

ORDINARY COUNCIL MEETING

CONFIRMED MINUTES

9:00am Wednesday
19/08/2020

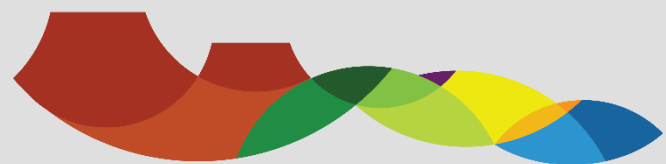
YUNA COMMUNITY
CENTRE

AUGUST 2020

SHIRE OF CHAPMAN VALLEY

Maurice Battilana

CHIEF EXECUTIVE OFFICER



SHIRE OF

Chapman Valley

Love the rural life!

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

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SHIRE OF
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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.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

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ORDER OF BUSINESS

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The President, Cr Farrell, welcomed Elected Members and Staff and declared the meeting open at 9.02am.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

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

3.1 Attendees

Elected Members
Cr Anthony Farrell (President)
Cr Nicole Batten
Cr Peter Humphrey
Cr Trevor Royce
Cr Darrell Forth
Cr Ian Maluish
Cr Beverley Davidson

Staff
Maurice Battilana, Chief Executive Officer
Simon Lancaster, Deputy Chief Executive Officer
Beau Raymond, Acting Manager Finance & Corporate Services
Clare Cream (Minute Taker)

Visitor
Yuna Primary School Students & Teacher
Bruce Blackburn
Jodi MacDonald
David Dole
Marjorie Smith
Barton Smith

3.2 Apologies

Member
Dianne Raymond, Manager Finance & Corporate Services

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

Councillor	SCM Month & Year	Date Approved	Minute Reference
Cr. Kirrilee Warr	August 2020	15/07/2020	07/20-01

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
10.1.2	Simon Lancaster	Impartiality	Family Pets are buried in the cemetery.

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

Time Attending	Department/Company	Member/Officers	Presentation Topic
9:05am	Yuna Primary School	Teacher & Students	Presentations & Questions.

Questions from Students:

1. **Max Creasy** - Is there any progress in getting a Rescue Helicopter stationed in the Midwest?

Council Response:

Due to Covid19 the Batavia Local Emergency Management Committee (BLEMC) have not had regular meetings (other than Special COVID-19 Update Sessions) which has slowed progress in this area. The BLEMC will continue to lobby and work with the State Government on making this a priority for the region; however, due to a lack of available funding movement in this area may be slow.

2. **Jake Pawelski** - What are the priorities for the Yuna Community and The Shire of Chapman Valley?

Council Response:

The Federal Government has allocated over \$300,000 in funding to Shire of Chapman Valley Community Projects to be completed in the next twelve months this allow Council to complete several projects, which would have been delayed due to a lock of funding.

An important future project for the Yuna Community in particular is the Rockwell to Yuna Pipeline Rejuvenation, this is dependent on the outcome of a grant application submitted to the Department of Water & Environmental Regulation. If the Shire is successful it will see replacement of this pipeline which has been an ongoing issue for the lawned area at the Yuna Community Centre.

Council has an annual Community Growth Fund grant program, which helps address some of the community desired projects. Some examples of where this funding program has assisted in Yuna include:

- Playground at the Yuna Community Ctr
- Tennis Court & Lights Upgrades

Further to this the Shire has a Strategic Community Plan which is used as a guide to prioritise community projects, this is due for renewal in 2021 at which time the community will be approached for their input.

7.3 Deputations

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

MOVED: Cr. Davidson

SECONDED: Cr. Forth

8.1 Ordinary Meeting of Council held on Wednesday 15th July 2020

The Minutes of the Ordinary Meeting of Council held Wednesday 15th July, 2020 be confirmed as true and accurate.

Voting 7/0

CARRIED

Minute Reference: 08/20-01

MOVED: Cr. Forth

SECONDED: Cr. Maluish

8.2 Special Meeting of Council held on Friday 31st July,2020.

The Minutes of the Special Council Meeting of Council held Friday 31st July, 2020 be confirmed as true and accurate.

Voting 7/0

CARRIED

Minute Reference: 08/20-02

9.0 ITEMS TO BE DEALT WITH EN BLOC

10.0 OFFICERS REPORTS

10.1

Deputy Chief Executive Officer

August 2020

10.1 AGENDA ITEMS

10.1.1 Ahern Place Aquaculture

10.1.2 Pet Cemetery

10.1.3 Nanson Townsite ROW Closure

10.2.1

Proposed Intensive Agriculture (Marron Ponds & Mango Plantation)

PROPONENT:	B.Blackburn & J.MacDonald
SITE:	Lot 12 Ahern Place, Nabawa
FILE REFERENCE:	A1045
PREVIOUS REFERENCE:	Nil
DATE:	11 August 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.1(a)	Marron Ponds & Mango Plantation Application		✓
10.1.1(b)	Received Submissions		✓
10.1.1(c)	Applicant's response to received submissions		✓
10.1.1(d)	Further information from Department of Water & Environment Regulation		✓

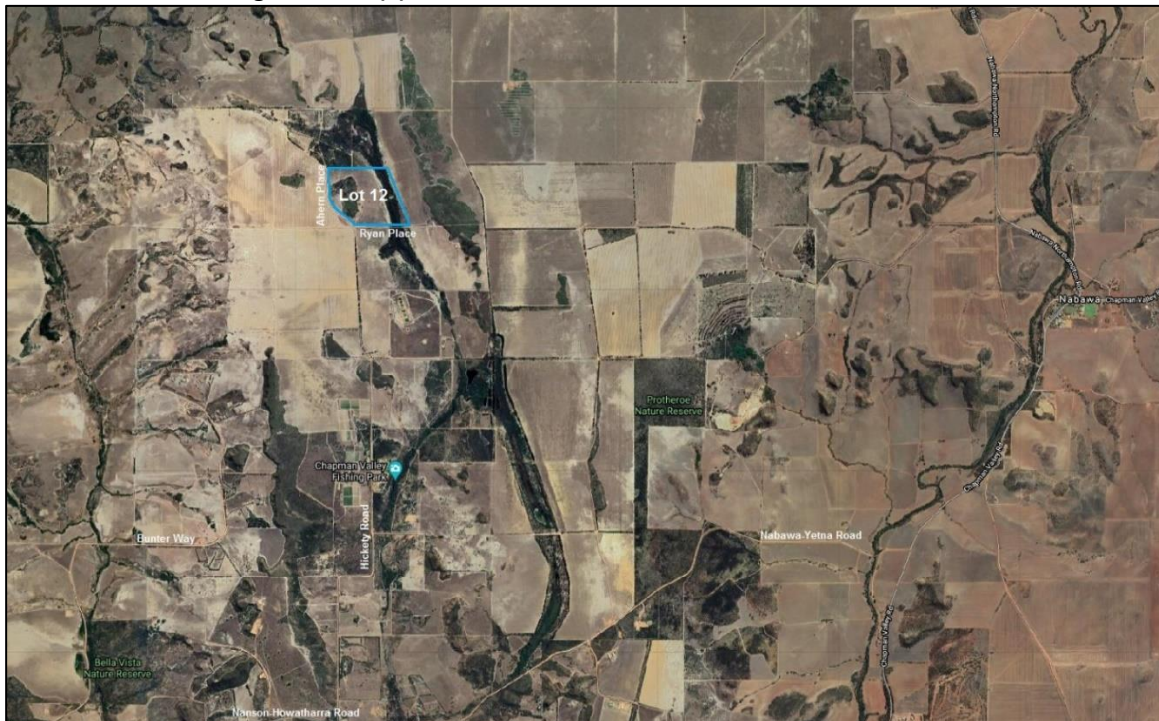
DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application to develop marron ponds and a mango plantation upon Lot 12 Ahern Place, Nabawa. The application has been advertised for comment and 2 objections were received from landowners and 3 submissions providing comment from government agencies. This report recommends conditional approval of the application.

