



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

Simon Lancaster
ACTING CHIEF EXECUTIVE OFFICER

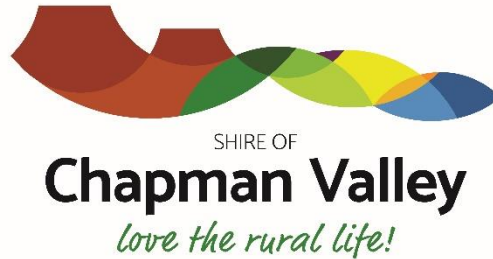
CONFIRMED MINUTES

SEPTEMBER 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.

Simon Lancaster
ACTING CHIEF EXECUTIVE OFFICER

INDEX

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

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

(Note: Quorum = 4 Elected Members)

3.1 ATTENDEES

3.2 APOLOGIES

3.3 PREVIOUSLY APPROVED LEAVE OF ABSENCE

4.0 PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.2 PUBLIC QUESTION TIME

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

6.0 DISCLOSURE OF INTEREST

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 PETITIONS

7.2 PRESENTATIONS

7.3 DEPUTATIONS

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

8.1 Ordinary Meeting of Council – 21 August 2019 *(Previously provided under separate cover)*

9.0 ITEMS TO BE DEALT WITH EN BLOC

10.0	OFFICERS REPORTS	PAGE NO.
10.1	DEPUTY CHIEF EXECUTIVE OFFICER	7
	10.1.1 Proposed Repurposed Dwelling -1737 (Lot 154) NWC Highway, Buller	
	10.1.2 Proposed Outbuilding - 38 (Lot 112) Wokarena Road, Buller	
	10.1.3 Shire of Chapman Valley Local Planning Strategy	
10.2	MANAGER OF FINANCE & CORPORATE SERVICES	50
	10.2.1 Financial Reports for August 2019	
10.3	CHIEF EXECUTIVE OFFICER	53
	No Report	
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	
13.0	DELEGATES REPORTS	
14.0	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	
15.0	MATTERS FOR WHICH MEETING TO BE CLOSED TO MEMBERS OF THE PUBLIC	
	Nil	
16.0	CLOSURE	

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

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

b. Staff

Officer	Position
Mr Simon Lancaster	Acting Chief Executive Officer
Mrs Dianne Raymond	Manager Finance and Corporate Services (Minute Taker)

c. Visitors

Name
NIL

3.2 Apologies

Name	
Mr Maurice Battilana	Chief Executive Officer
Mrs Karen McKay	Executive Services Administrator (Minute Taker)

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

Councillor	OCM Month & Year	Date Approved	Minute Reference
Cr Forth	November 2019 OCM	21 August 2019	08/19-1

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)

Nil

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
10.1.1	Cr Forth	Impartiality	Related to applicant

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 FORTH

SECONDED: CR FORRESTER

8.1 Ordinary Meeting of Council held on Wednesday 21 August 2019

That the minutes of the Ordinary Meeting of Council held Wednesday 21 August 2019 be confirmed as a true and accurate.

**Voting 7/0
CARRIED
Minute Reference: 09/19-1**

9.0 ITEMS TO BE DEALT WITH EN BLOC

Nil

10.0 OFFICERS REPORTS

10.1

Deputy Chief Executive Officer

September 2019

Contents

10.1 AGENDA ITEMS

10.1.1 Proposed Repurposed Dwelling -1737 (Lot 154) NWC Highway, Buller

10.1.2 Proposed Outbuilding - 38 (Lot 112) Wokarena Road, Buller

10.1.3 Shire of Chapman Valley Local Planning Strategy

AGENDA ITEM:	10.1.1
SUBJECT:	PROPOSED REPURPOSED DWELLING, BULLER
PROPONENT:	S. FORTH
SITE:	1737 (LOT 154) NWC HIGHWAY, BULLER
FILE REFERENCE:	A2083
PREVIOUS REFERENCE:	05/19-4
DATE:	9 SEPTEMBER 2019
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENT:

Ref	Title	Attached to Report	Under Separate Cover
10.1.1(a)	Submitted application	√	
10.1.1(b)	Received submissions	√	

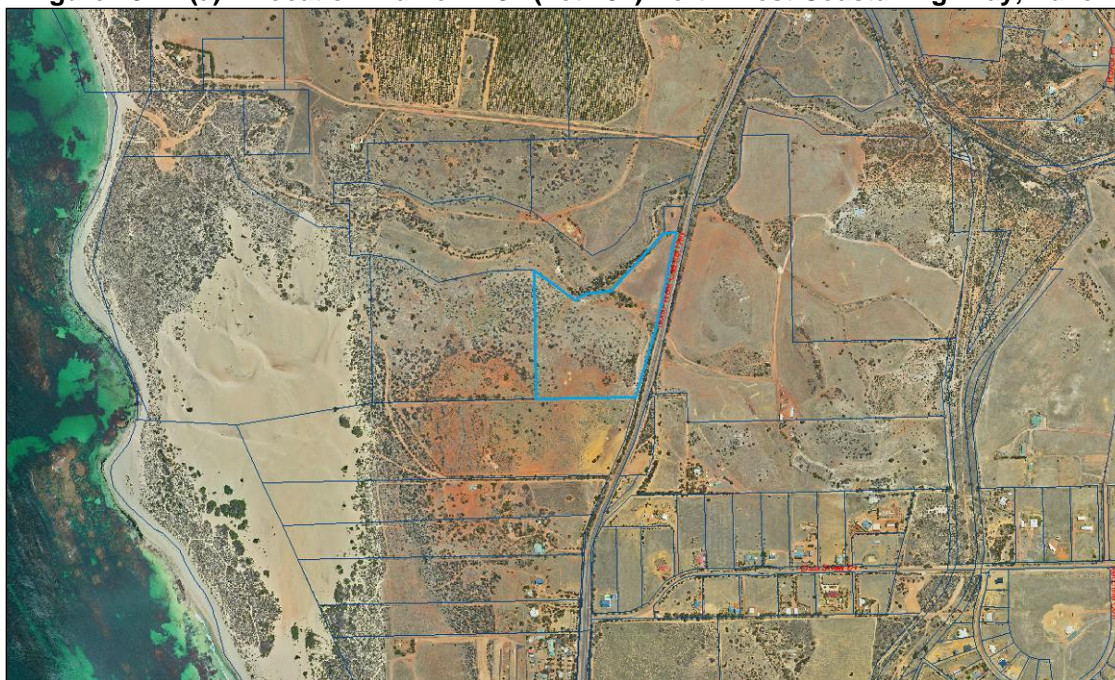
DISCLOSURE OF INTEREST

Nil.

BACKGROUND

Council is in receipt of an application for the siting of 3 transportable buildings upon 1737 (Lot 154) North West Coastal Highway, Buller. The application has been advertised for public comment and 2 submissions were received, one of these being in objection. This report recommends conditional approval of the application.

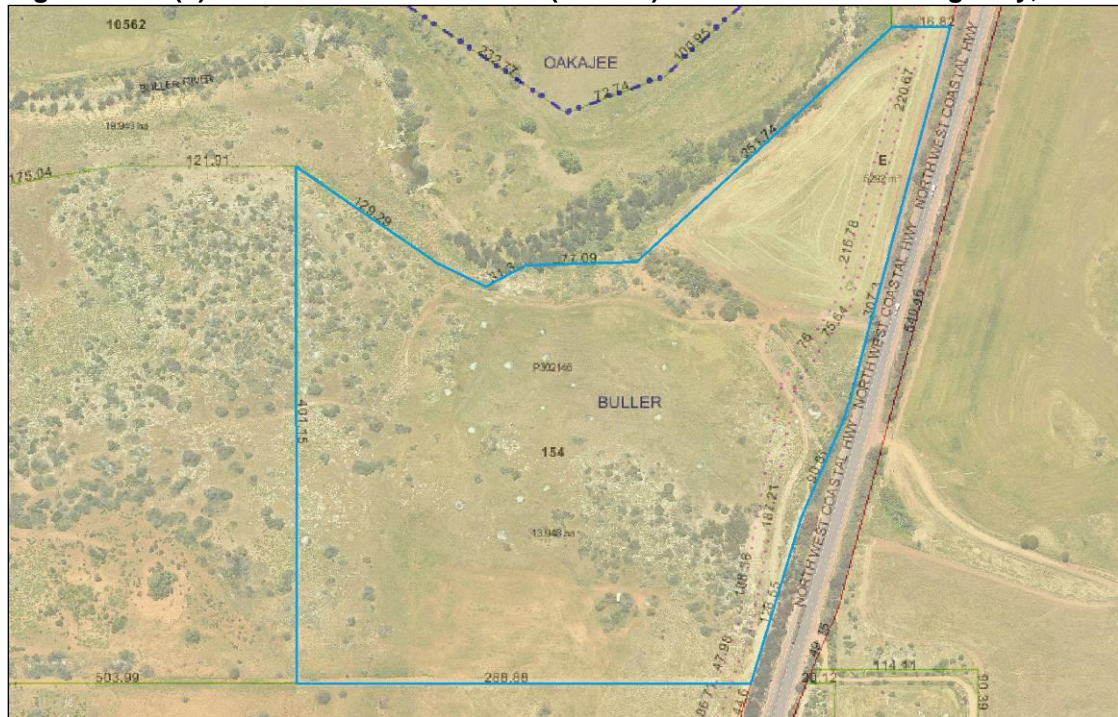
Figure 10.1.1(a) – Location Plan of 1737 (Lot 154) North West Coastal Highway, Buller



COMMENT

Lot 154 North West Coastal Highway, Buller is a vacant, largely cleared 13.948ha property located on the western side of the highway immediately south of the Buller River. The southern 4ha portion of the property is a slightly sloping plateau situated at the 45-40m contour, the mid 7ha section then slopes down significantly from the 40m to the 20m contour and the northern 3ha portion is a relatively flat triangular area adjoining the Buller River.

Figure 10.1.1(b) – Aerial Photo of Lot 1737 (Lot 154) North West Coastal Highway, Buller



Council approved an application at its 15 May 2019 meeting for a 192m² (135m² enclosed and 57m² unenclosed) zincalume clad outbuilding with a wall height of 3m and a total height of 3.974m upon Lot 154.

An application has now been received seeking approval for siting of 3 transportable buildings immediately to the north of the now constructed outbuilding upon Lot 154 and the undertaking of additional works to repurpose them into a dwelling. A copy of the applicant's submitted site, floor and elevation plans have been included as **Attachment 10.1.1(a)** to this report.

Figure 10.1.1(c) – View of Lot 154 looking south-west from North West Coastal Highway



The applicant is seeking approval to site 2 transportable buildings upon Lot 154, each of the buildings would be 32.5m² (each comprising a 19.5m² enclosed area and 13m² verandah area). The buildings would be located 5.03m north of the existing outbuilding and separated by a distance of 2.15m from each other.

The area between the 2 transportable buildings and the existing outbuilding would be the location for the siting of a third transportable building effectively linking them. The 3rd building would be a 13.89m² transportable ablutions building, 3m x 4.63m with a skillion roof and 2.1m wall height and 2.4m total height.

The transportable buildings would be zincalume clad to match the existing outbuilding and have timber skirting between the floor level and ground level.

Figure 10.1.1(d) – View looking north towards Lot 154 from neighbouring property



It is noted in the consideration of this application that:

- the total development area is relatively minor being 78.89m²;
- the development would appear incidental to the immediately adjoining 192m² outbuilding, particularly given the proposed development would have a maximum height of 2.4m compared to the outbuilding's 3.794m overall height;
- the proposed development would utilise complementary zincalume materials to the existing outbuilding to provide a uniformity of built form, and there is the ability for Council to require additional connecting works to ensure that the development has a cohesive visual appearance;
- the proposed development's visual impact as viewed from the North West Coastal Highway would be reduced by it being set against the backdrop of the larger existing outbuilding and it would be setback approximately 130m from the North West Coastal Highway carriageway;
- the proposed development would be located 78m from the nearest (southern) side property boundary and would be obscured from this property by the intervening outbuilding;
- the proposed development would be located 232m from the other (western) adjoining property boundary;
- Lot 154 is 13.948ha in area and the proposed development is relatively small-scale when considered against the overall lot size;
- there is the ability to screen the development from the highway though planting of landscaping;
- discussions with the landowner have indicated that they wish to utilise the development as their residence initially with the longer term intention of constructing a main residence on-site, hence the small scale of the proposed development so that it can subsequently be deemed to comply with the Ancillary Dwelling 'granny flat' policy requirements;
- the introduction of the ability to reside on Lot 154 would assist the landowner in commencing their landscaping works as well as assisting with security for the existing outbuilding;
- Council could require lodgement of a bond by the applicant to ensure that the works are completed to its satisfaction within a period of 12 months.

STATUTORY ENVIRONMENT

Lot 154 North West Coastal Highway, Buller is zoned 'Urban Development' under the Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme') the objectives for which are listed in Table 1 as being:

- “• To provide an intention of future land use and a basis for more detailed structure planning in accordance with the provisions of this Scheme.

