and 13 August 2019</b>

The Legislative Council passed a motion to establish a Select Committee into Local Government. The motion is as per below incorporating the terms of reference;

- (1) That a Select Committee into Local Government is established.
- (2) The Select Committee is to inquire into how well the system of Local Government is functioning in Western Australia, with particular reference to —
  - (a) whether the *Local Government Act 1995* and related legislation is generally suitable in its scope, construction and application;
  - (b) the scope of activities of Local Governments;
  - (c) the role of the Department of State administering the *Local Government Act 1995* and related legislation;
  - (d) the role of Elected Members and Chief Executive Officers/employees and whether these are clearly defined, delineated, understood and accepted;
  - (e) the funding and financial management of Local Governments; and
  - (f) any other related matters the Select Committee identifies as worthy of examination and Report.
- (3) The Select Committee shall comprise five Members.
- (4) The Select Committee shall report by no later than 12 months after the motion for its establishment is agreed to and may, if it sees fit, provide interim reports to the House.

The membership of the Select Committee is as follows:

Chair: Hon Simon O'Brien, MLC  
 Deputy Chair: Hon Laurie Graham, MLC  
 Members: Hon Diane Evers, MLC  
 Hon Martin Aldridge, MLC  
 Hon Charles Smith, MLC

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[www.walga.asn.au](http://www.walga.asn.au)



The Select Committee has advised that submissions are being called and close on 23 August 2019.

WALGA's process for preparing a submission and assisting the sector is as follows;

- WALGA will prepare a draft Submission for sector input and also for Local Governments to use the information in their own submissions.
- The draft submission will be circulated to Local Governments for sector input on 26 July and we request feedback by 13 August 2019.
- Following the receipt of any feedback, WALGA will review the feedback from the sector and finalise an interim submission to be considered by State Council's Executive Committee by the due date of 23 August 2019.

WALGA encourages all Local Governments to provide submissions and to request to appear before the Select Committee.

It is important to make the distinction between the Select Committee process and the Local Government Act Review process. These are separate and unrelated processes. The Minister for Local Government is continuing with phase two of the Act review process which is working towards the development of a new Local Government Act.

WALGA will keep the sector informed as to the progress of the Select Committee.

**For further information please contact:**

Executive Manager, Governance and Organisational Services  
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[tbrown@walga.asn.au](mailto:tbrown@walga.asn.au)

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<b>AGENDA ITEM:</b>	<b>10.3.5</b>
<b>SUBJECT:</b>	<b>BATAVIA LOCAL EMERGENCY MANAGEMENT ARRANGEMENTS</b>
<b>PROPONENT:</b>	<b>CITY OF GREATER GERALDTON, SHIRES OF CHAPMAN VALLEY &amp; NORTHAMPTON</b>
<b>SITE:</b>	<b>BATAVIA LOCAL EMERGENCY MANAGEMENT COMMITTEE LOCAL GOVERNMENT AREAS</b>
<b>FILE REFERENCE:</b>	<b>403.09</b>
<b>PREVIOUS REFERENCE:</b>	<b>NIL</b>
<b>DATE:</b>	<b>21<sup>st</sup> AUGUST 2019</b>
<b>AUTHOR:</b>	<b>MAURICE BATTILANA</b>

**SUPPORTING DOCUMENTS:**

Ref	Title	Attached to Report	Under Separate Cover
10.3.5(a)	Draft Batavia Local Emergency Management Arrangements		✓
10.3.5(b)	Current Shire of Chapman Valley Local Emergency Management Arrangements		✓
10.3.5(c)	Coronation Beach Nature Based Camping Ground & Other Coastal Nodes Hazard Management Plan 2016		✓

**DISCLOSURE OF INTEREST**

Nil

**BACKGROUND**

The Shires of Chapman Valley, Northampton and the City of Greater Geraldton established the Batavia Local Emergency Management Committee (BLEMC) some years ago with the intent to remove administrative duplications and deal with emergency management on a regional, rather than individual basis. This has been a successful approach to emergency management across the three local government authorities, with one of the focusses being to remove cross-boundary anomalies across the three districts. An example of this cross-boundary anomaly issue being addressed is the recent success with the three LGAs endorsing standard Restricted and Prohibited Burning period across all the LGA areas.

**COMMENT**

Another challenge the BLEMC has taken on is to develop one Local Emergency Management Arrangement (LEMA) document, rather than the current situation of there being different and conflicting LEMAs across the three local governments. This has been a major exercise, which has taken a significant amount of time and resources, yet the outcome now being a draft Batavia LEMA being developed and presented for Council consideration and endorsement (see **Attachment 10.5.3(a)** provided under separate cover).

I have also attached a copy of the Shire of Chapman Valley’s current LEMA, which were adopted in 2014 and last updated in 2016 (see **Attachment 10.5.3(b)** provided under separate cover). It appears the existing LEMA update may need to occur beforehand if the Batavia LEMA takes an extended period of time. If this is the case the Staff Recommendation reflects the delegation being given to the CEO to complete this review as well.

The one area I feel perhaps needs to be considered in the draft Arrangements is the need for individual local government hazard management plans listed in the Arrangements being addendums to the document and provided under separate cover. An example is the Shire of Chapman Valley’s “*Coronation Beach Nature Based Camping Ground & Other Coastal Nodes Hazard Management Plan 2016*” (see **Attachment 10.5.3(c)** provided under separate cover).

