

ORDINARY COUNCIL MEETING

CONFIRMED MINUTES

9:00am Wednesday
16/09/2020

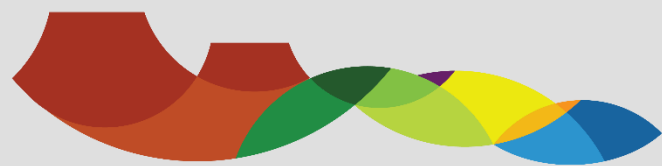
Nabawa Council Chambers

SEPTEMBER 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"*

DISCLAIMER



SHIRE OF
Chapman Valley
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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.

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 9.05am.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

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

3.1 Attendees

Elected Members	In	Out
Cr Anthony Farrell (President)	9.05am	11.48am
Cr Kirrilee Warr (Deputy President)	9.05am	11.48am
Cr Peter Humphrey	9.05am	11.48am
Cr Darrell Forth	9.05am	11.48am
Cr. Beverley Davidson	9.05am	11.48am
Cr. Nicole Batten	9.05am	11.48am

Officers	In	Out
Maurice Battilana, Chief Executive Officer	9.05am	11.48am
Simon Lancaster, Deputy Chief Executive Officer	9.05am	11.48am
Dianne Raymond, Manager Finance & Corporate Services	9.05am	11.48am
Beau Raymond (Minute Taker)	9.05am	11.48am

Visitors	In	Out
Mark Wilson	9.05am	9.45am
Craig Casey	9.05am	9.15am
Terry Maher	9.05am	9.15am
Theona councillor	9.05am	9.35am

3.2 Apologies

Elected Members
Cr Trevor Royce

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

4.0 PUBLIC QUESTION TIME

4.1 Response to Previous Public Questions on Notice
Nil

4.2 Public Question Time
Nil

5.0 APPLICATIONS FOR LEAVE OF ABSENCE (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
10.1.3	Nicole Batten	Impartiality	Member of the Yuna Golf Club. Spouse is President of the Yuna Golf Club. Neighboring lease to agenda item.
10.3.3	Kirrilee Warr	Impartiality	The location of the Naraling Fire Brigade tank is proposed to be sited on my brothers private land

			and adjoining a property I own.
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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

MOVED: Cr. Forth

SECONDED: Cr. Davidson

8.1 Ordinary Meeting of Council held on Wednesday 19th August 2020

The Minutes of the Ordinary Meeting of Council held Wednesday 19th August 2020 be confirmed as true and accurate.

Voting F6/A0

CARRIED

Minute Reference: 09/20-01

9.0 ITEMS TO BE DEALT WITH EN BLOC

Nil

10.0 OFFICERS REPORTS

10.1

Deputy Chief Executive Officer

10.1 AGENDA ITEMS

- 10.1.1 Proposed Residence (Building Envelope Alteration)**
- 10.1.2 Proposed Shed & Retaining Wall**
- 10.1.3 Proposed Culture Tours**
- 10.1.4 Windsurfing Club Facility**

10.1.1

Proposed Residence (Building Envelope Alteration)

PROPONENT:	Kahuna Developments Pty Ltd for C. Casey
SITE:	34 (Lot 72) Murphy-Yetna Road, Nanson
FILE REFERENCE:	A2054
PREVIOUS REFERENCE:	Nil
DATE:	16 th September 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.1(a)	Application		✓
10.1.1(b)	Carney Hill Estate Structure Plan	✓	
10.1.1(c)	Submissions		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application for a residence upon 34 (Lot 72) Murphy-Yetna Road, Nanson. The development is proposed to be located outside the building envelope shown upon the Carney Hill Estate Structure Plan and in a visually exposed location. The application has been advertised for comment and no objections were received. This report recommends approval. In the event that Council are not supportive of the application alternate wording is supplied at the conclusion of the Comment section of the report.

Figure 10.1.1(a) – Location Plan of 34 (Lot 72) Murphy-Yetna Road, Nanson



COMMENT

Lot 72 is a 41.0068ha property located in the Carney Hill Estate with a 751.03m frontage along its eastern boundary with Chapman Valley Road and a 296.96m frontage along its southern boundary with Murphy-Yetna Road (a restrictive covenant requires vehicle access to be off Murphy-Yetna Road). The property backs onto the Chapman River on its northern boundary and has a section of the rail reserve for the former Geraldton-Yuna railway line running through its northern-most portion.