- *To provide for a range of residential densities to encourage a variety of residential accommodation.*
- *To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.”*

The proposed siting of 3 transportable buildings to create a habitable building is considered to meet the definition of a ‘Repurposed Dwelling’ which is defined by the Scheme as follows:

“repurposed dwelling means a building or structure not previously used as a single house, which has been repurposed for use as a dwelling.”

‘Repurposed Dwelling’ is listed under the Scheme as a use that must be advertised for comment prior to being presented to Council for its determination in the ‘Urban Development’ zone.

Section 37 of the Scheme states:

- (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.”*

Clause 67 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by Council 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;*
- (h) any structure plan, activity centre plan or local development plan that relates to the development;...*
- ...(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;*
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;...*
- ...(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

Part 2 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides for the Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area.

The Shire of Chapman Valley Relocated Buildings Local Planning Policy has the objective of ensuring that any development proposing to use a second hand building or second hand cladding material meets acceptable aesthetic and amenity requirements in the locality for which it is proposed.

The Relocated Buildings Policy has the following general requirements:

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

The Relocated Buildings Policy also states that:

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

- (a) A bond, of at least 5% of the estimated value of an equivalent new building, to a maximum of \$5,000 and minimum of \$1,000.*
- (b) A statutory declaration, signed by the applicant(s) and appropriately witnessed, indicating that the bond will be forfeited to Council if:*
 - (i) The works described in the application are not carried out within the timeframe indicated;*
 - (ii) Within 12 months of the date of the agreement, the development does not reach a point where externally it appears complete; and*
 - (iii) Any notice duly served upon the builder is not promptly complied with.*
- (c) Bond moneys will only be refunded (if not forfeited) after works required to prevent forfeiture have been carried out to the satisfaction of the Shire’s Building Surveyor and/or Planning Officer.”*

In the event that the landowner proceeds with the later construction of a residence upon Lot 154, to the immediate west of the outbuilding as they have indicated, then the proposed development, being 78.89m² would comply with the 60m² maximum habitable floor area/120m² maximum total roof area requirements of the Shire of Chapman Valley Ancillary Dwellings Local Planning Policy.

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 Relocated Buildings Local Planning Policy notes that Council may require the applicant to lodge a bond, of at least 5% of the estimated value of an equivalent new building, to a maximum of \$5,000 and minimum of \$1,000. The policy also notes that bond moneys will only be refunded (if not forfeited) after works required to prevent forfeiture have been carried out to the satisfaction of the Shire.

The landowner has sited the relocatable buildings upon Lot 154 without approval. In the event that Council refuses the application and the buildings are not removed from Lot 154 enforcement action would be required to be commenced. An offence under the *Planning and Development Act 2005* carries a maximum penalty of up to \$200,000 and in the case of a continuing offence, a further maximum fine of \$25,000 for each and every day during which the offence continues.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 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

1737 (Lot 154) North West Coastal Highway, Buller is contained within Planning Precinct No.7 – South West in the Shire of Chapman Valley Local Planning Strategy (2008). The Vision for this Precinct is as follows:

“The planned expansion of the south west area of the Shire, whilst taking into consideration the plans and policies of other local and regional government authorities.”

The Strategy also identifies the following objectives relevant to this application:

“7.1.1 Support the planned expansion of urban with potable reticulated scheme water as identified on the Greater Geraldton Structure Plan 1999 with due regard to land capability/suitability, demand and servicing.”

“7.2.1 Accommodate urban growth sympathetic to rural lifestyle based on appropriate structure planning.”

“7.3.2 Protect and enhance the visual amenity in areas of visual prominence.”

Lot 154 and the Buller ‘Urban Development’ zone is identified in the Greater Geraldton Structure Plan (2011) prepared by the WAPC as being ‘Future Urban’ with Section 3.1.1 of the accompanying report noting that:

“An area of approximately 1,700ha is identified as ‘future urban’ in the Greater Geraldton Structure Plan 2011 to guide the direction of long-term urban expansion. The bulk of this area identified is located at Buller and around Cape Burney, which are at the extremities of the northern and southern coastal corridors respectively.”

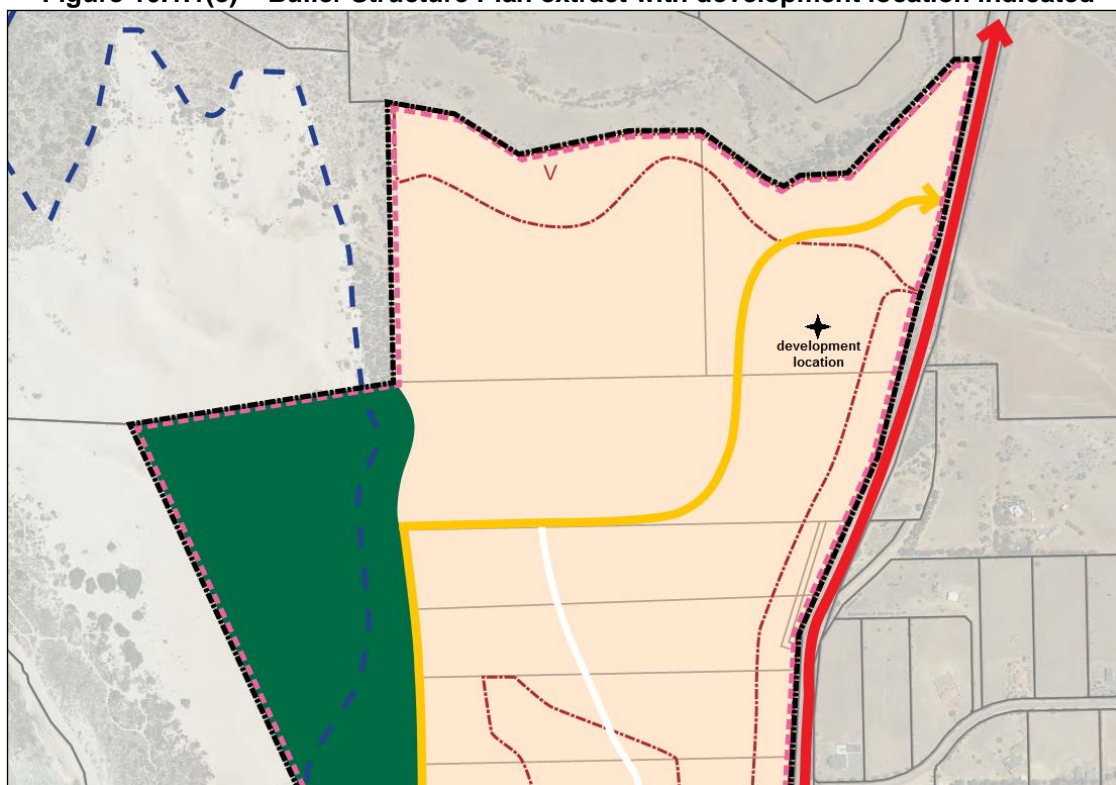
The Buller Structure Plan was adopted by Council at its 17 June 2015 meeting and subsequently given final approval by the Western Australian Planning Commission (‘WAPC’) on 1 February 2016. Section 5.2.1 of the structure plan document assigns a base density code of R5 for lots within the structure plan area.

Lot 154 is the northern most lot in the Buller Structure Plan area and it is considered that the Buller ‘Urban Development’ zone has a long-term timeframe for subdivision due to servicing issues and costs and presently low demand. Further it is considered likely that the subdivision/development front would move south to north from Drummond Cove and available service connections, meaning that Lot 154 may well remain unsubdivided for some time. In addition, the topography of Lot 154 makes it unlikely that the property will be subdivided down to a standard R5/2,000m² subdivision layout.

The existing outbuilding and proposed ancillary development are sited so as to not conflict with the Buller Structure Plan future subdivisional road network as illustrated in **Figure 10.1.1(e)**.

Given that the proposed development upon Lot 154 is visible from the tourism route of North West Coastal Highway it is considered reasonable for Council to require that improvements be made to the visual appearance of the buildings, and that they be required to be completed in a timely manner.

Figure 10.1.1(e) – Buller Structure Plan extract with development location indicated



- **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

The Scheme Zoning Table and Section 4.5 of the Shire's Relocated Buildings Local Planning Policy require advertising of the application prior to the matter being presented to Council for its determination.

The Shire wrote to the 9 landowners within 500m of Lot 154 on 5 August 2019 providing details of the application and inviting comment upon the proposal prior to 30 August 2019.

At the conclusion of the advertising period 2 submissions had been received, 1 expressing indifference to the application, and the other querying the application and raising objection. Copies of the received submissions have been provided as **Attachment 10.1.1(b)**.

The applicant was provided with the opportunity to respond to the issues raised in objection and they have advised as follows:

"In relation to the objection by Ms McLaren. We can confirm there is no extra transportables to be delivered to site. Should the approval be granted, works to the transportables will be carried out in line with the submitted plans and engineering. We have also submitted plans and an application to the Health Department for a sewage treatment apparatus. Further to this application, the landowner will be beautifying the area with landscaping, painting and extra timber works to make sure his home is appealing to both his family and any public. The transportables are quite small in relation to the existing shed directly next to them, which completely overshadows these buildings, and with the landscaping will be almost invisible to neighbouring properties.

The landowner has lived on this property for decades and has every intention to spend many more decades living on this property in harmony with his surrounding neighbours.

Should this application be denied the transportables will be picked up and removed from site immediately, as they are not connected to any services and not fixed to any permanent structure, If

planning and building approval is granted the buildings will be immediately secured in a permanent manner as proposed in the plans and engineering, supervised by a qualified builder.

As there was no actual objection, only a question, we feel this question has been answered and so too the objection.”

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 FORRESTER

That Council grant formal planning approval for a repurposed dwelling upon 1737 (Lot 154) North West Coastal Highway, Buller subject to the following conditions:

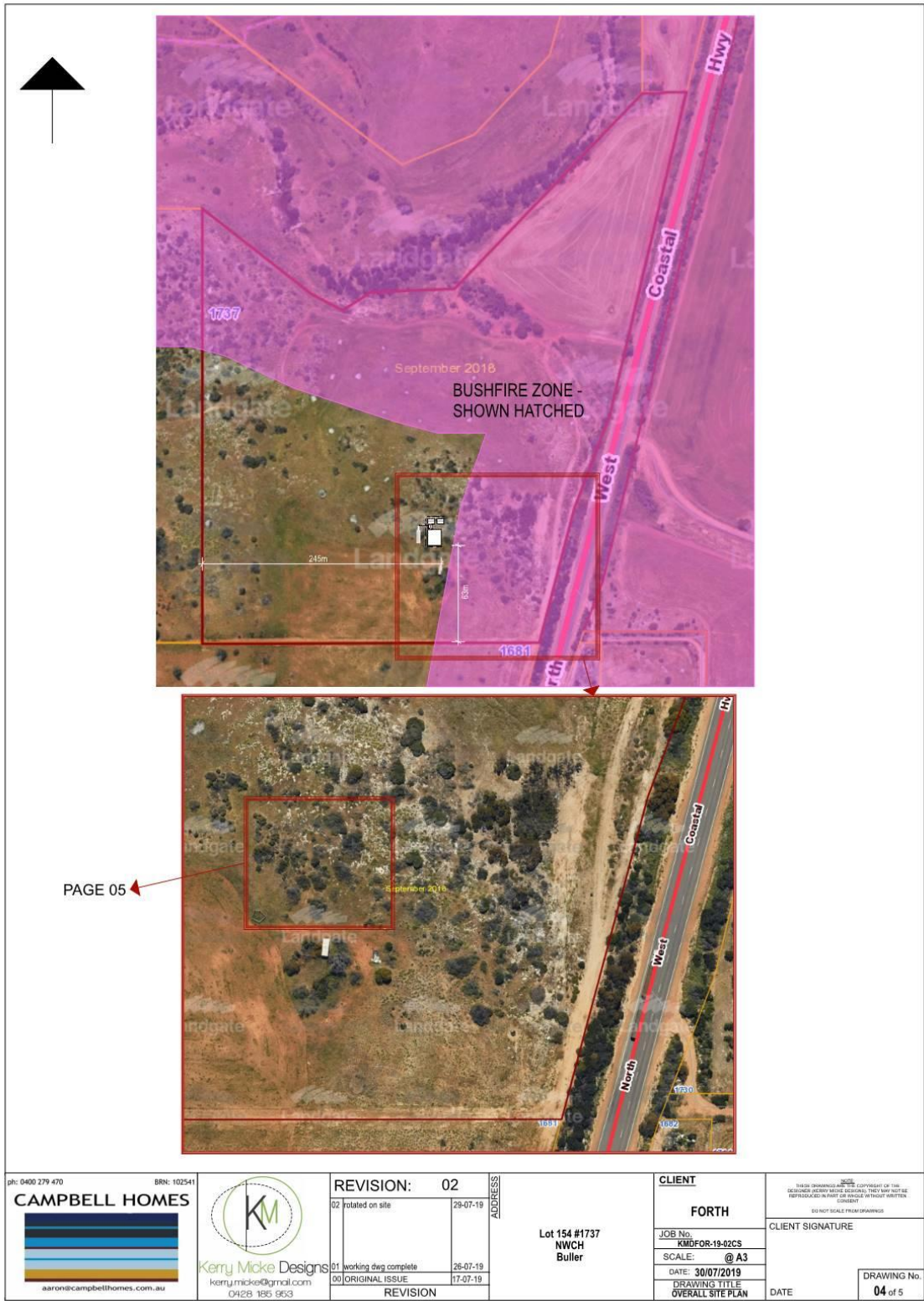
- 1 Development shall be in accordance with the attached approved plans dated 18 September 2019 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The development is required to include works to the satisfaction of the local government to improve its visual appearance, inclusive of skirting between the floor level and ground level, and the construction of an open sided (i.e. patio/verandah) that connects the three buildings to give the appearance of one cohesive structure.
- 4 The development is required to be of materials, finish and colours that are complementary to the existing development upon Lot 154 to the satisfaction of the local government.
- 5 Landscaping is required to be installed and maintained between the development and North West Coastal Highway for the purpose of softening the visual impact of the structure to the satisfaction of the local government.
- 6 The building must not be occupied until it is compliant with the Class 1 requirements of the National Construction Code - Building Code of Australia.
- 7 The location, design, construction and maintenance of the vehicle access point into the property shall be to the requirements of Main Roads WA.
- 8 Any lighting devices must be positioned so as to not cause glare to neighbouring properties or vehicles on the North West Coastal Highway to the satisfaction of the local government.
- 9 A bond of \$5,000 must be lodged by the applicant with the local government that will be returned upon completion of the requirements pertaining to the abovementioned conditions within a period of 12 months, and in the event that the works described in the application are not carried out within the 12 month timeframe the bond shall be forfeited to the local government.