Figure 10.1.1(a) – Location Plan for Lot 12 Ahern Place, Nabawa



COMMENT

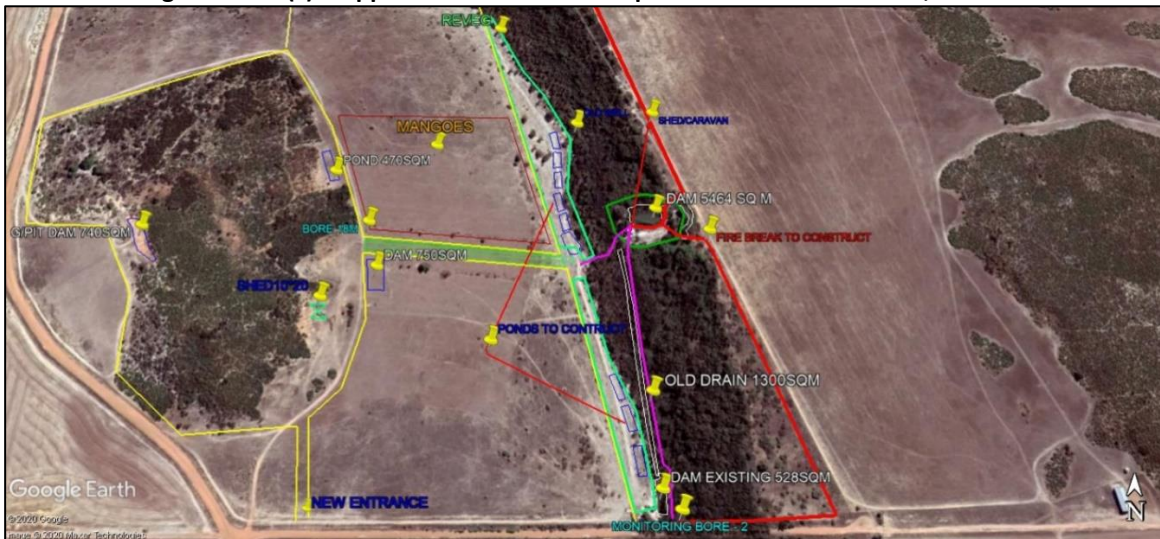
Lot 12 is a 52.21ha property located on the corner of Ahern Place and Ryan Place, approximately 8km west of the Nabawa townsite and 6km north of Nanson-Howatharra Road along Hickety Road.

The eastern section of the property contains a watercourse and associated vegetation, the central cleared section slopes upward and is situated at approximately the 210m contour, and the western section is a vegetated raised outcrop rising from the 220m contour to the 230m contour.

Figure 10.1.1(b) – Aerial photograph of Lot 12 Ahern Place, Nabawa



Figure 10.1.1(c) – Applicant’s submitted site plan of Lot 12 Ahern Place, Nabawa



The landowner is proposing to construct over a 2-3 year period 9 dams along the fire break that runs immediately west of the vegetated watercourse area and utilise 2 existing dams in the watercourse area, 2 further dams are proposed to be

constructed at the central point of Lot 12, and 1 further dam in the gravel pit area on the outcrop towards the west of the property. The total dam area would be 1.9904ha (7,092m² existing and 1.2812ha proposed).

The landowner is also proposing to plant 1,000 mango trees in an approximately 5ha area in the central area of Lot 12 that would be irrigated from the dams, effluent from the marron ponds would also be used in the plantation area.

The applicant is proposing to fence off the watercourse and outcrop area from stock and undertake replanting of native vegetation along the western side of the watercourse area.

A copy of the received application, along with site photographs, has been provided as **separate Attachment 10.1.1(a)** for Council's information.

STATUTORY ENVIRONMENT

Lot 12 Ahern Place, Nabawa is zoned 'Rural Smallholding 1' under the Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme') the objectives for which are listed in the Scheme and the *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') as being:

- *To provide for lot sizes in the range of 4 ha to 40 ha.*
- *To provide for a limited range of rural land uses where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.*
- *To set aside areas for the retention of vegetation and landform or other features which distinguish the land."*

The development of marron ponds for aquaculture and a mango plantation would meet the definition of 'Agriculture-Intensive' which is defined by the Scheme and the Regulations as being:

- "agriculture — intensive means premises used for commercial production purposes, including outbuildings and earthworks, associated with any of the following —*
- (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;*
 - (b) the establishment and operation of plant or fruit nurseries;*
 - (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);*
 - (d) aquaculture"*

'Agriculture-Intensive' is listed as a 'D' land use for the 'Rural Smallholding' zone, that is, not permitted unless the local government has exercised its discretion by granting development approval.

Section 46 of the Scheme notes the following in relation to waterways and flooding:

- "46 Waterways and Flooding*
- (1) Unless otherwise approved by the local government, no development shall occur within 100 metres of any natural waterway or within any area identified as potentially affected by a 1 in 100 year flood of the Chapman, East Chapman, Oakajee, Buller or Greenough Rivers, or the Durawah Gully.*
 - (2) In considering an application to relax the requirements of subclause (1), the local government shall, in addition to the general matters set out in Clause 67 of the deemed provisions, give particular consideration to:*
 - *The advice of the Department of Water and Environmental Regulation regarding 1 in 100 year flood levels;*
 - *The effect that the proposed development may have on the waterway, in terms of restricted flow, nutrient enrichment or any other matter considered relevant; and*
 - *The effect that the waterway may have on the proposed development."*

Schedule 5 of the Scheme notes the following in relation to clearing and fencing in the 'Rural Smallholding' zone:

“(3) Vegetation

- (a) No clearing or destruction of any remnant vegetation or revegetation shall be permitted except for:
 - (i) Clearing to comply with the requirements of the Bush Fires Act 1954 (as amended), the local government’s Bush Fire Notice and/or any fire management plan endorsed by the local government, and the Environmental Protection (Clearing of Native Vegetation) Regulations 2004;*
 - (ii) Clearing for vehicular access or fire breaks specifically identified on a structure plan or local development plan;*
 - (iii) Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the local government;*
 - (iv) Trees that are diseased or dangerous.**
- (b) Re-vegetation of identified areas with the intent of rehabilitating degraded land or for screening purposes may be required on consideration of subdivision or development applications.”*

“(7) Fencing

- (b) Prior to the stocking of any particular lot, the local government may require that areas of remnant vegetation within or adjoining the lot shall be protected by stock proof fencing to the specification and satisfaction of the local government. All such fences are to be maintained in good condition thereafter to the satisfaction of the local government.”*

Schedule 7 ‘Site and development requirements relating to the Rural Smallholding zones’ of the Scheme notes for the ‘Rural Smallholding 1’ zone that:

“(4) Water Resources

- (a) Where scheme water supply is unavailable a minimum 100,000L rainwater storage facility for each residence or evidence from the proponent which is satisfactory to the local government than an adequate on-site potable water source exists shall be provided;*
- (b) A license from the Department of Water and Environmental Regulation is required to draw groundwater from a well, bore, dam or any naturally occurring surface water body or watercourse;*
- (c) Where the area has not been surveyed for hydrological resources, the prior advice of the Department of Water and Environmental Regulation should be sought regarding the provision of a water supply for any proposed agriculture-intensive land use and development;*
- (d) No development or land use activity shall impede in any way the natural water flow along any creek line or water course”.*

Section 67 of the Regulations lists the matters the local government is to have due regard for in considering an application for development approval, and of these Council may consider the following of relevance in its assessment of this 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;...*
- ...(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;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (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;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (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;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
- ...(w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate.”*

Licences to take water are administered by the Department of Water and Environment Regulation under the *Rights in Water and Irrigation Act 1914*. The landowner has received a licence to take water with an annual water entitlement of 22,000kL for the purpose of domestic use, aquaculture, irrigation and stock, a copy of which is included within **separate Attachment 10.1.1(a)**. The water licence contains a number of obligations on the licence holder including the providing of water meter readings annually to the Department.