The lower sections of Lot 72 have been cleared for farming in the past, with remnant vegetation on the elevated areas of the property.

Figure 10.1.1(b) – Aerial photograph of 34 (Lot 72) Murphy-Yetna Road, Nanson



The application is for a 1 bedroom residence that would be sited approximately 73m back from/west of Chapman Valley Road and 75m outside/north-west of the building envelope identified for Lot 72. Given the 41ha scale of the property this distance would not ordinarily be considered a significant variation to the building envelope. However, this application is proposing to move the residence from what would have been a cleared location (as established by the building envelope) on the southern slope of an outcrop to a position (where currently 2 water tanks have been sited) on top of the vegetated outcrop that is approximately 16m above, and on the skyline, as viewed from the adjacent section of Chapman Valley Road.

The residence includes an enclosed upper floor area of 105m² containing 1 bedroom with ensuite and walk-in robe, dining/living area, kitchen with walk-in pantry, and laundry. The enclosed area has a 62.5m² deck along 3 sides, and a 100m² lower floor/undercroft area would contain the solar power room and car/storage area. The 12° skillion roof of the residence would be clad in custom orb sheeting (soft grey tone) and the walls would be Hardies Select panelling (earth tones intended to match on-site coffee rock/gravel). The upper floor windows are proposed to be tinted green glass and the lower floor/undercroft area would be set within a (charcoal) concrete block retaining wall.

The applicant's intention is for an off-grid solar passive home that takes advantage of the proposed site's exposure to wind cross flows and solar benefits, and the outlook from this position.

A copy of the application has been provided as **separate Attachment 10.1.1(a)** for Council's information. The application includes a site plan illustrating the proposed location of the residence in relation to the building envelope, elevation and

floor plans, and 3-D modelling along with supporting information detailing the reasons behind the sought location, and proposed design and landscaping measures to mitigate its impact.

Figure 10.1.1(c) – View of Lot 72 from Chapman Valley Road looking north-west

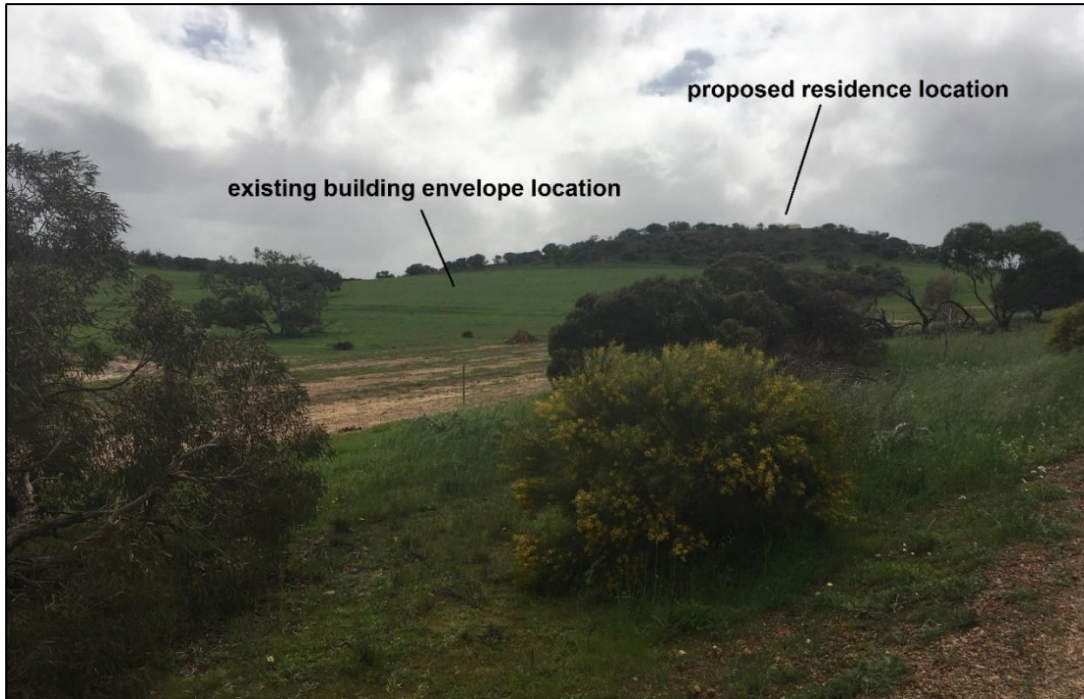


Figure 10.1.1(d) – View of Lot 72 from Chapman Valley Road looking north prior to Murphy-Yetna Road intersection