Notes:

- (a) In regards to condition 9 should the bond be forfeited then Shire staff will present a report to Council for its consideration outlining how the forfeited bond monies should be expended to address the outstanding conditions.

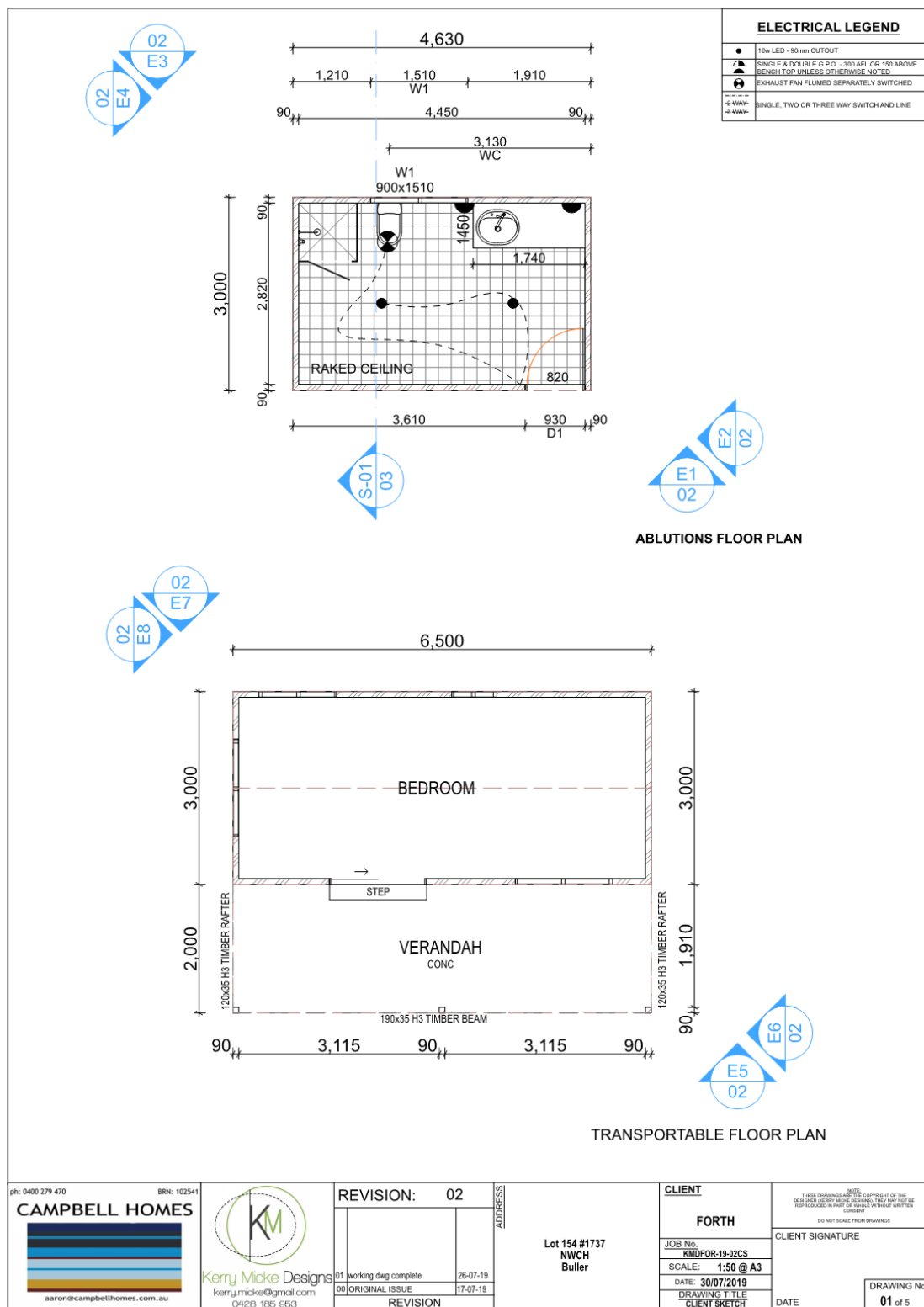
- (b) If an applicant is aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

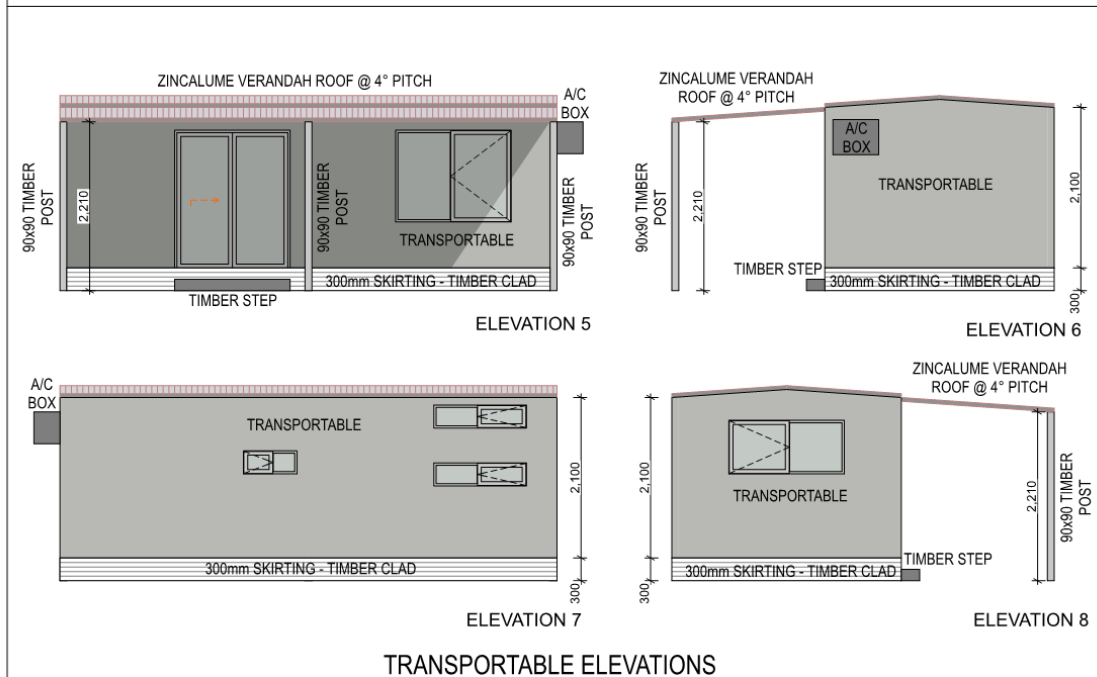
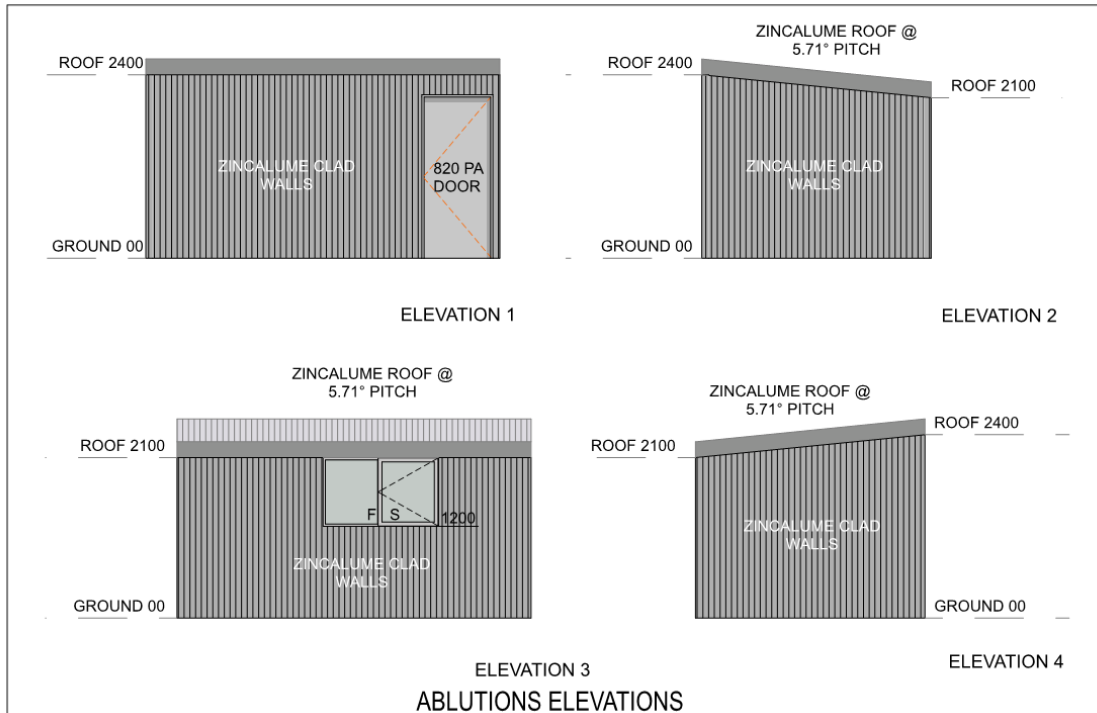
Voting 7/0
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Minute Reference: 09/19-2