Applications to clear native vegetation are administered by the Department of Water and Environment Regulation under the *Environmental Protection Act 1986* and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. The landowner has made application to the Department to clear 3.08ha of native vegetation for the purpose of cleaning out the 2 existing dams and reinstating the former drainage lines and tracks that were associated with the discontinued Intensive Agriculture activity that occurred upon the property several decades ago.

Under the *Fish Resources Management Act 1994* and *Fish Resources Management Regulations 1995* it is a requirement for a person who breeds, hatches or cultures fish for commercial purposes to hold an aquaculture licence and this is administered by the Department of Primary Resources and Regional Development (Fisheries).

POLICY/PROCEDURE IMPLICATIONS

Shire of Chapman Valley Local Planning Policy 3.2 ‘Intensive Agriculture’ has the objective of “*To provide clarity and direction with regard to the approval of intensive agriculture uses in consideration of potential conflict issues with other land uses*”. Policy 3.2 also lists the following:

“5.0 Application Requirements

- 5.1 *Applications for development are expected to demonstrate due regard for the accompanying information requirements as outlined in the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 5.2 *Applications for development are expected to include written submission demonstrating:*
 - *an acceptable water supply exists on the property.*

- the proposed Intensive Agriculture use/development will not adversely affect a known drinking water source.
- the proposed Intensive Agriculture use will not impact on any neighbouring agricultural practice or be detrimental to the subject land, surrounding locality or environment by way of land degradation or erosion, noise, dust, odour, spray drift, effluent disposal or leaching, waste water disposal or runoff etc.
- how it will satisfy bushfire requirements and other hazards.

Note: The Shire may seek advice from the Department of Water and Environment Regulation to assist in determining the application, with specific reference to ground and surface water impacts. Should the Department of Water and Environment Regulation raise significant concerns or objections to the proposal the application may ultimately be refused by the Local Government. Applicants are therefore encouraged to consult with the Department of Water and Environment Regulation prior to lodging their application and include relevant information arising from this consultation within their lodged application.

Proposed new buildings and structures relating to an Intensive Agriculture development may be subject to additional/other applications and approvals of the Local Government and other agencies.

Should the application propose the clearing of existing remnant vegetation the applicant is required to liaise with the Department of Water and Environment Regulation to obtain the relevant approvals.

6.0 POLICY STATEMENT

6.1 Intensive Agriculture will generally be supported where the Local Government is satisfied that the following minimum criteria and standards can be achieved:

<i>Intensive Agriculture Use</i>	<i>Min. Lot Size</i>	<i>Min. Boundary Setback</i>	<i>Min. Setback from Neighbouring Residence</i>	<i>Min. Setback from Dam or Watercourse</i>	<i>Min. Vegetation Screening & Buffers</i>
<i>Horticulture</i>	<i>20ha</i>	<i>40m</i>	<i>200m</i>	<i>100m</i>	<i>5m</i>
<i>Viticulture</i>	<i>30ha</i>	<i>40m</i>	<i>200m</i>	<i>100m</i>	<i>5m</i>
<i>Floriculture</i>	<i>10ha</i>	<i>15m</i>	<i>100m</i>	<i>100m</i>	<i>5m</i>
<i>Aquaculture</i>	<i>10ha</i>	<i>15m</i>	<i>100m</i>	<i>100m</i>	<i>-</i>
<i>Turf Farm</i>	<i>20ha</i>	<i>15m</i>	<i>100m</i>	<i>100m</i>	<i>-</i>

Note: Depending on the nature of the proposed intensive agriculture use, local wind, topography and vegetation conditions, setbacks may need to be varied to those specified above. When determining such setbacks the Local Government will consider existing characteristics and potential land-uses on adjoining and nearby properties.

6.2 The Local Government will generally only support the establishment of buildings for an Intensive Agriculture use where they are clustered with other buildings on the site and are located well away from hills, mesa tops, and ridge-lines.

6.3 The Local Government will generally not support the damming of a watercourse or valley area for the purpose of servicing a proposed Intensive Agriculture use/development unless subject to the following:

6.3.a a separate application for planning consent for the proposed dam has been submitted detailing

- the overall area and holding capacity of the dam.

- *a profile of the dam wall including the provision of an overflow so as not to prohibit or substantially restrict the flow of water downstream.*
 - *the location of the dam in relation to property boundaries and existing residential development.*
- 6.3.b *the Department of Water & Environment Regulation has given its endorsement for the proposed dam.*
- 6.4 *The Local Government will generally only support direct retailing of produce from the property subject to the following:*
- 6.4.a *Separate application for planning consent for a Produce Stall, Home Store or Market has been submitted (or specifically referenced within the overall submitted application) detailing:*
- *location and form of building*
 - *vehicular access*
 - *disabled access (may be required in some instances)*
 - *provision for on-site car parking*
 - *provision of landscaping*
 - *hours of operation*
- 6.4.b *The retailing is incidental to an approved Intensive Agriculture use/development.*
- 6.4.c *Access to the property is by an 8m gravel standard road.*
- 6.4.d *The proposed development will not result in unacceptable environmental impacts as a result of noise, odour, light spill, or visual intrusion, contamination.”*

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

Nil.

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Local Planning Strategy (2008) identifies Lot 12 Ahern Place, Nabawa as being located within ‘Precinct 3 – Chapman Valley’ the vision for which is:

“A diverse range of rural pursuits and incidental tourist developments that complement the sustainable use of agricultural resources.

The Strategy notes that:

“A majority of Precinct 3 consists of cleared pasture actively farmed for the production of broadacre crops mixed with grazing. However a trend toward farming diversification has started to emerge with the development of small aquaculture, horticulture and viticulture enterprises, particularly in areas where a known sustainable fresh water supply has been identified. Coupled with areas of high land capability,

opportunities currently exist for the experimentation and expansion of alternative crop rotations, the introduction of stock varieties and the development of intensive pursuits, as mentioned above.”

The Strategy lists ‘Intensive Agriculture’ as an appropriate land use within Precinct No.3 subject to compliance with Scheme and Policy provisions.

The application for ‘Intensive Agriculture’ should be assessed against the following Precinct No.3 objectives:

“3.2 Economic Objectives

3.2.1 Facilitate agricultural diversification in appropriate areas where there will be no detrimental impact to the surrounding land.

3.2.2 Encourage the experimentation and growth of newer crops and animal varieties through farm diversification and support value adding to this diversified farm produce. This could include links to tourism in accordance with Council Policy.”

“3.3 Environmental Objectives

3.3.1 Encourage revegetation and retention of existing vegetation in order to minimise soil erosion and salinity levels.

3.3.2 Protect and enhance existing catchments, botanical linkages and vegetation/wildlife corridors, with particular emphasis on the Chapman River.

3.3.3 Ensure development does not adversely impact on river systems, associated catchment areas and groundwater resources through the provision/submission of detailed/supporting research, information and analysis.

3.3.4 Ensure that land use conflicts (i.e. noise, dust, odour, spray drift, vermin etc) are avoided through appropriate environmental and planning controls.