Figure 10.1.1(e) – View of Lot 72 from Chapman Valley Road looking south from the other end of the 'mad mile'



Figure 10.1.1(f) – View from proposed residence location upon Lot 72 looking south

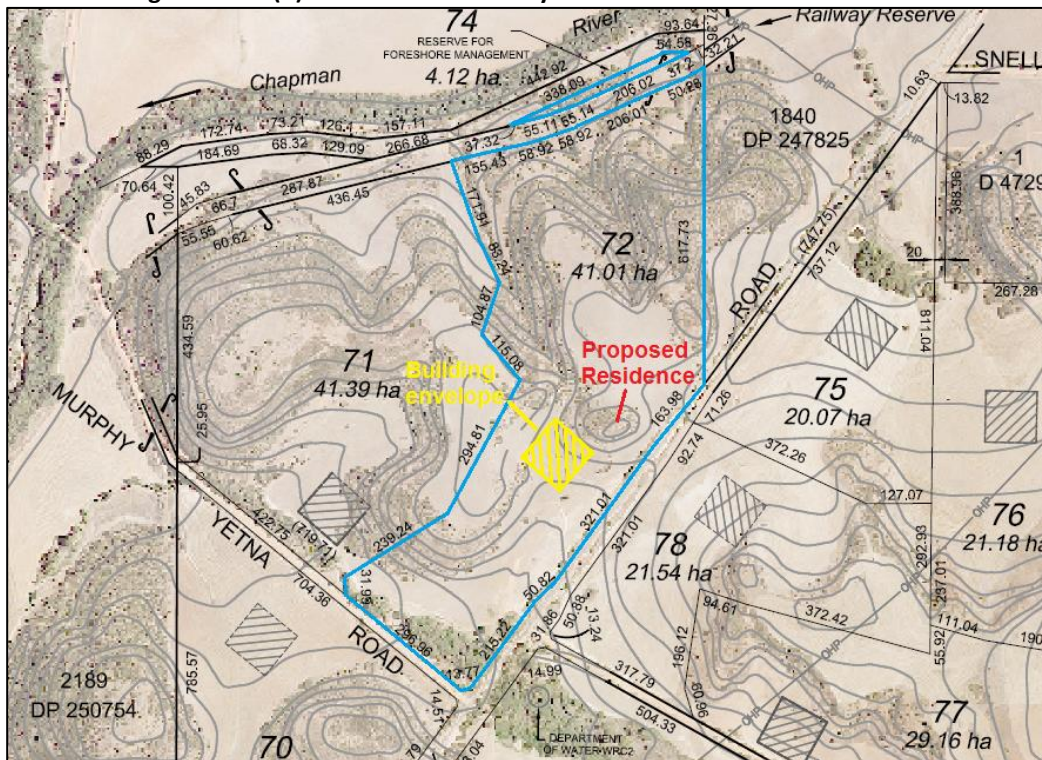


Figure 10.1.1(g) – View from proposed residence location upon Lot 72 looking north



Council adopted the Carney Hill Estate Subdivision Guide Plan at its 16 December 2009 meeting that designated a 1ha building envelope for Lot 72, a copy of the plan is provided as **Attachment 10.1.1(b)**.

Figure 10.1.1(h) – extract from Carney Hill Estate Subdivision Guide Plan



The underlying rationale for identifying building envelopes upon the Carney Hill Estate Subdivision Guide Plan was summarised in the Scheme Amendment No.37 (that rezoned the land from 'Rural' to 'Rural Smallholding') documentation as follows:

“Protect the rural amenity and character of the area from incompatible land use/development.

The size of the lots coupled with the proposed Scheme provisions (including building exclusion areas) will ensure compatibility with surrounding land. Measures such as designated building envelopes will also be used by the Shire to manage the visual amenity and rural ethos of the area.” (Amdt No.37, page 7)

“4.2 LOCATION OF BUILDINGS AND STRUCTURES

The rural seclusion, natural land features and scenic qualities have proven to be the major factors in attracting purchasers to the Chapman Valley area. However, there is a need to ensure that building developments within this locality do not adversely impact on the visual landscape amenity of the area, nor have a detrimental effect on nearby farming activities. Therefore, the positioning of buildings will not be permitted within any area identified as ‘Development Exclusion Area’ and for that matter will only be allowed within the allocated building envelopes as identified on the Subdivision Guide Plan or as determined otherwise by the Shire Council.