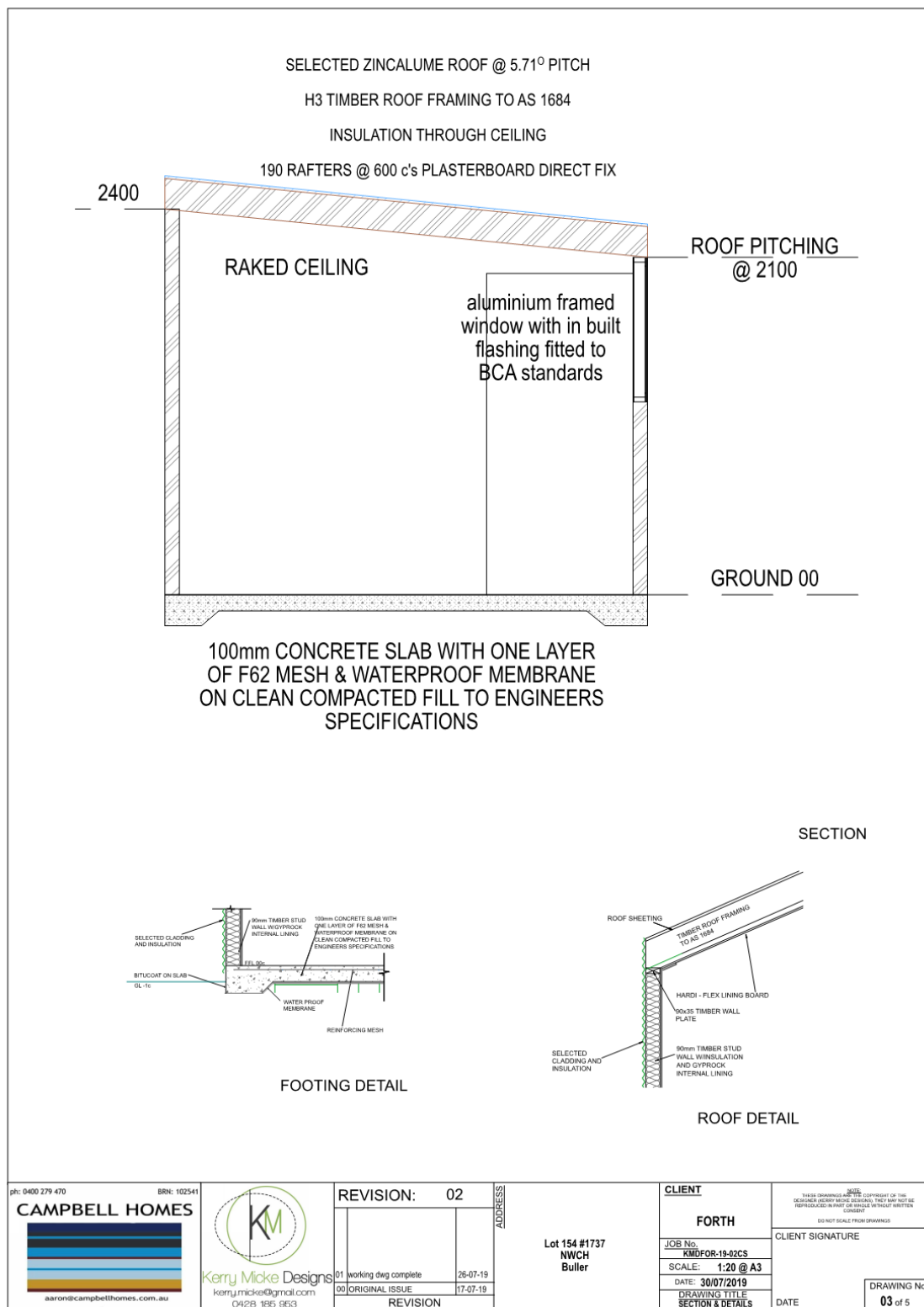


ph: 0400 279 470 CAMPBELL HOMES aaron@campbellhomes.com.au	BRN: 102541 Kerry Micke Designs kerry.micke@gmail.com 0428 186 963	REVISION: 02 <table border="1"> <tr> <td>02</td> <td>rotated on site</td> <td>29-07-19</td> </tr> <tr> <td>01</td> <td>working dwg complete</td> <td>26-07-19</td> </tr> <tr> <td>00</td> <td>ORIGINAL ISSUE</td> <td>17-07-19</td> </tr> </table>	02	rotated on site	29-07-19	01	working dwg complete	26-07-19	00	ORIGINAL ISSUE	17-07-19	ADDRESS Lot 154 #1737 NWCH Buller	CLIENT FORTH JOB No: KMDFOR-19-02CS SCALE: @ A3 DATE: 30/07/2019 DRAWING TITLE: SITE PLAN	THIS IS A PRELIMINARY DESIGN AND NOT A CONTRACT DOCUMENT. IT IS NOT TO BE USED FOR CONSTRUCTION OR ANY OTHER PURPOSE WITHOUT THE WRITTEN CONSENT OF THE DESIGNER. DO NOT SCALE FROM DRAWINGS CLIENT SIGNATURE: _____ DATE: _____ DRAWING No: 05 of 5
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01	working dwg complete	26-07-19												
00	ORIGINAL ISSUE	17-07-19												






		REVISION: 02	ADDRESS Lot 154 #1737 NWCH Buller	CLIENT FORTH		<small>THESE DRAWINGS ARE THE PROPERTY OF THE DRAWING DESIGNER. NO PART OF THESE DRAWINGS SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, WITHOUT THE WRITTEN CONSENT OF THE DRAWING DESIGNER.</small> DO NOT SCALE FROM DRAWINGS CLIENT SIGNATURE DATE DRAWING No. 02 of 5
01	working dwg complete	26-07-19		JOB No.	KMDFOR-19-42CS	
00	ORIGINAL ISSUE	17-07-19		SCALE:	1:50 @ A3	
REVISION				DATE:	30/07/2019	
				DRAWING TITLE ELEVATIONS		










Shire of Chapman Valley
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DEVELOPMENT APPLICATION SUBMISSION FORM

Shire Reference: A2083

**PROPOSED REPURPOSED DWELLING
LOT 154 NORTH WEST COASTAL HIGHWAY, BULLER**

Name: Jessica McLaren

Postal Address: 25 Eliza Shaw Drive, Buller.

Phone Number: [REDACTED]

SUBMISSION: ☐ Support ☒ Object ☐ Indifferent

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

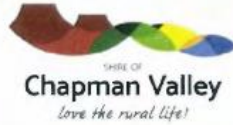
Can the Shire please clarify if this is in addition to the buildings that have already been placed / constructed at the site. From our property, it appears that there is an existing shed (as stated in this proposal) and additional outbuildings/transportables already in place.

Signature: J McLaren Date: 24/8/2019

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

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

Submissions Close: 4:00pm Friday 30 August 2019



DEVELOPMENT APPLICATION SUBMISSION FORM

Shire Reference: A2083

PROPOSED REPURPOSED DWELLING LOT 154 NORTH WEST COASTAL HIGHWAY, BULLER

Name: Simon Thomson - Development Manager LandCorp

Postal Address: Level 6, 40 The Esplanade Perth WA 6000

Phone Number: _____

SUBMISSION:

☐

Support

☐

Object

☒

Indifferent

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

As the land is outside the Oakajee Strategic
Industrial Area LandCorp has no comment
in relation to the application.

Signature: _____

Date: _____

14/8/2019.

Please return to:

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

or

ceo@chapmanvalley.wa.gov.au

or

(fax) 9920 5155

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

Submissions Close: 4:00pm Friday 30 August 2019

AGENDA ITEM:	10.1.2
SUBJECT:	PROPOSED OUTBUILDING, BULLER
PROPONENT:	SHORELINE OUTDOOR WORLD FOR M & N CROFT
SITE:	38 (LOT 112) WOKARENA ROAD, BULLER
FILE REFERENCE:	A1864
PREVIOUS REFERENCE:	02/14-3 & 12/16-4
DATE:	9 SEPTEMBER 2019
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.2(a)	Submitted application	√	
10.1.2(b)	Received submissions	√	

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

Council is in receipt of an application to construct an outbuilding upon 38 (Lot 112) Wokarena Road, Buller. The application has been advertised for public comment and 2 submissions, both in support, were received. This report recommends approval of the application.

Figure 10.1.2(a) – Location Plan of 38 (Lot 112) Wokarena Road, Buller



COMMENT

38 (Lot 112) Wokarena Road, Buller is a 5,463m² property on the corner of Wokarena Road and Richards Road in the Wokarena Heights Estate. The property slopes down from the 55.5m contour at its north-eastern corner to the 53.5m contour in its south-western corner.

The development history Lot 112 is as follows:

- 12/2/97 two storey residence approved;
- 17/6/13 DP76143 approved that created Lot 112 (from former 11.5242ha Lot 2) in Stage 1 of the Wokarena Heights Estate subdivision;
- 20/1/14 patio approved;
- 19/2/14 Council approves outbuilding forward of residence as viewed from Richards Road;

- 17/4/14 Upper floor internal renovations approved;
- 14/12/16 Council approves Home Business (Fitness Studio) to operate for 1 year trial period;
- 14/12/17 Shire approves continued operation of Home Business (Fitness Studio) following trial period.

Figure 10.1.2(b) – Aerial Photo of 38 (Lot 112) Wokarena Road, Buller



Application has now been received for a 95.52m² colorbond clad outbuilding at the western end of Lot 112.

The 95.52m² proposed shed along with the 82.6m² existing shed would create a total outbuilding area of 178.12m² that would comply with the Shire of Chapman Valley Outbuildings Local Planning Policy which establishes 180m² as the maximum total outbuilding area in the R2.5 zone.

The proposed outbuilding would have a 4.3m wall height and 5m total outbuilding height, which given the sloping nature of the site area would be a 4.6m wall height and 5.3m total height as measured from natural ground level at the highest point. The proposed heights exceed the 4m wall height and 5m total height (as measured from natural ground level) listed under the Outbuilding Policy for the R2.5 zone.

The outbuilding is also proposed to be sited 3m from the western/side property boundary setback. Table 1 of the state-wide Residential Design Codes of Western Australia ('R-Codes') recommends a (non-front) boundary setback of 7.5m for R2.5 zoned properties.

Due to the proposed height variation to the Shire’s Outbuildings Policy, and the proposed side boundary setback variation to the R-Codes, the application is unable to be determined by Shire staff under delegated authority and is required to be placed before a meeting of Council for deliberation.

A copy of the applicant’s supporting correspondence and submitted site, floor and elevation plans have been included as **Attachment 10.1.2(a)** to this report.

Figure 10.1.2(c) – View of proposed shed site looking south from Wokarena Road



Figure 10.1.2(d) – View of proposed shed site looking south-east from Wokarena Road



Figure 10.1.2(e) – View of proposed shed site looking south-west from Wokarena Road



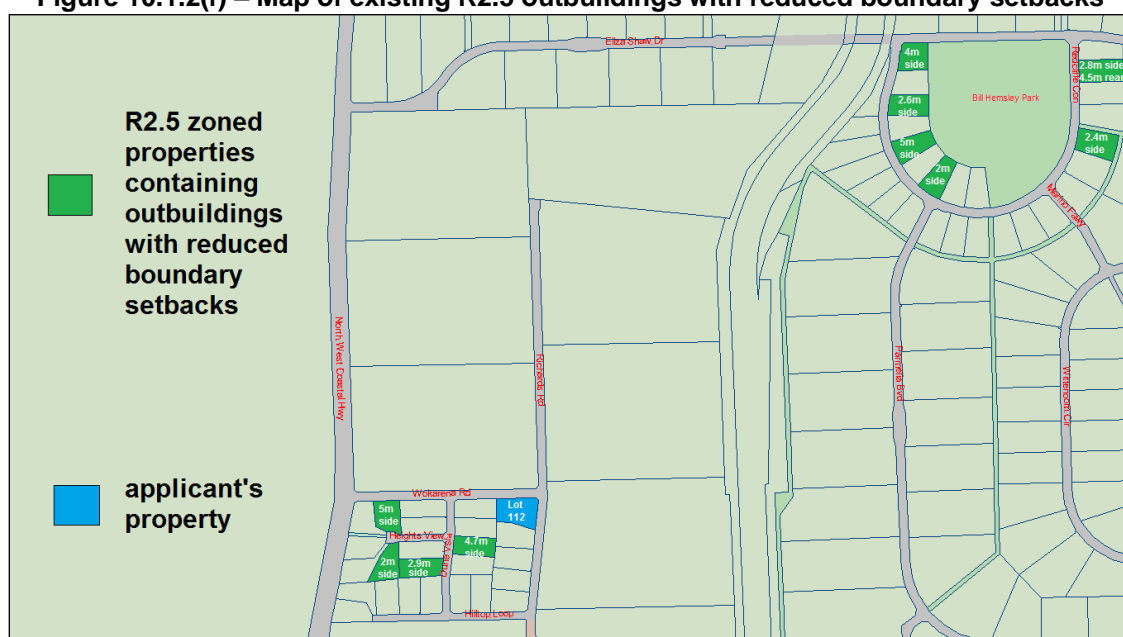
Consideration of the application's proposed variation to the height and side boundary setback requirements may be warranted in this instance, based upon the following:

- the proposed total outbuilding area of 178.12m² would comply with the 180m² maximum area requirement as specified in Council's Outbuildings Policy for the R2.5 zone;
- the outbuilding whilst proposing a policy height variation of 0.3m (as measured from natural ground level at the highest point of the shed upon the sloping site) would be lower in height than the applicant's 7m high

two-storey residence located approximately 22m east of the proposed shed (noting in addition to this that the shed floor level would 0.9m lower than the residence floor level);

- the applicant is seeking the height variation to enable them to store a boat;
- the outbuilding's proposed side boundary setback variation of 3m (rather than the R-Code requirement of 7.5m) arises from their desire to not have to remove a line of existing trees that are between the residence and the proposed shed location;
- the approval of the reduced outbuilding side boundary setback would not be out of character with the surrounding area where a number of sheds have been approved with a reduced setback on the Wokarena Heights and Redcliffe Concourse R2.5 lots as illustrated in **Figure 10.1.2(f)**;
- there are no windows on any of the elevations of the proposed outbuilding, and this (particularly in relation to the western elevation) would not present a privacy issue, indeed it might be considered that the construction of a shed between the residence and the western neighbouring lot may increase the perception of privacy for the neighbouring lot;
- the proposed outbuilding would be clad in colorbond of a matching colour to the existing development upon Lot 112;
- the construction of an outbuilding to house a boat and associated items might be considered of benefit to the landowner by enable them to store these items securely and out of the weather, but also provide an improved streetscape value rather than have them in the open;
- the proposed outbuilding would be setback 19.5m from Wokarena Road to match the setback of the residence;
- the applicant is proposing further landscaping along their western boundary to assist in screening the proposed outbuilding;
- the application was advertised to surrounding landowners inviting comment and no objections were received, this may be considered to demonstrate a general level of acceptance for the proposed development, it is also noted that both neighbouring landowners to the west who might be deemed to be most impacted by the outbuilding have expressed their support for this application.