3.3.5 Protect the rural amenity and character of the area from incompatible land use/development, again through the implementation of appropriate environmental and planning controls.

3.3.6 Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements as a minimum.”

The Environmental Protection Authority’s ‘Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses (2005) recommends a separation distance of 100-300m (depending on size) between Aquaculture ponds and sensitive land uses and 500m for Orchards. The proposed location for the Marron Ponds and Mango Plantation would meet with these distancing requirements from existing third-party habitable buildings and there is limited ability for further encroachment from future third-party habitable buildings due to a combination of the size of Lot 12, the central siting of the Intensive Agriculture development within Lot 12, the infrequency of surrounding vacant lots where future habitable buildings may be developed or encroachment from potentially subdivisible future vacant lots.

Strategic Community Plan/Corporate Business 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 would have impact in relation to the Strategic Community Plan.

CONSULTATION

Schedule 7 ‘Site and development requirements relating to the Rural Smallholding zones’ of the Scheme notes for the ‘Rural Smallholding 1’ zone that:

“(2) Land use

(a) When considering applications for development approval, the local government may refer the application to the Department of Water and Environmental Regulation and the Department of Primary Industries and Regional Development and any other responsible authority and relevant Government agency for comment and approval where appropriate”.

Section 7.0 of the Shire of Chapman Valley Local Planning Policy 3.2 'Intensive Agriculture' notes that:

"Should the application be considered to meet the requirements of this policy the application may be dealt with under delegated authority by Shire staff. However should the application not be considered to meet the requirements of the policy or in the opinion of Shire staff require further consideration, the matter may be placed before a meeting of Council for determination."

The application was advertised for comment from 6 July 2020 until 31 July 2020 with the Shire writing directly to the 10 landowners of the 13 lots within a 1km radius of Lot 12, and the Department of Health, the Department of Primary Industries & Regional Development, and the Department of Water & Environment Regulation inviting comment.

At the conclusion of the advertising period 5 submissions had been received, 2 being objections from landowners and 3 submissions providing comment from government agencies. Copies of the received submissions have been provided as **separate Attachment 10.1.1(b)** for Council's information.

The main issue raised in objection to the application related to its potential impact on groundwater quality and quantity due to the water consumption required for the marron ponds and the mango plantation.

The applicant was provided with a copy of the received submissions (with the identities of the objectors redacted) and invited to provide a response to any of the issues raised during the advertising period. A copy of the applicant's response is provided as **separate Attachment 10.1.1(c)** for Council's information.

The Shire also sought further comment from the Department of Water & Environment Regulation and a copy of the Department's response is provided as **separate Attachment 10.1.1(d)** for Council's information.

RISK ASSESSMENT

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

VOTING REQUIREMENTS

Simple majority required

STAFF RECOMMENDATION

That Council grant formal planning approval for the establishment of an Intensive Agriculture (Marron Ponds & Mango Plantation) development upon Lot 12 Ahern Place, Nabawa subject to compliance with the following:

Conditions:

- 1 Development shall be in accordance with plans and application included within Attachment 10.1.1(a) to the Council Agenda report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the land (not the subject of this consent/approval) considered by the Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
- 3 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of waste product, nutrient, noise, odour or otherwise.

-
- 4 The applicant shall install and maintain fencing and revegetation as shown upon the approved plan.
 - 5 The access point onto the local road network shall be to the requirements of the local government.
 - 6 All parking of vehicles and loading and unloading associated with the development/land use is to take place within the boundaries of the property.
 - 7 Repairing of any damage to the road network including the surface is required by reason of use of the road in connection with the development to the requirements of the local government.
 - 8 This approval is not for direct retail to the public on-site.

Notes:

- (a) In relation to condition 1 this approval applies to the 14 dams (12 proposed and 2 existing) and planting of a total of 1,000 mango trees as contained within Attachment 10.1.1(a) to the Council Agenda report. Any further dams or expansion of dams, or planting of additional mango trees or planting beyond the approved area (or any other Intensive Agriculture activity) is not permitted, unless otherwise approved by the local government.
- (b) The applicant is advised that the proposed development is located within a rural area where a range of sprays may be used for broadacre production. Whilst it is the expectation of all rural landowners to use best practice when undertaking spraying there remains the potential for the proposed aquaculture and plantation development to be impacted.
- (c) The applicant is advised that this planning approval from the local government does not negate the requirement for any additional approvals which may be required under separate legislation from state government agencies, and it is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully commences and adhere to the conditions of these additional approvals, including, but not limited to the following where required:
 - Licence to take water as administered by the Department of Water and Environment Regulation under the *Rights in Water and Irrigation Act 1914*;
 - Approval to clear native vegetation as administered by the Department of Water and Environment Regulation under the *Environmental Protection Act 1986* and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*;
 - Aquaculture licence as administered by the Department of Primary Resources and Regional Development (Fisheries) under the *Fish Resources Management Act 1994* and *Fish Resources Management Regulations 1995* and Environmental Codes of Practice.
- (d) The applicant is advised that the siting of transportable building(s) and sea container(s) within the 'Rural Smallholding' zone requires the prior approval of the local government and they are required to either remove these from the property, or, make application to the local government relating to the transportable building(s) and sea container(s) that have been sited upon the property, and the proposed works to improve their visual appearance, within 60 days.
- (e) Should the applicant be 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.

COUNCIL RESOLUTION

MOVED: Cr Batten

SECONDED: Cr. Forth

That Council grant formal planning approval for the establishment of an Intensive Agriculture (Marron Ponds & Mango Plantation) development upon Lot 12 Ahern Place, Nabawa subject to compliance with the following:

Conditions:

- 1 Development shall be in accordance with plans and application included within Attachment 10.1.1(a) to the Council Agenda report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the land (not the subject of this consent/approval) considered by the Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
- 3 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of waste product, nutrient, noise, odour or otherwise.
- 4 The applicant shall install and maintain fencing and revegetation as shown upon the approved plan.
- 5 The access point onto the local road network shall be to the requirements of the local government.
- 6 All parking of vehicles and loading and unloading associated with the development/land use is to take place within the boundaries of the property.
- 7 Repairing of any damage to the road network including the surface is required by reason of use of the road in connection with the development to the requirements of the local government.
- 8 This approval is not for direct retail to the public on-site.
- 9 The applicant shall comply with the Department for Primary Industries & Regional Development's guidelines for biosecurity and the environment, and current industry standards and Environmental Code of Practice standards for land based aquaculture industry and horticulture.

Notes:

- (a) In relation to condition 1 this approval applies to the 14 dams (12 proposed and 2 existing) and planting of a total of 1,000 mango trees as contained within Attachment 10.1.1(a) to the Council Agenda report. Any further dams or expansion of dams, or planting of additional mango trees or planting beyond the approved area (or any other Intensive Agriculture activity) is not permitted, unless otherwise approved by the local government.
- (b) The applicant is advised that the proposed development is located within a rural area where a range of sprays may be used for broadacre production. Whilst it is the expectation of all rural landowners to use best practice when undertaking spraying there remains the potential for the proposed aquaculture and plantation development to be impacted.
- (c) The applicant is advised that this planning approval from the local government does not negate the requirement for any additional approvals which may be required under separate legislation from state government agencies, and it is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully

commences and adhere to the conditions of these additional approvals, including, but not limited to the following where required:

- Licence to take water as administered by the Department of Water and Environment Regulation under the *Rights in Water and Irrigation Act 1914*;
 - Approval to clear native vegetation as administered by the Department of Water and Environment Regulation under the *Environmental Protection Act 1986* and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*;
 - Aquaculture licence as administered by the Department of Primary Resources and Regional Development (Fisheries) under the *Fish Resources Management Act 1994* and *Fish Resources Management Regulations 1995*.
- (d) The applicant is advised that the siting of transportable building(s) and sea container(s) within the 'Rural Smallholding' zone requires the prior approval of the local government and they are required to either remove these from the property, or, make application to the local government relating to the transportable building(s) and sea container(s) that have been sited upon the property, and the proposed works to improve their visual appearance, within 60 days.
- (e) Should the applicant be 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 6/1
CARRIED**

Minute Reference: 08/20-03

REASON FOR DEVIATION: To include reference to issue raised in Department of Primary Industries & Regional Development submission during advertising of application.