In this regard areas of exclusion has been identified in order to protect existing vegetation and encourage the maintenance and enhancement of rural landscape amenity along Chapman Valley Road, which is an important tourist road and part of the Shire’s heritage trail. Furthermore, it is unlikely the Council will support the placement of buildings on hill tops where there is a perceived detrimental effect the broader amenity and scenic qualities of the Flat Top Moresby Ranges.” (Amdt No.37, page 14)

The residence would be sited in a location where it is visually prominent not just to surrounding residences but also passing vehicles along the Chapman Valley Road which is identified as a Primary Distributor Road in the Main Roads WA network and is also a tourism drive with a high level of scenic appeal.

Council should therefore be satisfied, if it is considering approval of this application, that the design of the residence is of a suitably high standard and would be in keeping with (or enhance) the visual amenity and rural nature of the Chapman Valley Road drive to satisfy the relaxation of its standards.

In the event that Council consider that the application does not meet this requirement and does not warrant special consideration and that it should be REFUSED then it may find the following wording appropriate:

“That Council refuse the application for a residence upon 34 (Lot 72) Murphy-Yetna Road, Nanson for the following reasons:

- 1 The development is considered contrary to Sections 9, 37 and 49-Table 6, and Schedules 5 & 7 of the Shire of Chapman Valley Local Planning Scheme No.3.*
- 2 The development is considered contrary to Clause 67 of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 3 Council is not satisfied that sufficient justification has been provided to warrant a concession being granted in this instance to the requirements under Section 40 of the Shire of Chapman Valley Local Planning Scheme No.3 and Section 6 of the Shire of Chapman Valley Local Planning Policy ‘Building Envelopes’.*

-
- 4 *The development is not considered to meet the requirements of the Shire of Chapman Valley Local Planning Strategy and the recommendations as contained within Precinct No.3-Chapman Valley.*
 - 5 *The development is considered contrary to the recommendation as contained in Sections 4.5.1 and 4.5.2 of the Moresby Range Management Strategy.*
 - 6 *The development is not considered to meet the principles outlined within the 'Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design'.*
 - 7 *The proposed residence location is outside of the building envelope as identified on the Carney Hill Estate Structure Plan.*
 - 8 *The proposed residence location is not considered to uphold the underlying planning rationale for the rezoning of the Carney Hill Estate as outlined in the Scheme Amendment No.37 (to Scheme No.1) documentation.*
 - 9 *Approval of this application may well set an undesirable precedent for future variation to the Shire's statutory and policy requirements, which in time could prove to be detrimental to the visual amenity and natural landscape character of the Chapman Valley Road scenic drive and surrounding locality.*
 - 10 *The landowner of Lot 72 was advised of the building envelope location prior to purchase of the land and the property also contains a restrictive covenant stating that "No development is to take place outside the defined building envelope on the Lot unless otherwise approved by the Shire of Chapman Valley".*

Note: 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."

STATUTORY ENVIRONMENT

34 (Lot 72) Murphy-Yetna Road, Nanson is zoned 'Rural Smallholding 2' under Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme') the objectives for which are listed in Table 1 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 proposed development would meet with the definition of 'Single House' which is defined by State Planning Policy 7.3- Residential Design Codes as "a dwelling standing wholly on its own green title or survey strata lot". 'Single House' is listed by the Scheme as a 'P' use in the 'Rural Smallholding' zone, which "means that the use is permitted if it complies with all relevant development standards and requirements of this Scheme".