The other two local governments will no doubt have plans specific to their districts, which perhaps shouldn’t be part of the generic Batavia LEMA, yet should be referred to and available as addendums under separate cover.

## STATUTORY ENVIRONMENT

*Emergency Management Act - Division 2 — Emergency management arrangements for local governments*

Section 41 - Emergency management arrangements in local government district

- (1) *A local government is to ensure that arrangements (**local emergency management arrangements**) for emergency management in the local government's district are prepared.*
- (2) *The local emergency management arrangements are to set out —*
  - (a) *the local government's policies for emergency management;*
  - (b) *the roles and responsibilities of public authorities and other persons involved in emergency management in the local government district;*
  - (c) *provisions about the coordination of emergency operations and activities relating to emergency management performed by the persons mentioned in paragraph (b);*
  - (d) *a description of emergencies that are likely to occur in the local government district;*
  - (e) *strategies and priorities for emergency management in the local government district;*
  - (f) *other matters about emergency management in the local government district prescribed by the regulations; and*
  - (g) *other matters about emergency management in the local government district the local government considers appropriate.*
- (3) *Local emergency management arrangements are to be consistent with the State emergency management policies and State emergency management plans.*
- (4) *Local emergency management arrangements are to include a recovery plan and the nomination of a local recovery co-ordinator.*
- (5) *A local government is to deliver a copy of its local emergency management arrangements, and any amendment to the arrangements, to the SEMC as soon as is practicable after they are prepared.*

## POLICY/PROCEDURE IMPLICATIONS

The LEMA forms part of the local governments procedures when dealing with emergencies, hazards and recovery from such events.

## FINANCIAL IMPLICATIONS

No cost has been incurred by the Shire in the development of the draft Batavia LEMA other staff time.

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

No effect on the LTFP is envisaged.

## STRATEGIC IMPLICATIONS

The basis and rationale upon which the BLEMC was established was to remove administrative duplications, cross-boundary anomalies and to work regionally in event of a natural disaster or hazardous event. The establishments of the Batavia LEMA is an integral part of this process.

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

Ref	Objective	Strategy	Action
1.2	Strengthen our advocacy role and regional partnerships to support the provision of local services and facilities	Maintain close relationships with neighbouring shires and regional bodies	Participate in and advocate for regional resource sharing and cross-boundary cooperation. Participate in and advocate for regional resource sharing and cross-boundary cooperation.

## CONSULTATION

There has been an extensive consultation process amongst staff at the three local government authorities in developing the draft Batavia LEMAs. This has also been a regular item on the BLEMC Meeting Agendas with staff being required to provide the Committee with updates on the progress in developing the Arrangements.

The usual process is for the Batavia LEMC to consider the Arrangements before they come back to the individual local government authorities for consideration and final endorsement.

The final process is for LGA endorsed Arrangements to be presented to the State Emergency Management Committee for approval, after which they become active.

I have purposely brought the draft Batavia LEMAs to Council attention now so direction can be given to the Shire's BLEMC representatives to put forward any comments, amendments, etc. to the BLEMC as part of the consideration process.

If significant amendments are advocated by the BLEMC the draft Arrangements will be brought back to Council for reconsideration. If, however, the changes are minor or insignificant then the Staff Recommendation is to delegate authority to the Chief executive Officer to endorse such amendments on behalf of the Shire (in consultation with the Shire's BLEMC representatives).

## RISK ASSESSMENT

Measures of Consequence							
Rating (Level)	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment
<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
<b>Minor (2)</b>	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

**COUNCIL RESOLUTION / STAFF RECOMMENDATION**

**MOVED: CR BATTEN**

**SECONDED: CR HUMPHREY**

1. Council endorse the Draft Batavia Local Emergency Management Arrangements as presented with the following comment:
  - a. Individual local government hazard management plans be listed in the Arrangements as addendums to the document and provided under separate cover.
2. Council delegate authority to the Chief Executive Officer (in consultation with Council representatives on the Batavia Local Emergency Management Committee) to deal with minor amendments to the Draft Batavia Local Emergency Management Arrangements as part of the finalisation of the document. In the event the Chief Executive Officer determines any proposed amendments to the Draft Arrangements as being significant then this matter is to be presented back to Council for further consideration.
3. Council delegate authority to the Chief Executive Officer to undertake amendments to the existing Shire of Chapman Valley Local Emergency Management Arrangements in the event the introduction of the new Batavia Local Emergency Management Arrangements is delayed to ensure legislative compliance.

**Voting 7/0**  
**CARRIED**  
**Minute Reference: 08/19-12**



**11.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

Nil

**13.0 DELEGATES REPORTS**

- Cr Farrell apologised for not making WALGA Local Government Week. Also advised he had been in discussion relating to DNTC & ONIC with various parties.
- Cr Forth advised he had attended the Chapman Valley Agricultural Society meeting and they are well underway with being ready for the 70<sup>th</sup> Show.
- Cr Forrester attended a Parkfalls Residents Association meeting.
- Crs Batten, Warr & Humphrey advised they attended Local Government Week and CEO stating the calibre of speakers was outstanding.

**14.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

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

Nil

**16.0 CLOSURE**

The President thanked Elected Members and Staff for their attendance and closed the meeting at 10.54am.