10.2.2

Proposed Restrictive Covenant and Easement – Pet Cemetery

PROPONENT:	Shalom Pet Cemetery
SITE:	1172 (Lot 8) Chapman Valley Road, Narra Tarra
FILE REFERENCE:	A431
PREVIOUS REFERENCE:	05/18-3 & 02/20-3
DATE:	10 August 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.2	Applicant's solicitors legal documentation with Shire's solicitors suggested modifications shown in mark-up		✓

DISCLOSURE OF INTEREST

The author has an impartiality interest.

BACKGROUND

The owners of the Shalom Pet Cemetery upon 1172 (Lot 8) Chapman Valley Road, Narra Tarra made previous approach enquiring whether Council would be in agreement to the registration of a restrictive covenant and easement protecting the pet cemetery from closure with the Shire listed as the beneficiary. Council resolved at its 19 February 2020 meeting:

"That Council advise the landowner of 1172 (Lot 8) Chapman Valley Road, Narra Tarra that:

- 1 It is willing to give further consideration to the registration of a restrictive covenant and easement relating to the pet cemetery, with the Shire listed as the beneficiary, subject to the landowner's solicitor preparing the necessary documentation (the Shire will then refer the received documentation to its own solicitor for review and comment prior to the matter being returned to a future meeting of Council for further consideration).*
- 2 It is unwilling to accept maintenance or liability responsibility for the pet cemetery and the prepared documentation will be considered with regard to ensuring that there is no created requirement for, or creation of a perception that, the Shire has any such maintenance or liability responsibility.*
- 3 It supports the creation of a second crossover into Lot 8 (to the south of the pet cemetery) to separate vehicle movements associated with the residence and the cemetery. The second crossover, and associated car parking area, are required to be located and constructed to the requirements of the Shire of Chapman Valley.*

The applicant's solicitors subsequently prepared the necessary documentation and provided this to the Shire, the documentation was then referred by the Shire to its own solicitor for comment. The matter is now returned to Council for its further consideration with recommendation that the documentation be returned to the applicant, with the Shire solicitor's proposed modifications, and should the applicant be agreeable to the proposed modifications that the amended documents be produced for signature by all parties and subsequent lodgement with Landgate.

COMMENT

Lot 8 is a largely cleared 7.2ha property, bordered by the Chapman Valley Road on its western frontage and the Chapman River to the east, and is located immediately south of the Fig Tree Crossing bridge. The Pet Cemetery was approved by Council at its 14 December 1993 meeting and now contains approximately 2,000 animals.

Figure 10.1.2(a) – Aerial Photograph of 1172 (Lot 8) Chapman Valley Road, Narra Tarra



Figure 10.1.2(b) – Enlarged Aerial Photo of Residence and Pet Cemetery upon Lot 8



The landowners are looking to create a legal mechanism to protect the pet cemetery and enable continued public access. The landowner is unable to create an easement that 'burdens' the land without having a 'benefited' party and have therefore approached the Shire enquiring whether it would consider performing this role.

The applicant is not seeking the Shire to assume a role in the maintenance of the pet cemetery but rather accept the role of holding a restrictive covenant that prohibits the future owners of the property from destroying/removing the cemetery.

A copy of the landowner's initial enquiry and the preliminary advice from their solicitor was provided as Attachment 10.1.1 with the 19 February 2020 Council Agenda.

The landowner is also looking to create a second vehicle access location, to the south of the pet cemetery, to separate the traffic associated with the residence and the cemetery and this would be required to meet the Shire's standards and specifications.

STATUTORY ENVIRONMENT

1172 (Lot 8) Chapman Valley Road, Narra Tarra is zoned 'Rural' under Shire of Chapman Valley Local Planning Scheme No.3.

POLICY/PROCEDURE IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Whilst the proposed easement and restrictive covenant would not impose a budgetary implication to the Shire in terms of ongoing maintenance, it could create a responsibility for the Shire to take compliance action in the event that a future landowner of the property sought to destroy the cemetery or prevent access.

It might also be considered that by introducing the Shire as an associated party to the pet cemetery (albeit a restrictive one) this could create an expectation that the Shire might become involved in the event that the maintenance of the pet cemetery or its associated car park and driveway became a source of complaint.

Whilst the pet cemetery would not become a Shire asset the Shire of Chapman Valley Asset Management Plan does provide the following that might be considered relevant to Council in its consideration of this matter:

"New works are those works to create a new asset which did not previously exist or works which upgrade or improve an existing asset beyond its existing capacity. They may result from growth, social or environmental needs.

New assets and upgrade/expansion of existing assets are identified from various sources such as councillor, staff or community requests, proposals identified by strategic plans or partnerships with other organisations. Proposals are investigated to verify need and to develop a preliminary estimate. Verified proposals are ranked by priority and available funds and scheduled in future works programmes. The following programs should be referred to:

- *Ten Year Road Works Program*
- *Ten Year Plant Replacement Program*
- *Five Year Building Program*
- *Strategic Community Plan" (pages 6-7)*

- Long Term Financial Plan (LTFP):

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 July 2017 meeting and advises that:

"The main challenges facing Council are the need to meet community aspirations for improved services and infrastructure with a limited funding base. Chapman Valley has a small population and funding base and any new project needs to be considered carefully.

The majority of assets and infrastructure are only affordable to Council with the assistance of State and/or Federal funding. This can be unpredictable and uncertain which makes it difficult to determine the exact timing of being able to afford new infrastructure. However, it is important to not lose sight of the Community's aims....

...As well as core services such as roads the declining inland population, recruitment & retention of skilled people, affordable community housing, improve mobile phone and internet telecommunications, heritage and protecting natural features are all important to the community.

Local Government costs continually increase at a higher rate than the headline Consumer Price Index (CPI), combined with the additional costs associated with the remoteness of the region. This, along with the continuing practice of "cost shifting" by the State and Australian Governments and the ongoing additional legislative burdens and "red tape" being forced onto local government provide a massive funding challenge to ensure sustainability and to meet increasing community expectations." (p.1)

Section 6.3 of the Shire of Chapman Valley Long Term Financial Plan notes that the objective of asset management is to meet a required level of service in the most cost-effective manner through the management of assets for present and future customers. Again, it should be noted that whilst the pet cemetery would not become a Shire asset, there is potential for a perception to be created through its involvement in the restrictive covenant and easement that the Shire has a role in the future appearance and operation of the pet cemetery.

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Local Planning Strategy identifies Lot 8 as being located within 'Precinct 3 – Chapman Valley' the vision for which is:

"A diverse range of rural pursuits and incidental tourist developments that complement the sustainable use of agricultural resources."

Council has been keen to develop Chapman Valley Road as a scenic tourism route with the intent for it to become the Mid West's Swan Valley, with tourism focused businesses supplementing rural activity (e.g. bed and breakfasts, farm stays, restaurants and cafes, music and cultural events, museums, galleries, local produce and craft retail, brewery/distillery tastings and sales etc.) that build on the area's scenic attractions. The Strategy notes for Precinct No.3 that:

"A majority of Precinct 3 consists of cleared pasture actively farmed for the production of broadacre crops mixed with grazing. However a trend toward farming diversification has started to emerge with the development of small aquaculture, horticulture and viticulture enterprises, particularly in areas where a known sustainable fresh water supply has been identified. Coupled with areas of high land capability, opportunities currently exist for the experimentation and expansion of alternative crop rotations, the introduction of stock varieties and the development of intensive pursuits, as mentioned above.