Portion of Lot 72 (including the proposed residence location) also falls within the 'Special Control Area 2 – Moresby Range Landscape Protection Area' for which the Scheme notes:

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

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- (1) *Within SCA 2, no clearing or destruction of any remnant native vegetation or re-vegetation shall be permitted except for:*
 - (a) *Clearing to comply with the requirements of the Bush Fires Act 1954 (as amended), the local government's Bush Fire Notice and/or any fire management plan endorsed by the local government;*
 - (b) *Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the local government; and/or*
 - (c) *Clearing as may be allowed under the Department of Water and Environmental Regulation and Conservation Land Clearing Regulations;*
 - (d) *Trees that are diseased or dangerous.*

 - (2) *In the determination of any application for development approval within SCA 2, the local government may, having regard to the purpose of the Special Control Area set out in Part 5 and the assessment criteria detailed in the Moresby Range Management Strategy, require modification of development proposals, or impose conditions of approval regarding:*
 - (a) *The siting of the proposed development;*
 - (b) *The design and layout of the proposed development;*
 - (c) *The materials and finishes to be used in the proposed development;*
 - (d) *The protection of remnant native vegetation or re-vegetation located on the site;*
 - (e) *The installation and maintenance of vegetation to provide for the visual screening of proposed development; and/or*
 - (f) *The installation and maintenance of vegetation, retaining walls or other works to prevent erosion."*

The Scheme also notes the following relevant to this application:

"37 Appearance of land and buildings

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

"40 Building envelopes

- (1) *Where a building envelope is identified on a structure or fire management plan, all development shall be contained within the designated envelope area.*
- (2) *No development of any structures shall occur within any area/s identified as 'Development Exclusion Area', 'Re-vegetation Area', 'Remnant Vegetation' or similar on the structure or fire management plan;*
- (3) *Notwithstanding the requirements of Clause 62 of the deemed provisions, where a building envelope exists on a particular lot an application for development approval to change or relocate the building envelope shall be accompanied by relevant building plans and information addressing visual amenity, privacy and screening, vegetation loss, access, and proximity to natural features.*

-
- (4) *In considering an application to relax the requirements of subclause (2) and (3), the local government shall, in addition to the general matters set out in Clause 67 of the deemed provisions, give particular consideration to:*
- (a) *unacceptable visual clutter, especially in elevated areas of high landscape quality or visually exposed locations; and*
 - (b) *unnecessary clearing of remnant native vegetation; and*
 - (c) *visual obtrusiveness and/or impact on an adjoining property by way of privacy, noise, odour or light spill; and*
 - (d) *suitability for landscape screening using effective screening vegetation; and*
 - (e) *compliance with the land-use, setback, building height, development exclusion, vegetation protection, bushfire requirements and other pertinent provisions of the Scheme and relevant local planning policy.”*

“Schedule 5 - Rural Smallholding

(1) Structure Plan

- (a) *Subdivision, development and land use shall generally be in accordance with a structure plan as adopted by the local government and the Western Australian Planning Commission in accordance with Part 4 of the deemed provisions;*
- (b) *Subdivision, development and land-use shall generally be in accordance with any other matters outlined on the structure plan; and*
- (c) *In addition to such other provisions of the Scheme as may affect it, any land that is included in a Rural Residential zone or Rural Smallholding zone shall be subject to those provisions as may be specifically set out against it in Schedules 6 or 7.*

(2) Buildings

- (a) *All buildings shall be sited in accordance with the setback requirements specified in the Scheme except where building envelopes are shown on a structure plan or local development plan. Where building envelopes are shown, all buildings and effluent disposal systems shall be located within that envelope.*
- (b) *All buildings constructed on the land shall be sympathetic to existing landscape features, predominantly landform, vegetation and amenity in terms of their design, height, location, material and cladding colours...*

...(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.”*

Clause 67 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters 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...
- ...(l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (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;...
- ...(w) the history of the site where the development is to be located;
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application...
- ...(zb) any other planning consideration the local government considers appropriate.”

The Carney Hill Estate Subdivision Guide Plan was adopted by Council at its 16 December 2009 meeting and is considered to form a Structure Plan as per Part 9 Regulation 79 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

POLICY/PROCEDURE IMPLICATIONS

Schedule 2 Part 2 Division 2 Clauses 3-6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides for 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 Local Planning Policy 5.1 – Building Envelopes contains the following objectives:

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

Policy 5.1 also sets the following Policy Statement:

- “6.1 In considering an application to relax the development standards pursuant to Section 40 of its Local Planning Scheme, the Local Government will give particular consideration to:
 - 6.1.a justification for the proposed amendment.
 - 6.1.b the secondary nature of the development should the application be to site a building/s outside of the envelope (e.g. horse stables, bore sheds).
 - 6.1.c unacceptable visual clutter, especially in elevated areas of high landscape quality or visually exposed locations, such as the edge of hill or mesa tops within prominent parts of the Moresby Range.
 - 6.1.d unnecessary clearing of remnant native vegetation.
 - 6.1.e visual obtrusiveness and/or impact on an adjoining property by way overlooking, noise, odour or light spill.