Figure 10.1.2(f) – Map of existing R2.5 outbuildings with reduced boundary setbacks



STATUTORY ENVIRONMENT

38 (Lot 112) Wokarena Road, Buller is zoned 'Residential R2.5' under Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme').

The application has been brought before Council for its consideration as it exceeds the delegated authority of Shire staff in relation to the outbuilding policy height requirements and the R-Codes side boundary setback requirements.

Table 2 of the Scheme lists the objectives of the 'Residential' zone as being:

- “• To provide for a range of housing and a choice of residential densities to meet the needs of the community.
- To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.
- To provide for a range of non-residential uses, which are compatible with and complementary to residential development.”

Section 37(1) of the Scheme states:

“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.”

Clause 67 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by Council in considering a development application:

- “(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...
- ...(c) any approved State planning policy;...
- ...(g) any local planning policy for the Scheme area;
- (h) any structure plan, activity centre plan or local development plan that relates to the development;...
- ...(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;...
- ...(s) the adequacy of —
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;...
- ...(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;...
- ...(zb) any other planning consideration the local government considers appropriate.”

The applicant is seeking to site the outbuilding 3m from the side property boundary. Section 5.1.3.C3.1 and Table 1 of the R-Codes recommend a 7.5m side boundary setback for R2.5 zoned properties.

Section 4.2.1 of the Explanatory Guidelines for the R-Codes make the following relevant observations:

“Exceptions to basic setback provisions

Consideration of setbacks should have regard to the natural ground level, shape, development and orientation of adjoining lots.

A reduction to the R-Codes deemed-to-comply setback requirements should only be considered where it can be demonstrated this is preferable for practical or aesthetic reasons, and will not be to the detriment of the amenity of adjoining properties, particularly where the reduced setback may result in increased overshadowing, overlooking or lack of privacy. In these situations, the building design would need to address the design principles of clause 5.1.3.”

POLICY IMPLICATIONS

Part 2 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides for the Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area.

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.

The Shire of Chapman Valley Outbuildings Local Planning Policy has the following objectives:

- “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.”*

Section 4.9(b) of Council’s Outbuildings Policy allows for a side boundary setback of 5m rather than the 7.5m prescribed by the R-Codes:

“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).”

The application is seeking a further reduction to the side boundary setback down to 3m. It is not considered that this variation would be detrimental to the use of the adjoining side/western properties and will not be out of character with the established built form in the Wokarena Heights Estate and the immediately impacted side/western neighbours have both expressed their support for the application during the consultation period.

FINANCIAL IMPLICATIONS

• Long Term Financial Plan:

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

Lot 112 is located within the Wokarena Heights Structure Plan area. It is not considered that the proposed development is contrary to the provisions of the structure plan.

• 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

Sections 4.11(a) & (c) of the Shire's Outbuildings Local Planning Policy notes that applications that seek variation require consultation by means of the Shire writing directly to the surrounding landowners inviting comment.

Section 4.1 of the R-Codes also notes that where there may be a possible impact on the amenity of adjoining landowners the local government may advertise the proposal and have regard to any expressed views prior to making its determination.

The Shire wrote to the 6 surrounding landowners on 7 August 2019 providing details of the application and inviting comment upon the proposal prior to 30 August 2019, a sign was also erected on-site to advise of the received application and the opportunity for comment.

At the conclusion of the advertising period, 2 submissions had been received, from the 2 neighbouring landowners to the west of Lot 112, both expressing support for the application. Copies of the received submissions have been provided as **Attachment 10.1.2(b)**.

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 FORRESTER

That Council grant formal planning approval for an outbuilding to be constructed upon 38 (Lot 112) Wokarena Road, Buller subject to the following conditions:

- 1 Development shall be in accordance with the attached approved plans dated 18 September 2019 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and must not be used for habitation, commercial or industrial purposes.
- 4 The walls and roof of the proposed outbuilding are to be of materials, finish and colours that are complementary to the existing development upon Lot 112 to the satisfaction of the local government.
- 5 All stormwater must be contained and disposed of on-site at all times to the satisfaction of the local government.
- 6 Any soils disturbed or deposited on site shall be stabilised to the satisfaction of the local government.
- 7 The vehicle crossover is to be constructed to the specifications and standards of the local government.
- 8 All vehicles and parking associated with Lot 112 must be confined to Lot 112.
- 9 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination, the approval shall lapse and be of no further effect.

Notes:

- (a) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.

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

Voting 7/0
CARRIED
Minute Reference: 09/19-3



To whom this concerns,

Regarding the proposed variations to the shed at 38 WOKERENA ROAD BULLER WA 6530

On behalf of the owner Mitchell Croft of the above address Shoreline Outdoor world verify that the proposed variation to the shed at the above address will;

A – Still provide adequate direct sun to the land due to enough remaining open space to the surrounding yard.

B – The shed will not impact on ventilation as air freely flows around due to the size of the block and surrounding neighbouring areas and open bushland. This in turn will not affect the free-flowing air to adjoining properties.

C – There is no direct impact on the building bulk on the adjoining properties. Further the shed is positioned in line with the front building line of the home at 19500.

D - There are no extra overlooking issues present or will be caused by erecting a shed in this position, further there is no added height to the floor level of this shed that could cause an overlooking issue to adjoining properties. Plus, there are no windows to this shed.

*The owner requires this shed to house a large boat, thus meets the criteria of general storage and does not contravene the commercial or industrial usage clause, and as such needs the extra height.

Further to the height requirement is noted that the draft Outbuilding Policy may allow for a regional variation to Section 5.4.3. We are in full support of this draft as it will allow the overall height to increase to five meters.

*The owner has positioned this shed three meters form the boundary to accommodate his intention to preserve his large gum trees that he needs to negotiate to keep the doors to the shed clear for entry, and in doing so the setback has been designed to fit these criteria. To move the shed further towards the retaining wall could mean removing the large gum trees to be able to store and retrieve the boat from the shed.

Shoreline Outdoor world trust that these explanations will suffice in order to progress the planning application, however, should you require further information or explanation, please let us know.

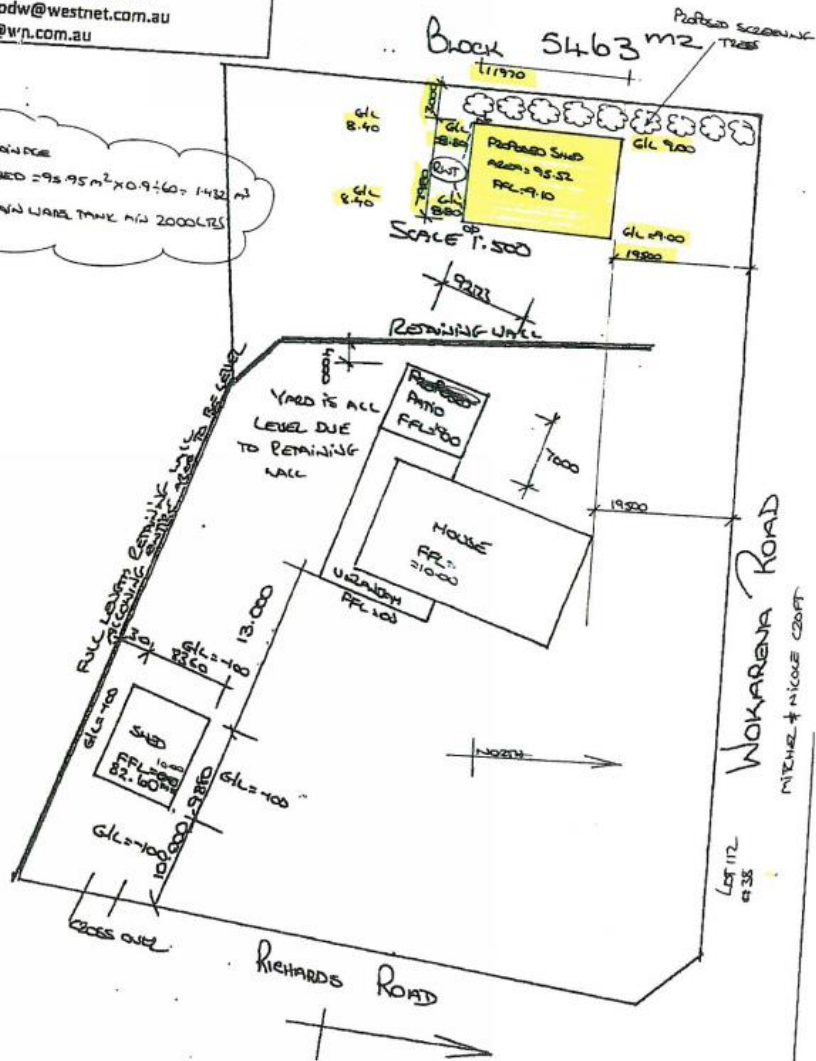
Yours sincerely

Kitty Boyes

Kitty Boyes on behalf of Shoreline Outdoor World

Shoreline Out Door World
 66 Flores Road, Geraldton, WA 6530
 PO Box 3223, Bluff Point, Geraldton WA
 Tel. 99644447 Fax 99217119
 leon.shorodw@westnet.com.au
 shorodw@wpn.com.au

DECKING
 SHED = $9.5m \times 0.9m = 1432 m^2$
 RAIN WATER TANK 2000LTS

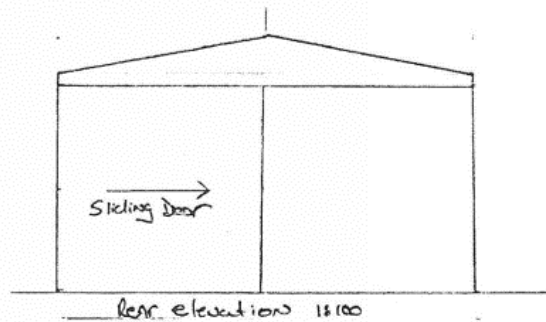
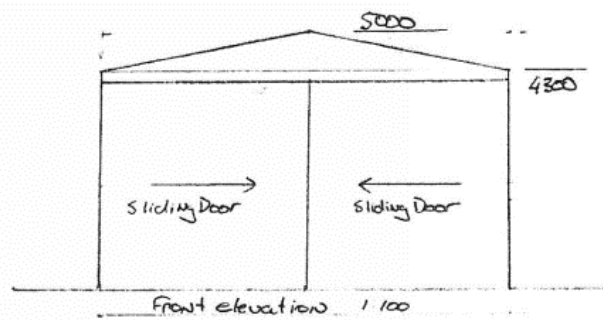
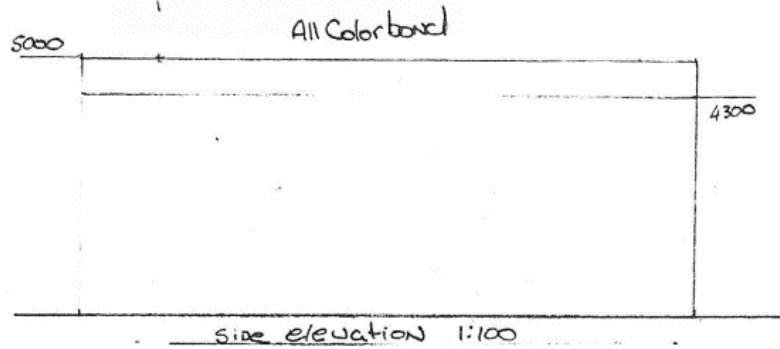


LOT 112 WOKARENA ROAD

State of
 Chapman Valley
 Approved
 Subject to permit conditions
 Permit No. 2014003
 Date 11.02.2014
 Signature.....
 Building Surveyor Reg.No - 119