Further opportunity exists for limited low-key tourist development linked with local industries, farm stays and farm diversification in close proximity to established tourist routes where a suitable level of infrastructure exists. Most of the local road network within the Chapman Valley consists of gravel formed and paved roads, with the exception of Chapman Valley Road, Northampton Nabawa Road, Morrell Road, Chapman Road East, Narra Tarra Moonyoonooka Road and Durawah Road constructed to bitumen seal standard. Heritage trails are also evident along the Chapman Valley Road and Nanson Howatharra Road with the potential to be developed further for tourism purposes."

Whilst on initial consideration, the Shalom Pet Cemetery might not be considered a tourism business, it should be considered as forming a part of this overall tourism/scenic drive vision. The pet cemetery does draw visitors who might then be encouraged (potentially through signage) to continue driving along Chapman Valley Road to other destinations as part of a wider 'day out'. The pet cemetery might be considered as one part of an overall trail, similar to interpretative signage at places of historic or scenic interest, in that whilst they do not in themselves generate economic activity they

combine to create a wider network of places of interest that can attract visitors, amidst which business offering goods and services are then located to generate economic activity and employment.

The pet cemetery does have a level of recognition and affection as evidenced by the visitors it receives to the site itself and the on-line comments and potential media exposure it can generate:

https://www.facebook.com/abcmidwestandwheatbelt/posts/10157382395940985?_tn_=-K-R

On this basis Council might consider that accepting a level of involvement through being custodian of a restrictive covenant has overall merit to the community and its tourism economy.

Council might suggest to the applicant the renaming of the site to the Chapman Valley Shalom Pet Cemetery would further work in with the overall promotional scenic drive theme

It might also be noted that in the event that circumstances or Council's view on its involvement was to change then it could (being the benefited party to a restrictive covenant) decide to withdraw from the arrangement at some future time.

Figure 10.1.2(c) – Shalom Pet Cemetery upon Lot 8 Chapman Valley Road, Narra Tarra



Strategic Community Plan/Corporate Business Plan:

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

The Strategic Community Plan lists the following objectives of relevance in this matter:

- 2.2 Provide support for business development and local employment;
- 2.3 Welcome local tourism and participation in regional strategy;
- 5.2 Be accountable and transparent in managing resources;
- 5.3 Make informed decisions within resources and areas of responsibility.

CONSULTATION

The applicant's solicitors legal documentation was referred to the Shire's solicitor for review who have provided the following comment:

“The documents have been marked up with our suggested changes and may be read in conjunction with the following comments:

Easement

- *The document is not in registerable form however, we can easily arrange this once the terms of the deed are agreed.*
- *The owner will need to arrange for Deposited Plan 418882 to be lodged at Landgate. The plan must be in order for dealings before we can arrange for the easement to be lodged.*
- *The easement has been amended to ensure that it is clear that the Shire is not in any way liable for the easement, in particular the repair and maintenance of the easement or for any loss, damage or injury to any person or property on the easement. We have included a standard indemnity provisions and also a requirement for the owner to maintain public liability insurance.*

Restrictive Covenant

- *The document is not in a registrable form. As above, this can be arranged once the terms are agreed.*
- *We have not made any substantive changes to the restrictive covenant.*
- *Subject to further instructions from the shire, the document as amended is acceptable.”*

A copy of the applicant’s solicitor’s documentation with the Shire solicitor’s suggested modifications shown in mark-up is provided as **Attachment 10.1.2** for Council’s consideration.

Shire staff upon reviewing the Shire solicitor’s suggested modifications raise only one issue for Council discussion, this being proposed clause 4(2) in the easement documentation where the Shire’s solicitor has suggested the inclusion of a clause whereby the Shire can require the landowner to seal the easement area. It is understood that the Shire’s solicitors has included this suggested clause to provide Council with ability to address a future issue that may arise with the easement. Council may, however, feel that this clause is onerous and should not be included, or it may feel that it provides a future Council with flexibility to address an issue should it arise and the landowner of the day would have the ability to approach the Council of the day (or the Department of Local Government) were this to be considered an unreasonable upgrading requirement.

RISK ASSESSMENT

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

VOTING REQUIREMENTS

Simple majority required

MOVED: Cr. Forth

SECONDED: Cr. Maluish

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council advise the landowner of 1172 (Lot 8) Chapman Valley Road, Narra Tarra that it authorises the Shire President and Shire CEO to sign the restrictive covenant and easement documentation relating to the pet cemetery subject to the modifications being undertaken to the documentation as provided by the Shire’s solicitor.

**Voting 7/0
CARRIED
Minute Reference: 08/20-04**

10.2.3

Proposed Nanson Townsite Right of Way Closure and Reserve Disposal

PROPONENT:	B Egerton-Green
SITE:	14 (Lot 10) Lauder Street, Nanson & Reserve 43117 East Terrace, Nanson
FILE REFERENCE:	A1342 & A2031
PREVIOUS REFERENCE:	Nil
DATE:	8 August 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
	Nil		

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of correspondence from the landowner of 14 (Lot 10) Lauder Street, Nanson seeking support for the closure of the Right of Way ('ROW') on their rear boundary and its amalgamation into their property. The landowner is also enquiring about the potential acquisition of Reserve 43117 East Terrace, Nanson. This report recommends that Council advertise the proposed actions inviting comment.

Figure 10.1.3(a) – Location Plan of southern section of Nanson townsite



COMMENT

The applicant's 1,051m² property is located towards the southern end of the Nanson townsite and contains a residence and shed. The property backs onto a 5m wide ROW (more commonly known as a 'dunny lane') and the applicant is seeking to acquire the 111.54m² section that directly abuts the rear of Lot 10 and amalgamate it into their property.

The applicant has written to Council advising:

"I am interested in the possible purchase of the ROW at the rear of my block at 14 Lauder St, Nanson. Would you please be able to present this request before Council at your next opportunity in order that my interest and request can be forwarded to the appropriate party at your convenience."

In separate correspondence the applicant has also written to Council enquiring whether the 1,083m² Reserve 43117 East Terrace on the opposite side of the ROW (they are seeking to close and acquire) might also be available for purchase.

"A member of my family has expressed a passing interest in the possible availability and purchase of the block adjoining my block in Nanson, shown as 101 of 1084metres.

I would stress that this is only a passing interest and may not proceed any further.

I would also point out that there are a number of large trees on the block, which would need to be removed prior to any proposed building on the block itself.

This would obviously need to be taken into consideration when the appropriate person is consulted as to a realistic value, bearing in mind the considerable cost of the removal of the trees, the subsequent levelling of the block, the possible but very real likelihood that a considerable amount of landfill would need to be accessed and carted to the block in order to level and fill the subsequent holes. (craters).

If you have the time to seek advice as to whether or not this block is available, and taking these points into consideration it would be appreciated if you could make the appropriate enquiries on my behalf."