-
- 6.1.f *suitability for landscape screening using effective screening vegetation and the availability of a proven water supply for this purpose.*
- 6.1.g *use of materials and colours to assist in softening any perceived visual impact.*
- 6.1.h *compliance with the land-use, setback, building height, development exclusion, vegetation protection, bushfire requirements and other pertinent provisions of the Local Planning Scheme and associated Planning Policies.*
- 6.2 *Building envelopes are generally imposed at the time of rezoning or subdivision to provide an area in which buildings upon a property will be clustered and provides an understanding for surrounding landowners of the potential location of future built form. Whilst this Policy provides guidelines for an application to be submitted to amend a building envelope it should not be construed that approval will be granted with each application assessed on its individual merits."*

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 by would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Local Planning Strategy identifies Lot 72 as being located within Precinct No.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 lists the following precinct objectives of relevance in the assessment of this application:

"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.

Lot 72 falls within the study boundary of the Moresby Range Management Strategy (WAPC, 2009) and is identified by Strategy Map 4 as being alongside a tourist drive and Strategy Map 5 as being alongside a travel route corridor and having natural landscape significance. Sections 4.5.1 and 4.5.2 of the Strategy make recommendations of relevance in the assessment of this application:

"Recommendations: land use and development planning

- 43 *Ensure that land uses and infrastructure are sited and designed to complement the landscape qualities of the range and reduce their overall impact. The key elements of effective landscape planning and design to be considered are:*
- describing the landscape values that need to be protected;*
 - defining areas that can accommodate more intensive land use or development;*
 - selecting suitable land uses and development, including consideration of noise, dust and other potential impacts;*
 - providing for a density compatible with retaining landscape values;*
 - sensitive siting; and*
 - designing buildings and structures to blend into their setting.*
- 44 *Ensure that buildings, structures and public or private roads are sited and designed to have minimal impact on views of the range and reflect surrounding character, with reference to the manual, Visual Landscape Planning in Western Australia (DPI, 2007), so that they:*
- Do not dominate the landscape but are compatible in form, scale, bulk, and mass to their setting.*
 - Give thought to visually concealing all buildings and associated services, such as delivery and storage areas and necessary infrastructure. Where possible, buildings are to be constructed behind or among trees.*

- *Reflect the rural nature of the range and cater for expected level of use, particularly any public or private road, and vehicle manoeuvre areas associated with lookouts;*
- *Blend into the surroundings through use of appropriate colour schemes.*
- *Take advantage of views to the range through appropriate orientation of roads in new subdivisions.”*

“Recommendations: flat tops and side slopes, key view corridors and travel routes

- 45 *Minimise more intensive land use and development on the flat tops and side slopes and in key view corridors (identified in map 5) that has the potential to be clearly seen and that would adversely affect the landscape values of the view. Permit more intensive land use and development on the flat tops and side slopes and key view corridors only where it can be demonstrated that such land use and/or development is consistent with the objectives of this strategy.*
- 46 *Support land use and development proposals abutting areas of high landscape significance, as identified in map 6, where it can be demonstrated that the land use and/or development:*
- a) will not adversely affect views of the range; and*
 - b) enhances opportunities for people to enjoy views of or from the range, or experience the range in some other way.*
- 47 *Minimise development in key view corridors and travel route corridors (map 5 and map 6 respectively); advocate the siting and design of buildings and structures to have minimum possible impact on key view corridors and from travel routes, and to reflect the surrounding character:*
- *particular attention should be paid to the location and orientation of large sheds and screening to minimise their impact on views to the range; and*
 - *lower sites should be chosen, sheds should be orientated perpendicular to the primary view and screening should be provided, whether by vegetation or other development.*
- 48 *Ensure that future land use or development maintains the landscape value of the foreground when viewed from major travel routes, and that revegetation and landscaping along and near major travel routes does not affect views of the range from these routes.*
- 49 *Consider the impact remnant vegetation clearing may have on views of the range. Discourage the clearing of remnant vegetation where it forms part of a view corridor from a major travel route.”*

The ‘Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design’ (WAPC, 2007) provides local governments with guidance on incorporating visual landscape planning into assessment and decision making. The manual outlines three broad visual objectives for managing landscape character; ‘protection and maintenance’; ‘restoration and enhancement’; and ‘best practice siting and design’.