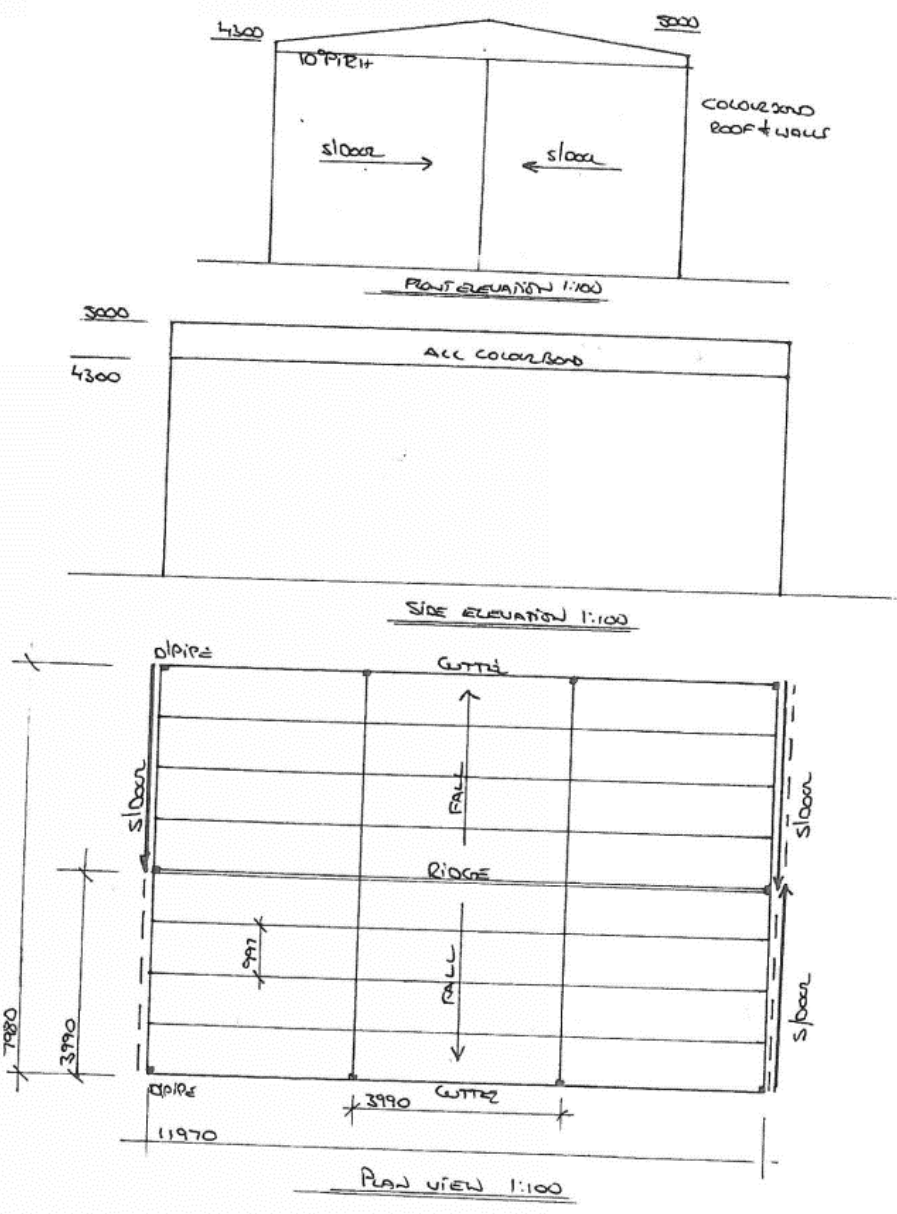
Shoreline Out Door World 66 Flores Road , Geraldton . WA 6530 PO Box 3223 , Bluff Point , Geraldton WA Tel. 99644447 Fax 99217119 leon@shorelineodw.com.au	Owner - Mitchel Croft Address - #38 Lot 112 Wokarena road , Buller Proposed - boat storage shed Scale 1: 100 Block area 5463 m2
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All storm water run off is to be directed away from footings and boundaries by the owner



Shoreline Out Door World 66 Flores Road , Geraldton . WA 6530 PO Box 3223 , Bluff Point , Geraldton WA Tel. 99644447 Fax 99217119 leon@shorelineodw.com.au	Owner - Mitchel Croft Address - #38 , Lot 112 , Wokarena Road , Buller Proposed - shed Scale 1: 100 Block area 5463 m2
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All storm water run off is to be directed away from footings and boundaries by the owner



Love the rural life!

DEVELOPMENT APPLICATION SUBMISSION FORM

Shire Reference: A1864

**PROPOSED OUTBUILDING
38 (LOT 112) WOKARENA ROAD, BULLER**

Name: PHILIPPA SAUNDERS

Postal Address: PO BOX 1465 GERALDTON

Phone Number: _____

SUBMISSION: ☒ Support ☐ Object ☐ Indifferent

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

We fully support this application

Signature: Baunders Date: 16/8/19

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

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

Submissions Close: 4:00pm Friday 30 August 2019

Note: Respondent is landowner of Lot 122 to the immediate west of 38 (Lot 112) Wokarena Road, Buller



DATE	20/08/19
FILE	A1864
RECORD	CR19/4555

DEVELOPMENT APPLICATION SUBMISSION FORM

Shire Reference: A1864

PROPOSED OUTBUILDING 38 (LOT 112) WOKARENA ROAD, BULLER

Name: Matthew & Christine Auld

Postal Address: 13 Ocean Queen Dr, Nandina

Phone Number: _____

SUBMISSION: ☒ Support ☐ Object ☐ Indifferent

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

Signature: [Signature] Date: 19/8/19

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

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

Submissions Close: 4:00pm Friday 30 August 2019

Note: Respondent is landowner of Lot 121 to the immediate south-west of 38 (Lot 112) Wokarena Road, Buller

AGENDA ITEM:	10.1.3
SUBJECT:	SHIRE OF CHAPMAN VALLEY LOCAL PLANNING STRATEGY
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	204.09
PREVIOUS REFERENCE:	12/04-9, 12/05-9, 11/06-10, 12/15-6 & 04/17-9
DATE:	10 SEPTEMBER 2019
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENT:

Ref	Title	Attached to Report	Under Separate Cover
10.1.3(a)	Local Planning Strategy		√
10.1.3(b)	WAPC correspondence		√
10.1.3(c)	Current 2007 Strategy Precinct Map illustrating proposed future Rural Smallholding area	√	
10.1.3(d)	Draft 2017 Strategy Precinct Map illustrating proposed future Rural Smallholding area	√	

DISCLOSURE OF INTEREST

Nil.

BACKGROUND

The Western Australian Planning Commission ('WAPC') have issued consent to advertise the draft Shire of Chapman Valley Local Planning Strategy ('the Strategy') subject to modifications being undertaken. This report recommends that the majority of the requested modifications to the Strategy be undertaken, but that Council not undertake one of the modifications, and return the draft Strategy with an alternative modification to the WAPC seeking its consent to advertise.

The current Strategy was adopted by Council at its 16 November 2006 meeting and subsequently endorsed by the WAPC on 20 November 2007.

The Strategy requires updating to reference (and ensure it is not inconsistent with) several strategic planning documents that have been prepared since it was released in 2007.

Council resolved at its 16 December 2015 meeting as follows:

"That Council resolve to:

- 1 *Prepare/Amend a new Shire of Chapman Valley Local Planning Strategy in accordance with Part 3 of the Planning and Development (Local Planning Schemes) Regulations 2015;*
- 2 *Notify LandWest that they are the selected provider for the Shire of Chapman Valley Local Planning Strategy review.*
- 3 *Thank all parties who expressed an interest in undertaking the Local Planning Strategy review."*

The Strategy review drew upon the recommendations of the following documents rather than create new strategic directions:

- Shire of Chapman Valley Local Planning Schemes No.2 (2013) & No.3 (2019);
- Greater Geraldton Structure Plan (WAPC) (2011);
- Oakajee Industrial Estate Structure Plan (LandCorp) (2012);
- Oakajee Port Master Plan (Mid West Ports Authority) (2011);
- Oakajee Narngulu Infrastructure Corridor Alignment Definition Report (WAPC) (2014);
- Wokarena Heights Structure Plan (Shire) (2013);

- Buller Structure Plan (Shire) (2016);
- Dolbys Drive Structure Plan (Shire) (2017);
- Chapman Valley Coastal Management Strategy & Action Plan (Shire) (2016);
- Moresby Range Management Strategy (WAPC) (2009);
- Moresby Range Management Plan (Shire) (2010);
- Nabawa Townsite Revitalisation Plan (Shire) (2016).

With the exception of the Nabawa Townsite Revitalisation Plan, all of these planning documents relate to the western regions of the Shire and it is this coastal strip that requires most updating in the Local Planning Strategy to reflect subsequent documents.

The Strategy was also updated to reflect the WAPC's 2010 content and scope guidelines and give to reference to a range of State Planning Policies ('SPP's') that have been released since 2007 including the following:

- SPP 2.5 - Rural Planning (2016);
- SPP 2.6 - State Coastal Planning (2013);
- SPP 2.9 - Water Resources (2006);
- SPP 3.0 - Urban Growth and Settlement (2006);
- SPP 3.1 - Residential Design Codes (2013);
- SPP 3.5 - Historic Heritage Conservation (2007);
- SPP 3.7 - Planning in Bushfire Prone Areas (2015);
- SPP 4.1 - Industrial Interface (draft 2017);
- SPP 5.4 - Road & Rail Noise (2019);
- Government Sewerage Policy (2019).

The current Strategy was also produced in an era when physical production as a hard copy was still the most common means of viewing the document and the layout and mapping of the Strategy has been updated to reflect that it is now more commonly going to be viewed online as a colour PDF.

Council resolved at its 19 April 2017 meeting

"That Council resolve to:

- 1 *Adopt the draft Shire of Chapman Valley Local Planning Strategy for advertising.*
- 2 *Forward a copy of the draft Shire of Chapman Valley Local Planning Strategy to the Western Australian Planning Commission in accordance with Part 3 Regulation 12 of the Planning and Development (Local Planning Schemes) Regulations 2015, and request consent for advertising of the Strategy for an extended period of 60 days.*
- 3 *Delegate to the Chief Executive Officer to undertake modifications to the draft Shire of Chapman Valley Local Planning Strategy that do not significantly alter the intent of the Strategy (including but not limited to; changes to format, spelling, grammar, numbering; Model or Deemed provisions; updates necessitated by Scheme Amendments, Structure Plans, Policies or other Strategies that have been given approval in the interim period etc.) as may be required by the Western Australian Planning Commission or otherwise prior to its advertising consent being granted.*
- 4 *Upon receipt of the WAPC's advice that the draft Shire of Chapman Valley Local Planning Strategy can be advertised, proceed to advertise the Strategy in accordance with Part 3 Regulation 13 of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 5 *At the conclusion of the advertising period return the draft Shire of Chapman Valley Local Planning Strategy, and any received submissions, to Council for its further consideration."*

The draft 2017 Strategy has been provided as **separate Attachment 10.1.3(a)**. The Shire's current 2007 Strategy can be viewed on the WAPC website at the following link: <https://www.dplh.wa.gov.au/chapman-valley>

COMMENT

The draft Strategy was presented to the WAPC's Statutory Planning Committee ('SPC') meeting on 10 October 2017 where it resolved to defer Council's request for consent to advertise "as it was considered that the information being used to inform the proposed strategy has aged".

The SPC's decision was disappointing, given that the review of the Strategy deliberately confined itself to updating the existing 2007 version to ensure that it was no longer inconsistent with the Local Planning Scheme and adopted state strategies and policies, and to provide general updating of the text and map layouts. The 2017 Strategy did not seek to 'open up' new tracts of land for rezoning/subdivision/development and the maps merely replicated the Greater Geraldton Structure Plan that was approved by the WAPC in 2011.

The WAPC's 18 October 2017 correspondence provided little in the way of direction on what modifications the SPC were seeking, and this was further compounded by the opaque manner in which the SPC operated, with applicants unable to be in the room when the SPC discussed the item or made its decision, and the relevant sections of the SPC agenda and minutes not being made available for items under the guise of 'confidentiality'.

Following discussion between Shire and WAPC staff, it was agreed that the Strategy should be held in abeyance and efforts concentrated instead on getting the Local Planning Scheme No.3, which is the Shire's statutory planning document, to its conclusion.

It was understood that the main issue that the WAPC/SPC had with the Strategy was the amount of 'Rural Residential' and 'Rural Smallholding' land identified upon the Strategy Maps.

Since the Strategy's release in 2007 it would seem that the WAPC/SPC have developed a disinclination towards rural living lots on the basis they have potential to remove high quality agricultural land from production as it becomes hobby farms and lifestyle lots, and the belief that it can introduce residents into areas of bushfire risk and is inefficient in terms of servicing.

Whilst many of these arguments are valid, particularly in certain sections of the state such as the south-west, it does emphasise the perils of a centralised bureaucracy making broad judgements upon a state as large as Western Australia where criteria relevant to one region are not always applicable elsewhere.

It might be considered that the Strategy, as endorsed by both the Shire and WAPC in 2007, perhaps identified an oversupply of land for rural living within a 10 year timeframe, although at time of preparation the Strategy did need to show some contingency for a higher potential growth rate in the event that the Oakajee project commenced. However, once a development/subdivision potential has been identified in a local and state government adopted planning document it is concerning to then seek to take that potential away, particularly so if land purchases and investments have then been made by landowners with a level of expectation. It might also be queried how an argument can be raised that if a subject area met land capability requirements previously, what has changed in the intervening period to make such an arbitrary decision.

Shire and WAPC staff subsequently discussed potential modifications to the Strategy that might be deemed appropriate and the Strategy was returned to a meeting of the WAPC/SPC on 23 July 2019 where it resolved that the Strategy should be modified, and once modified by the Shire, returned to the WAPC for certification that it is consistent and then advertised.

A copy of the WAPC's correspondence has been provided as **separate Attachment 10.1.3(b)**. In summary the requested modifications are considered to largely be textual refinements to the Strategy and are agreed with. However, the most significant requested modification relates to the requirement for a large area of land identified in the 2007 Strategy as having potential to be rezoned to Rural Smallholding, to be identified as Rural in the 2019 Strategy.