Figure 10.1.3(b) – Aerial photograph of 14 (Lot 10) Lauder Street, adjoining ROW, & Reserve 43117 East Terrace



Shire staff raise no objection to the closure of the portion of the ROW adjoining Lot 10 Lauder Street and its amalgamation into the adjoining land on the following basis:

- the ROW is considered surplus to Shire requirements;
- the ROW already appears on-ground to form part of the landowner's property;
- the adjoining landowner to the east who may have had an interest in acquiring part or all of the ROW is in this instance the Department of Planning, Lands & Heritage and not a private landowner;
- closing the ROW would not inconvenience the surrounding landowners or wider public as the ROW is not required for access purposes;
- disposal of the ROW would remove any Shire responsibility for the land relating to management or liability;
- it is considered that the subject land would be better managed under the private ownership of the adjoining landowner rather than under public ownership;
- closing the ROW would accord with the Shire's strategic direction as contained in the recommendations of the Nanson Townscape Plan.

Shire staff also raise no objection to the disposal of Reserve 43117 on the following basis:

- Reserve 43117 is considered surplus to recreational requirements as formal recreational facilities are already provided 150m to the north-east at the Nanson Playground, and informal recreational opportunities are provided along the Chapman River reserve 100m to the west of Reserve 43117;
- disposal of Reserve 43117 would remove any Shire responsibility for the land relating to management (e.g. firebreaks, weed control and general maintenance) or liability and allow for Shire resources to be utilised elsewhere on assets that serve a greater community benefit;
- Council has no identified future purpose for Reserve 43117;
- disposing of Reserve 43117 could be considered to accord with the Shire's strategic direction as contained in the recommendations of the Nanson Townscape Plan.

Figure 10.1.3(c) – View of ROW between Lot 10 Lauder Street & Reserve 43117 East Terrace, Nanson



Figure 10.1.3(d) – View of Reserve 43117 looking west from East Terrace



Figure 10.1.3(e) – View looking east from rear of Reserve 43117 towards East Terrace



STATUTORY ENVIRONMENT

Lot 10 Lauder Street, Reserve 43117 East Terrace and the ROW between them are all zoned 'Rural Townsite' under the Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme') the objectives for which are listed as being "to provide for a range of land uses that would typically be found in a small country town".

Section 58 of the *Land Administration Act 1997* provides for the closure of public roads and ROW's and requires a resolution of Council to commence this process.

Reserve 43117 is a Reserve for Recreation that has had a management order (formerly known as 'vesting order') issued to the Shire of Chapman Valley since 1994.

Council's role in the disposal of Reserves and ROW's is an initiating and advisory one only, and the final decision on whether to dispose of the land will rest with the Department of Planning, Lands & Heritage.

POLICY/PROCEDURE IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Council's financial involvement would be limited to the minor cost of advertising the ROW closure process only, although there may be some long-term financial benefit to Council in removing unrequired assets and management responsibility.

Should the Department of Planning, Lands & Heritage be in agreeance to the disposal of the land it will request the Valuer General to set a valuation for the 111.54m² area of ROW and the 1,083m² Reserve 43117.

The Department of Planning, Lands & Heritage will require the landowner/purchaser to accept any incurred surveying and conveyancing expense, in addition to the cost of purchase of the land as set by the Valuer General, and this money is retained by the State Government and not the Local Government.

Long Term Financial Plan (LTFP):

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 July 2017 meeting. It is considered that the disposal of assets deemed surplus to requirements both reduces maintenance and liability to Council but assists in meeting a required Level of Service in the most cost effective manner for present and future community.

STRATEGIC IMPLICATIONS

The Nanson Townscape Plan was adopted by Council on 16 March 2004 to provide guidance for future development and enhancement of the Nanson townsite and provide a supporting basis for the pursuit of funding for specific projects identified in the Plan.

The Nanson Townscape Plan makes recommendation that the Shire "investigate possible closure of the right of way (dunny cart lane) with adjacent landowners" and Council's support for the landowner of Lot 10 Lauder Street's approach to acquire the ROW to the rear of their property accords with this strategic vision.

Council previously supported a ROW closure and disposal to the immediate north of Lot 10 Lauder Street at its 18 April and 20 June 2012 meetings relevant to the Nanson Museum (as several Museum buildings were constructed over the ROW). The ROW was also closed that ran between Lots 11 and 12 Lauder Street and Lots 16 and 17 East Terrace (that were all owned by the same landowner) to enable the amalgamation of the ROW into their landholding and their 4 lots into 1 title.

Figure 10.1.3(f) – Nanson townsite ROW closure precedent

Left: Lots 11, 12, 16 & 17 & ROW prior to process

Right: Amalgamated titles following process (note Lot 10 Lauder Street to the south)



The Nanson Townscape Plan also makes recommendation regarding Lot 10 and adjoining Reserve 43117 that the Shire “formalise lease arrangement with adjoining landowner for continued use of Lot and Reserve” and it is considered that the disposal of the land would accord with this strategic direction, noting particularly that the Nanson Townscape Plan identifies no Shire use for the land.

Strategic Community Plan/Corporate Business 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 would have impact in relation to the Strategic Community Plan.

CONSULTATION

Should Council initiate the ROW closure, it is required under Section 58 of the *Land Administration Act 1997* to be publicly advertised for a period of 35 days. This would include the following actions:

- Notice being placed in a locally circulating newspaper detailing the proposed ROW closure;
- Letters being sent to the surrounding landowners;
- Emails being sent to the relevant service authorities (in this instance this would be considered to be Telstra, Water Corporation and Western Power); &
- A sign detailing the proposed ROW closure being erected onsite.

At the conclusion of the advertising period the proposal is required to be returned to a meeting of Council for its final determination.

Given that Council is required to undertake consultation in relation to the proposed ROW disposal it is suggested that the proposed Reserve disposal also be advertised for comment given this would not involve additional expense to Council and would enable adjoining landowners to Reserve 43117 the opportunity to provide comment to Council for its consideration prior to making its final recommendation to the Department of Planning, Lands & Heritage.

RISK ASSESSMENT

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

VOTING REQUIREMENTS

Simple majority required

MOVED: Cr. Batten

SECONDED: Cr. Humphrey

COUNCIL RESOLUTION /STAFF RECOMMENDATION

That Council:

- 1 Pursuant to Section 58 of the *Land Administration Act 1997*, initiate closure action of the portion of Right of Way adjoining Lot 10 Lauder Street, Nanson (to enable its subsequent amalgamation with Lot 10 Lauder Street, Nanson).
- 2 Pursuant to Section 58 of the *Land Administration Act 1997*, initiate closure action of the portion of Right of Way between Lots 7 & 8 Lauder Street & Lot 19 East Terrace, Nanson (to enable its subsequent amalgamation with Lot 19 East Terrace, Nanson).
- 3 Concurrent to the public notice period relating to the ROW closures, also seek comment from adjoining landowners and service authorities in regards to the potential disposal of Reserve 43117 East Terrace, Nanson.
- 4 At the conclusion of the public notice period return these matters to Council for its further consideration.

Voting 7/0

CARRIED

Minute Reference: 08/20-05

10.2

Manager of Finance & Corporate Services

August 2020

10.2 AGENDA ITEMS

- 10.2.1 Financial Management Report for July 2020**
- 10.2.2 Finance Audit & Risk Committee Minutes**

10.3.1

Financial Management Report for July 2020

PROPONENT:	Shire of Chapman Valley
SITE:	Shire of Chapman Valley
FILE REFERENCE:	307.00
PREVIOUS REFERENCE:	Nil
DATE:	16 th August 2020
AUTHOR:	Dianne Raymond, Manager Finance & Corporate Services

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.1(a)	July 2020 Financial Management Reports		✓
10.2.1(b)	Confidential List of Accounts July 2020		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

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

COMMENT

The financial position at the end July 2020 are detailed in the monthly management report provided as a separate attachment for Council's review.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

POLICY/PROCEDURE IMPLICATIONS

There are no policy implications.