The Chapman Valley Road is a drive of scenic value to both the local community and visitors to the region and Council might consider its role in the assessment of rezoning, subdivision and development as being to protect the natural landscape character of this route to maintain its appeal.

The manual generally recommends that vegetation should be retained and development avoided on skylines as seen from important viewing locations and sensitive roads. The siting of the building envelopes on the Carney Hill Estate Structure Plan gave demonstration for this recommendation.

The manual notes that development should be sited with care to ensure that individual components that have the potential to draw attention, such as reflective roofs and windows, are not visible. The manual also notes that the forms, colours and textures of a development do not need to be identical to those found in nature, but they need to appear compatible to the extent that any contrasts do not draw attention. It might be considered that the application has made attempt to address this criteria to reduce the visual impact that its proposed location would create.

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.

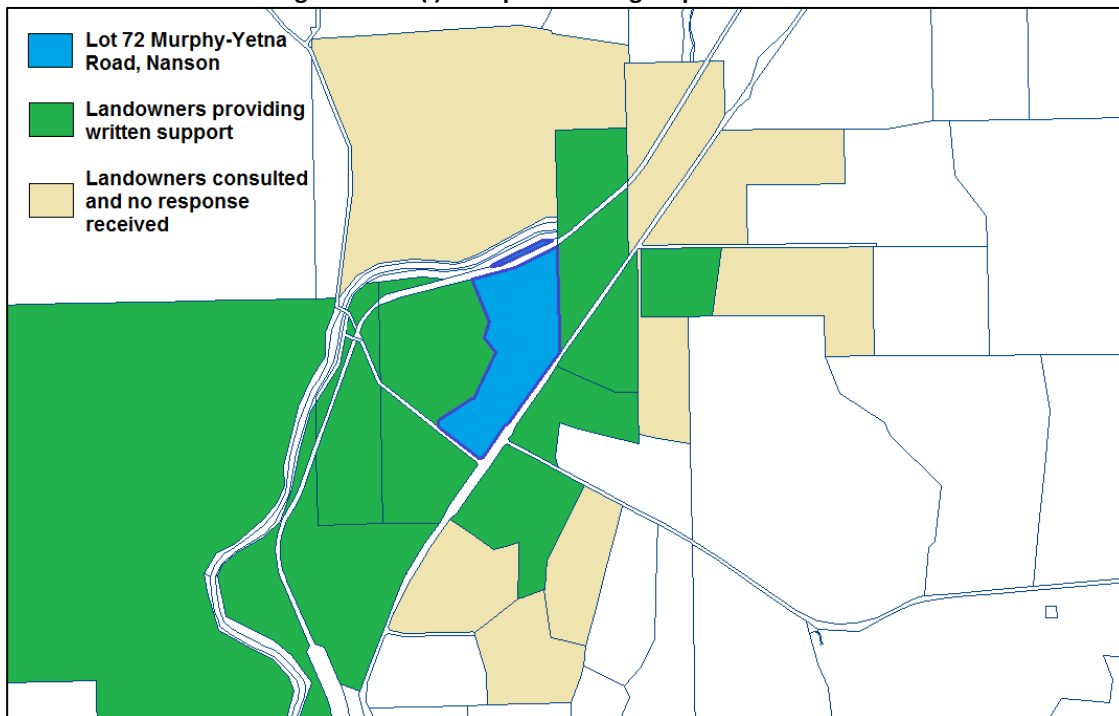
CONSULTATION

Section 7.0 of the Shire’s ‘Building Envelopes’ Local Planning Policy notes that an application seeking to relocate, remove or expand a building envelope may be advertised to surrounding landowners prior to being placed before a meeting of Council for consideration.

The Shire wrote to the 13 surrounding landowners on 10 August 2020 providing details of the application and inviting comment upon the proposal prior to 31 August 2020.

At the conclusion of the advertising period 3 submissions had been received, all expressing support for the application, this being in addition to expressions of support from 4 other landowners, that was obtained by the applicant prior to lodgement and were submitted with their application. A copy of all received submissions has been provided as **Attachment 10.1.1(c)**.