The 2007 Strategy Precinct Map that illustrates the proposed future Rural Smallholding area is provided as **Attachment 10.1.3(c)**.

The 2017 Strategy Precinct Map as lodged by Council that illustrates the proposed future Rural Smallholding area is provided as **Attachment 10.1.3(d)**.

The areas marked **CHANGE TO RURAL** in the WAPC correspondence provided as **separate Attachment 10.1.3(b)** are the properties that the WAPC require to be modified from their previous status of proposed future Rural Smallholding to Rural.

Council has a number of options that it may wish to consider at this juncture:

Option A - Refuse to undertake the modifications and maintain the 2007 Local Planning Strategy as its strategic planning document

Council may take the approach that the current Strategy enables the impacted landowners some opportunity to rezone and subdivide and not undertake the requested modifications to its draft Strategy.

This may not assist the impacted landowners, however, should the WAPC take the interpretation under Part 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* that the Strategy, being older than 5 years, requires lodgement of a review report by the Shire to the WAPC. The WAPC could take the stance that in the absence of such a report that its determination on rezoning applications and subdivision application should be delayed, which could leave landowners (and not just the impacted landowners) in limbo.

It is also worth noting that the current Strategy is out of date in regards to other aspects and it is therefore not ideal for this to remain a referred to document.

Option B - Undertake the requested modifications to the Local Planning Strategy and during the advertising period write directly to the 32 impacted (ex)Rural Smallholding landowners.

Under this option the Strategy could be modified and during the advertising period the Shire should not simply undertake the WAPC's required standard statutory measures of placing a notice in a local newspaper and on its website and writing to relevant public authorities. Instead it would be equitable that the Shire should also write directly to every impacted landowner explaining what the WAPC is seeking to do and advising them of their opportunity to lodge a submission during the advertising period. Landowners, once advised, may also wish to explore other measures including writing or speaking directly to their local parliamentary members and the Minister for Planning should they feel aggrieved. It is also recommended that the advertising period not be run for the minimum statutory 21 days but an extended 60 days to enable landowner's greater opportunity for comment.

Option C - Resubmit the Local Planning Strategy with the requested modifications undertaken excepting those requesting a reduction in the Rural Smallholding area and offering an alternative staged mechanism.

As some background, when the 2007 Strategy reached the final post-advertising stage the WAPC raised concern with the amount of Rural Smallholding land identified, and as a compromise the precinct map as can be seen in **Attachment 10.1.3(c)** was split into 'Proposed Rural Smallholding' and 'Possible Future (Long Term) Rural Smallholding'.

This staging approach was not ideal as by making this distinction the argument could then be raised; if all areas were identified as having land capability for Rural Smallholding why was one area selected over another? at what take-up point of Stage 1 would Stage 2 be triggered? could this lead to landowners in Stage 1 being able to artificially manipulate market price by delaying Stage 2? This was tested when a landowner in the Stage 2 area lodged a Scheme Amendment (that was supported by Council) and ultimately obtained WAPC approval for their rezoning to Rural Smallholding in 2012.

The Shire in consultation with the WAPC staff at the time in 2011 agreed that the new Strategy should do away with the staging mechanism and this outcome was reflected in the Greater Geraldton Structure Plan (2011) that did not identify staging.

However, it may be appropriate to revisit the staging scenario as a potential avenue for compromise to retain some form of recognition for Rural Smallholding in the Strategy.

To provide a more logical basis for considering a staging approach it might be appropriate to identify that areas currently facing long cul-de-sac roads should be identified in the new Strategy as 'Possible Future (Long Term) Rural Smallholding'. Following the Margaret River and Perth Hills fires and the release of the Keelty Report the WAPC have adopted a conservative stance to bushfire risk, and one of the criteria for subdivision is a secondary means of escape. This argument has been used as basis by the WAPC for not supporting a Rural Smallholding rezoning application on Hickety Road.

Council may wish to request reconsideration of the Strategy with a compromise option of identifying that the 'Rural' zoned lots that front lengthy cul-de-sacs (such as Bella Vista Road and Hickety Road) that are shown in the 2017 draft Strategy as 'Proposed Rural Smallholdings' instead be identified as 'Possible Future (Long Term) Rural Smallholding'.

Were this offered compromise to be supported by the WAPC Council could then investigate in its long term strategic planning and road construction program the creation of the road linkages that would provide secondary

means of access for these areas to enable future rezoning/subdivision/development. It is noted that in some instances there are already unformed existing road reserves in these areas that could be formed to a simple gravel standard over a number of years. However, it is also noted that some of these linkages would be required to go through sections of challenging terrain in terms of topography and waterlogging/tributaries, and partnerships with landowners may need to be entered into to cede land for detours over paths of lesser resistance.

Pursuing this option and making argument for the retention in the Strategy of some Rural Smallholding potential would retain the flexibility for landowners and the Shire but it must also be recognised that the on-ground delivery of secondary access routes would be a longer term project. The formation of these linkages, irrespective of enabling prospective subdivision, would also provide the benefit of increasing community safety by offering alternative means of exit in event of bushfire.

Figure 10.1.3 – Howatharra Rural Smallholding area road network



STATUTORY ENVIRONMENT

Regulation 11 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (‘the Regulations’) requires that:

- “(1) A local government must prepare a local planning strategy in accordance with this Part for each local planning scheme that is approved for land within the district of the local government.
- (2) A local planning strategy must —
 - (a) set out the long-term planning directions for the local government; and
 - (b) apply any State or regional planning policy that is relevant to the strategy; and
 - (c) provide the rationale for any zoning or classification of land under the local planning scheme.”
- (3) A local planning strategy may be prepared concurrently with the local planning scheme to which it relates.”

The Scheme review process commenced with Council initiating the preparation of a new Scheme at its 21 February 2018 meeting, subsequent to the preparation of the draft Strategy, and has recently concluded with the gazettal of Shire of Chapman Valley Local Planning Scheme No.3 on 23 July 2019.

POLICY IMPLICATIONS

The intent of the Strategy is to provide the planning direction for the sustainable growth of the Shire for the next 10-15 years and provide guidance to ongoing development, future land use and management of the Shire. Whilst much of the 2007 Strategy remains relevant, particularly the inland sections where precincts were based on land capability assessment, the coastal section of the Strategy requires updating to account for, and ensure it aligns with, subsequently endorsed planning documents.

FINANCIAL IMPLICATIONS

The Shire was advised on 28 May 2016 that its application to the Department of Planning for \$25,000 funding under the Royalties for Regions-Northern Planning Program for the review of its Strategy had been successful. The received grant funds have now been expended and further modifications to the Strategy will be required to be funded from Account 1992-Planning Consultancy Expenses in the 2019/2020 Shire budget.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 meeting.

It is considered that the review of the Local Planning Strategy would not be inconsistent with the Long Term Financial Plan, although were the alternative staging modification to be pursued by Council and supported by the WAPC then allocations towards creating currently unconstructed secondary fire escape roads in the Howatharra area may be required across staged budgets over the long term.

STRATEGIC IMPLICATIONS

The WAPC's 'Local Planning Manual' (2010) notes the purpose of a Strategy as follows:

"The local planning strategy is the framework for local planning and the strategic basis for local planning schemes. It provides the interface between regional and local planning and is increasingly being seen by other agencies as the means by which to address economic, resource management, environmental and social issues at a strategic level.

The strategy sets out the local government's objectives for future planning and development and includes a broad framework by which to pursue those objectives. The strategy will need to address the social, environmental, resource management and economic factors that affect, and are in turn affected by, land use and development.

The local planning strategy should:

- *be consistent with state and regional planning policy, including current strategies, structure plans and strategic development initiatives (or provide the rationale for why it is not);*
- *provide strategic direction for land use planning and development over the ensuing 10 years or longer as the basis for the local planning scheme;*
- *set out the strategic direction for sustainable resource management and development in the context of state and regional planning;*
- *provide the rationale for the zoning and reservation of land and for the provisions of the scheme relating to development and development control;*
- *provide a strategic framework for assessment and decision-making in relation to proposed scheme amendments, subdivision, and development;*
- *provide the context for coordinated planning and programming of physical and social infrastructure at the local level;*
- *identify the need for further studies or investigation within a local government area to address longer-term strategic planning and development issues."*

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 15 November 2017 meeting.

The review of the 2007 Local Planning Strategy has provided the opportunity to ensure it has due regard for the Shire's subsequent Strategic Community Plan. The Local Planning Strategy provides one means to assist in meeting the objectives and strategies as identified within the Strategic Community Plan.

CONSULTATION

The intent behind the Strategy review was to ensure that it was no longer inconsistent with the Scheme and adopted state strategies and policies, and to provide general updating of the text and map layouts, rather than an entirely new exercise (i.e. the Strategy does not seek to 'open up' new areas of the Shire for rezoning, subdivision and development but rather maintain the existing strategic directions of the current Strategy in this regard).

The Strategy review has drawn on the extensive level of community consultation that was undertaken to prepare the preceding strategies, structure plans, rezonings, alignment definition studies and policies that inform the Local Planning Strategy.

The Strategy review has also involved consultation with all relevant government agencies.

Regulation 12 of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires that before advertising the Strategy must be forwarded to the WAPC for consideration.

In the event that Council and the WAPC are both satisfied with the draft Strategy then it would be advertised as per the requirements of Regulation 13 for a minimum period of 21 days (although it is suggested that the Shire should exceed this and allow for a period of 60 days), and the advertising must include the following actions:

- notices to be published in a newspaper circulating in the district;
- display of the Strategy at the Shire office;
- notice being sent to all relevant government agencies;
- display of the Strategy on the Shire website;
- display of the Strategy at the WAPC office;
- in any other way as directed by the WAPC or the Shire considers appropriate.

In relation to the final dot point it is considered that were the draft Strategy to be advertised with the modifications as required by the WAPC, that the Shire should write to the 32 impacted landowners and advise them of the draft Strategy, how it relates to their property, and of their opportunity to make comment.

Regulation 14 requires that Council give regard for any submissions received during the advertising period and, in the event that Council is satisfied with the strategy, forward it to the WAPC (with or without modification arising from Council's consideration of any issues raised during the submission period) for final consideration and potential endorsement.

RISK ASSESMENT

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

VOTING REQUIREMENTS

Simple Majority.

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR FORRESTER

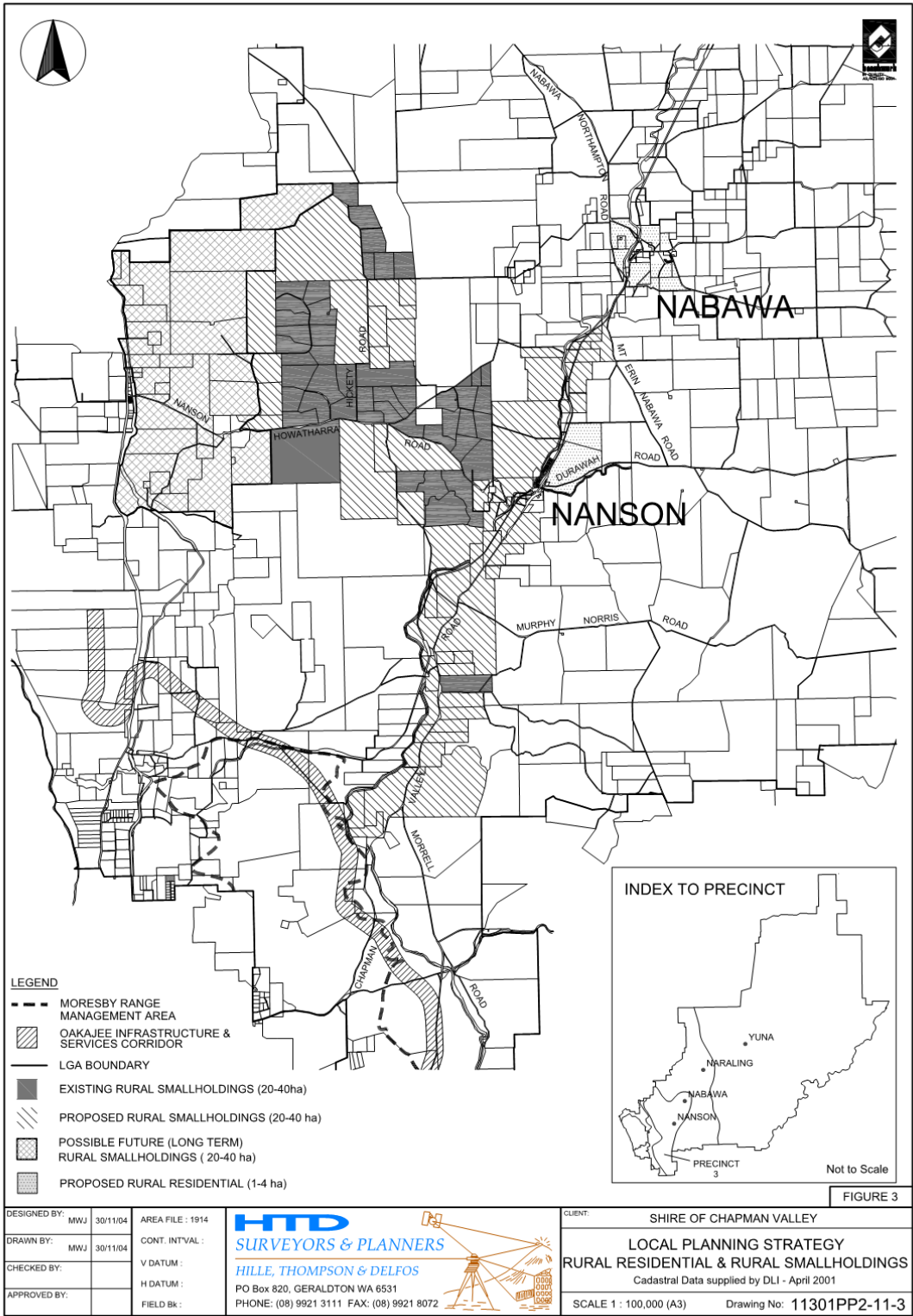
SECONDED: CR BATTEN

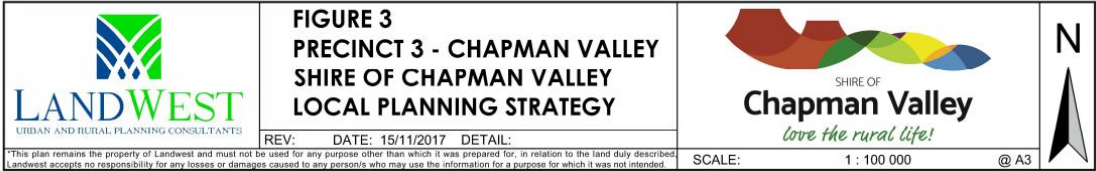
That Council resolve to:

- 1 Undertake the modifications to the draft Shire of Chapman Valley Local Planning Strategy as requested by the Western Australian Planning Commission with the exception of reclassifying to 'Rural' land that is identified in the current Strategy as having potential for 'Rural Smallholdings'.
- 2 Modify the draft Strategy to identify land as 'Possible Future (Long Term) Rural Smallholding (20-40ha)' (including land that is identified in the current Strategy as having potential for 'Rural Smallholdings' and land that the WAPC seeks to be reclassified to 'Rural') based upon staging criteria.
- 3 Upon completion of the modifications outlined in parts 1 & 2, forward a copy of the draft Shire of Chapman Valley Local Planning Strategy to the Western Australian Planning Commission in accordance with Part 3 Regulation 12 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and request its reconsideration of consent for advertising of the Strategy.

**Voting 7/0
CARRIED**

Minute Reference: 09/19-4





10.2

Manager Finance & Corporate Services September 2019

Contents

10.2 AGENDA ITEMS

10.2.1 Financial Reports for August 2019

AGENDA ITEM:	10.2.1
SUBJECT:	FINANCIAL MANAGEMENT REPORT FOR AUGUST 2019
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	307.00
PREVIOUS REFERENCE:	N/A
DATE:	18 SEPTEMBER 2019
AUTHOR:	DIANNE RAYMOND, MANAGER FINANCE & CORPORATE SERVICES

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.1(a)	August 2019 Financial Management Reports		√
10.2.1(b)	Confidential List of Accounts		√

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* requires monthly statements of financial activity to be reported and presented to Council.

COMMENT

The financial position at the end of August 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 August 2019

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

No significant effect on the LTFP

STRATEGIC IMPLICATIONS

Nil

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

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

CONSULTATION

Not applicable

RISK ASSESSMENT

The associated risk would be the failure to comply with Local Government Financial Regulations requiring monthly reporting of financial activity. Risk rating is considered Level 1 - Insignificant

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

VOTING REQUIREMENTS

Simple Majority

COUNCIL RESOLUTION / STAFF RECOMMENDATION

MOVED: CR WARR

SECONDED: CR FORRESTER

That Council receives the financial management report supplied under separate cover for the month August 2019 comprising the following:

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

**Voting 7/0
CARRIED
Minute Reference: 09/19-5**

10.3

Chief Executive Officer

September 2019

Contents

10.3 AGENDA ITEMS

No Report this month

11.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

COUNCIL RESOLUTION

MOVED: CR WARR

SECONDED: CR FORTH

That Council agree to deal with the late item relating to an Extraordinary Election

Voting 7/0
CARRIED
Minute Reference: 09/19-6

AGENDA ITEM:	12.1
SUBJECT:	EXTRAORDINARY ELECTION
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	402.00
PREVIOUS REFERENCE:	02/15-10, 05/18-16 & 06/19-7
DATE:	17 SEPTEMBER 2019
AUTHOR:	SIMON LANCASTER

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
Nil	Nil		

DISCLOSURE OF INTEREST

Nil

BACKGROUND

At close of nominations at 4:00pm on 12 September 2019 the Returning Officer announced the candidate nominations for the forthcoming local government ordinary elections were closed.

Nominations were received from Anthony Farrell, Peter Humphrey and Trevor Royce for the four (4) vacancies within the Shire of Chapman Valley.

As the number of nominations was less than the number of elected member positions becoming vacant, the above nominees were elected unopposed pursuant to Section 4.57(2)(a) of the *Local Government Act 1995* ('the Act').

Council is now required to set a date for an extraordinary election to fill the remaining Council position (as per previous Council resolution the extraordinary election will be a postal election conducted by the WA Electoral Commission, unless otherwise resolved by Council).

COMMENT

Council is required to set a date to hold an extraordinary election, and the setting of the date must be made by Council within one (1) month of the date that the vacancy occurs (and failing that must be set by the Shire President), and the date set must not be later than four (4) months after the vacancy occurs.

To avoid the busy harvest and Christmas/New Year periods Council may wish to consider the suitability of Saturday 30 November 2019 or Saturday 14 December 2019 as the date for setting an extraordinary election, this would also allow sufficient time for calling for candidates). Saturday 7 December 2019 has not been suggested as this date is unavailable for the Electoral Commissioner Returning Officer that the Shire has used previously.

For the purposes of providing Council with information relating to all options open to it, Shire staff also investigated whether Council has the ability to alternatively make application to reduce the number of Councillors from eight (8) to seven (7). Under this scenario the representation rate of Councillors to electors would still be 1 Councillor per 138 electors (with the Shire of Chapman Valley electoral roll containing 963 people) and it would, by introducing an odd number of Councillors, remove the need for a casting vote by the Presiding Member.

However, the pursuit of this alternative option is not recommended as it would require resolution prior to the expiry of four (4) months after the date that the vacancy occurs for the Shire to be compliant with legislation. Under this scenario Council would need to resolve to pursue the reduction in Councillor numbers, then conduct the six (6) week notice period, then write to the Department of Local Government, Sport & Cultural Industries' Local Government Advisory Board seeking approval for the reduction. The Department would then need to respond to the Shire's request for a reduction in the number of Councillors, and respond in the affirmative, within four (4) months from the date of the vacancy arising. Given the decision, and the response timeframe, is outside of the Shire's control the advice of Shire staff and its solicitors is not to pursue this alternative option.

However, in the event that no parties were to nominate for the extraordinary election then Council could then consider whether it wished to not appoint a person under Section 4.57(3) of the Act and resolve to pursue a review under Section 7 of Schedule 2.2 of the Act to reduce the number of Councillors from eight (8) to seven (7).

STATUTORY ENVIRONMENT

The *Local Government Act 1995* notes the following in relation to extraordinary elections:

"4.57 Less candidates than vacancies

- (1) If, at the close of nominations, there are no candidates for the office or offices to be filled at the election, an extraordinary election is to be held to fill the office or offices as if it or they had become vacant on the day after the close of nominations.*
- (2) If, at the close of nominations, the number of candidates is less than the number of offices to be filled at the election —*
 - (a) the candidate or candidates is or are elected; and*
 - (b) an extraordinary election is to be held to fill the remaining office or offices as if it or they had become vacant on the day after the close of nominations.*
- (3) If, at the close of nominations for an extraordinary election required under subsection (1) or (2) there are no candidates or the number of candidates is less than the number of offices to be filled at the election, the council may appoint* to any unfilled office a person who would be eligible to be a candidate for election to the office and who is willing to accept the appointment.*

** Absolute majority required.*
- (4) A person appointed under subsection (3) is to be regarded as having been elected."*

"4.8 Extraordinary elections

- (1) If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 an election to fill the office is to be held.*
 - (2) An election is also to be held under this section if section 4.57 or 4.58 so requires.*
 - (3) An election under this section is called an extraordinary election.*
- [Section 4.8 amended: No. 2 of 2012 s. 10.]*

4.9 Election day for extraordinary election

- (1) Any poll needed for an extraordinary election is to be held on a day decided on and fixed —*
 - (a) by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or*
 - (b) by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).*
- (2) The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.*
- (3) If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —*

- (a) *fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and*
- (b) *advise the CEO of the day fixed."*

Sections 4.57(2)(b) and Section 4.9(2) of the Act sets the requirement that an extraordinary election should be held within four (4) months from the date of the close of nominations which is 12 September 2019, although argument might be made under Section 2.28 of the Act that this could be construed as being four (4) months after the date on which the vacancy arises which is the date of the local government election which is 19 October 2019. However, to remove uncertainty and ensure compliance it is recommended that the date for the extraordinary election be set for **prior to 12 January 2020**.

The Act notes the following in relation reducing Councillors numbers:

"2.18 Fixing and changing number of councillors

- (1) *When a local government is newly established the Governor, by order made on the recommendation of the Minister, is to —*
 - (a) *specify the number of offices of councillor on the council of the local government; and*
 - (b) *if the district is to have a ward system, specify the numbers of offices of councillor for the wards.*
- (2) *When an order is made under section 2.2 discontinuing a ward system for a district, the number of offices of councillor on the council remains unchanged unless the order specifies otherwise.*
- (3) *The Governor, on the recommendation of the Minister, may make an order —*
 - (a) *changing the number of offices of councillor on a council; or*
 - (b) *specifying or changing the number of offices of councillor for a ward; or*
 - (c) *as to a combination of those matters.*
- (4) *The Minister can only make a recommendation under subsection (1) or (3) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made."*

Schedule 2.2 of the Act makes further provisions relating to Councillor representation, and their review and adjustment.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Account 0112-Election & Poll Expenses contains an allocation of \$14,650 that can be utilised to cover the cost of an extraordinary election.

Council resolved at its 19 June 2019 meeting:

"That Council:

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

As per the Council's 19 June 2019 resolution, the conducting of the extraordinary election would be by postal election through the WA Electoral Commission, unless otherwise determined by Council.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 June 2019 meeting. It is not considered that the determination of this matter 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 and contains the following relevant objectives to this matter.

Ref	Objective	Strategy	Action
5.1	Ensure governance and administration systems, policies and processes are current and relevant	Review policy categories and set ongoing accountability for review processes	Review current Council and Management policies and formalise update process and timelines.
5.2	Be accountable and transparent in managing resources	Effectively Engage and communicate with the community	<ul style="list-style-type: none"> • Annual Report • Website • Community Hub • Facebook

CONSULTATION

The Shire has consulted with the Western Australian Electoral Commission in this matter.

RISK ASSESSMENT

Non-compliance with legislation would result in a *major risk*, and the risk of an extraordinary election is assessed as being a *minor risk* due to the estimated cost associated with conducting an extraordinary election.

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

VOTING REQUIREMENTS

Simple majority required.

COUNCIL RESOLUTION

MOVED: CR FORTH

That Standing Orders be suspended.

SECONDED: CR HUMPHREY

**Voting 7/0
CARRIED
Minute Reference: 09/19-7**

COUNCIL RESOLUTION

MOVED: CR FORTH

SECONDED: CR HUMPHREY

That Standing Orders be reinstated.

Voting 7/0

CARRIED

Minute Reference: 09/19-8

COUNCIL RESOLUTION /STAFF RECOMMENDATION

MOVED: CR BATTEN

SECONDED: CR FORRESTER

That Council approve the date of the extraordinary election as being 30 November 2019 pursuant to Sections 4.57 & 4.9 of the *Local Government Act 1995*.

Voting 7/0

CARRIED

Minute Reference: 09/19-9

13.0 DELEGATES REPORTS

Cr Forth advised he attended the Chapman Valley Agricultural Society pre-show meeting.
Cr Batten and Cr Forrester advised they attended the mural unveiling at the Chapman Valley Museum

COUNCIL RESOLUTION

MOVED: CR FORRESTER

SECONDED: CR BATTEN

That Council commend Chapman Valley Agricultural Society on a successful show and congratulate all committee members and particularly the efforts of Nick Phillipa and Tim Pawelski on the work on the Exhibition Hall.

That a formal letter of thanks also be sent to MEEDAC and Greenough Regional Prison Crew for the works on the Dining Hall.

Voting 7/0

CARRIED

Minute Reference: 09/19-10

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 10.38am