FINANCIAL IMPLICATIONS

As presented in the Financial Management Report for July 2020

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 policy categories and set ongoing accountability for review processes	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

MOVED: Cr. Maluish

SECONDED: Cr. Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council receives the financial management report supplied under separate cover for the month of July 2020 comprising the following:

Statement of Financial Activities with notes

Note 1 – Net Current Assets

Note 2 – Explanation of Material Variances

Note 3 – Cash & Investments

Note 4 – Receivables

Note 5 – Rating Revenue

Note 6 – Disposal of Assets

Note 7 – Capital Acquisitions

Note 8 – Borrowings

Note 9 – Reserves

Note 10 – Grants & Contributions

Note 11 – Trust Fund

Note 12 – Budget Amendments

Additional Information

Summary of Payments

Bank Reconciliation

Credit Card Statement

Voting 7/0

CARRIED

Minute Reference: 08/20-06

10.2.2

Finance, Audit & Risk Management Committee Minutes

PROPONENT:	Shire of Chapman Valley
SITE:	Shire of Chapman Valley
FILE REFERENCE:	403.05
PREVIOUS REFERENCE:	Nil
DATE:	19 th August 2020
AUTHOR:	Dianne Raymond, Manager Finance & Corporate Services

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.2 (a)	Unconfirmed Minutes Finance, Audit & Risk Management Committee Minutes		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Shire of Chapman Valley Finance, Audit & Risk Management Committee met on the 31st July 2020 in the Council Chambers Nabawa to review the Interim Audit Management Report. The Minutes of the meeting have been supplied under separate cover attachment 10.2.2 (a).

COMMENT

The Finance, Audit & Risk Management Committee reviewed the Interim Audit Management Report for year ended 30th June 2020. The Interim Audit Management Report identified three areas of moderate rating for further action. Management and auditors have discussed the noted deficiencies with actions taken to improve internal controls and reporting. The list of findings is reported below:

INDEX OF FINDINGS	RATING		
	Significant	Moderate	Minor
1. Revenue Not Recognised in Accordance with AASB15		✓	
2. Purchase Orders Not Raised for Services Performed or Goods Received		✓	
3. Inventory (Fuel) Reconciliations Not Performed with Sufficient Regularity		✓	

STATUTORY ENVIRONMENT

Local Government Act 1995 & Local Government Audit Regulations 1996

POLICY/PROCEDURE IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

No implications envisaged

Long Term Financial Plan (LTFP):

No effect on the LTFP

STRATEGIC IMPLICATIONS

No implications envisaged

Strategic Community Plan/Corporate Business Plan:

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

CONSULTATION

Management have discussed the Interim Management Audit with the Auditors, Moore Stephens on behalf of the Office of Auditor General

RISK ASSESSMENT

Low risk as it is considered management procedures are sound

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

VOTING REQUIREMENTS

Simple Majority

MOVED: Cr. Farrell

SECONDED: Cr. Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council receives the Minutes of the Finance, Audit & Risk Management Committee meeting held on the 31st July 2020 endorse the following actions as identified:

Index of Findings	Rating	Recommended Action
1. Revenue Not Recognised In Accordance With AASB 15	Moderate	As part of the month end review the Shire will include review of its revenue recognition to ensure compliance with AASB 15 Revenue from Contracts with Customers on a monthly basis for ease of assessment annually. Responsible Person: Manager Finance & Corporate Services Completion Date: 30 th June 2020
2. Purchase Orders Not Raised For Services	Moderate	Authorised officers are currently reminded of the need to ensure purchase orders are raised prior to the authorising of works/services

	Performed Or Goods Received		or ordering goods. This will continue to be done as a matter of course and be monitored to help to ensure works/services or goods have been appropriately authorised Responsible Person: Manager Finance & Corporate Services Completion Date: 30 th June 2020
3.	Inventory (Fuel) Reconciliations Not Performed With Sufficient Regularity	Moderate	The fuel system reconciliation is currently under review to ensure the inventory is properly controlled. This is part of the monthly reconciliation cycle and performed by the Senior Finance Officer. The Manager of Works Services reviews fuel data. The fuel quantity as per the inventory system will be reconciled to the quantity per the fuel dip monthly. The reconciliation is to be reviewed by the Manager Finance & Corporate Services Responsible Person: Manager Finance & Corporate Services Completion Date: 30 th June 2020

Voting 7/0
CARRIED
Minute Reference: 08/20-07

10.3

Chief Executive Officer

August 2020

10.3 AGENDA ITEMS

10.3.1 Meeting Dates Venues

10.3.1

Notice of Council Meeting 2021

PROPONENT:	Chief Executive Officer
SITE:	Shire of Chapman Valley
FILE REFERENCE:	401.09
PREVIOUS REFERENCE:	NA
DATE:	19 th August 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
	NIL		

DISCLOSURE OF INTEREST

Nil

BACKGROUND

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

Council has previously resolved to reach out to the community, with one of the proposals being to move the Ordinary Monthly Council Meeting(s) around the shire. In 2020 Council held two of its OCM away from the Nabawa Administration Building i.e.

- March 2020 OCM – Bill Hemsley Park Community Centre; &
- August 2020 OCM - Yuna Multipurpose Community Centre

It is being recommended Council maintain this activity in 2021.

COMMENT

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

The meeting date for December has occasionally been brought forward to the second Wednesday of the month to avoid clashes with Christmas/New Year break period. This should not be necessary in 2021 as the third Wednesday is the 15th December. However; this meeting can be brought forward to the 8th December 2020 if Council wishes to do so. This would result in a three week period between the November 2020 OCM (17/11/21) and an earlier December 2020 (8/12/2021). It is not being recommended to change the December 2021 OCM date.

The other issue which at times has affected the Ordinary Council Meetings being held on the third Wednesday of each month is where the Easter period falls during the year. In 2021 the Easter dates are as follows:

- 2nd April – Good Friday
- 5th April – Easter Monday
- 6th April – Easter Tuesday

Therefore, as the 2021 April OCM is scheduled for the 21st April it is not being recommended this date be changed.

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

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

STATUTORY ENVIRONMENT

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

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

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

POLICY/PROCEDURE IMPLICATIONS

No Policy or Procedure affected.

FINANCIAL IMPLICATIONS

No additional costs envisaged.

Long Term Financial Plan (LTFP):

No effect on the LTFP is envisaged.

STRATEGIC IMPLICATIONS

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

Strategic Community Plan/Corporate Business Plan:

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

CONSULTATION

The practice of relocating the Council Meetings has previously been discussed in the past and I believe this has proven to be successful as it portrays a clear indication Council will continue to reach out to the community.

RISK ASSESSMENT

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

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

VOTING REQUIREMENTS

Simple Majority.

MOVED: Cr. Royce

SECONDED: Cr. Maluish

COUNCIL RESOLUTION/ STAFF RECOMMENDATION

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

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

Ordinary Council Meetings are to commence at 9am.

**Voting 7/0
CARRIED
Minute Reference: 08/20-08**

11.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

13.0 DELEGATES REPORTS

COUNCILLOR	ITEM
Cr. Forth	CVAS AgShow Grant update.
Cr. Farrell	Meeting with Main Roads/Infrastructure Australia regarding proposed Carnarvon Muchea Transport Corridor.
Cr. Batten/Simon Lancaster	Moresby Range Conservation Park
Cr. Farrell	Australian Citizenship Ceremony 07/08/2020. Thanked Staff for arrange the event after hours.
Cr. Forth	Update on the formation of a Chapman Valley Community Group (Un-named Chapman Valley Progress Society)

CEO Maurice Battilana left the room at 10.03am

CEO Maurice Battilana re-entered the room at 10.05am

Yuna Primary School Students left the meeting at 10.10am

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 10.12am.