Figure 10.1.1(i) – map illustrating responses received



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. Humphrey

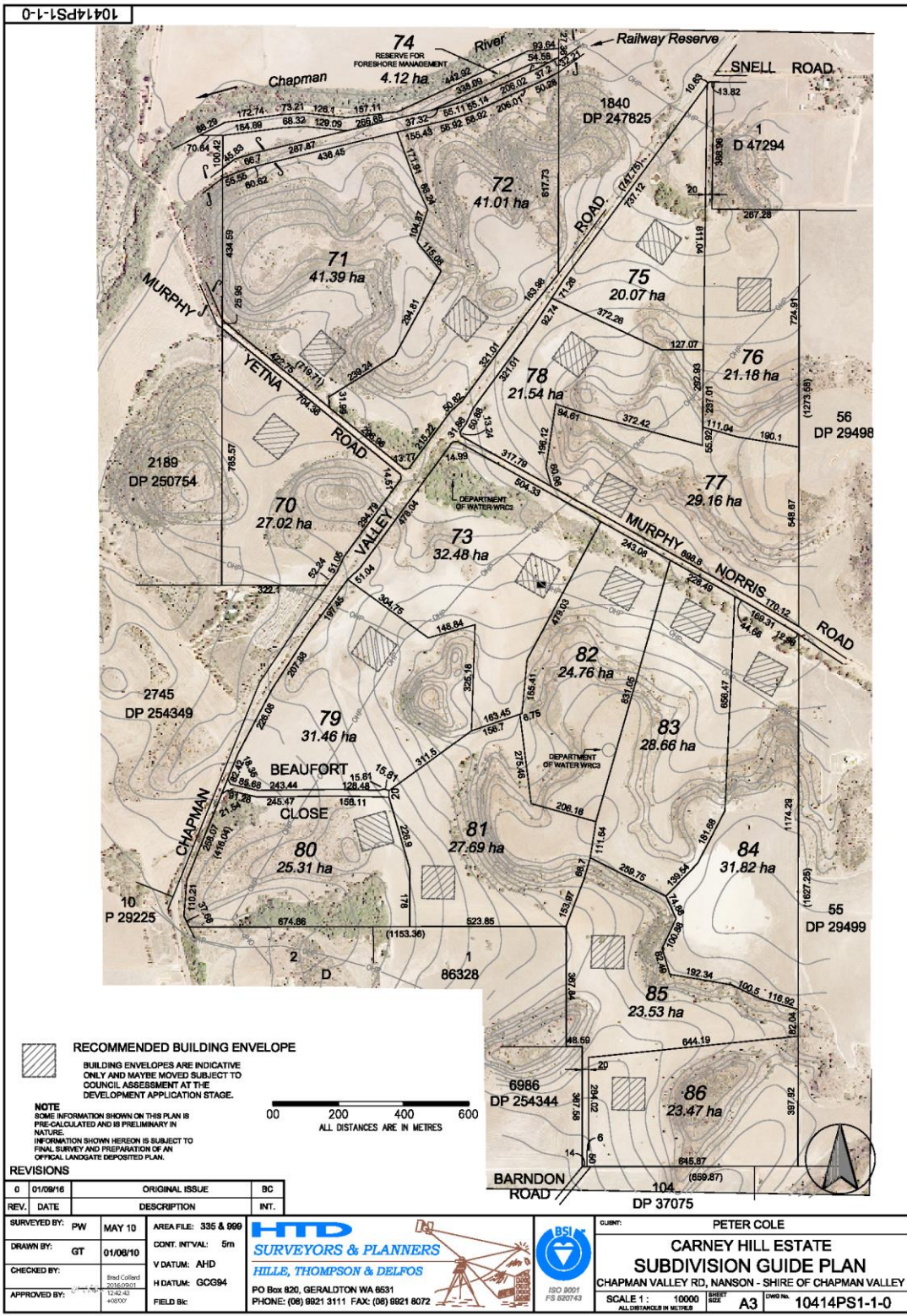
COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant formal planning approval for a residence upon 34 (Lot 72) Murphy-Yetna Road, Nanson subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plans as contained in **Attachment 10.1.1(a)** and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this approval) requires further application and planning approval for that use/addition.
- 3 The development is required to use colours and materials complementary to the natural landscape features, and be to a (non-reflective) finish, to the approval of the local government.
- 4 Landscaping is required to be installed and maintained along the Chapman Valley Road frontage, and on the outcrop (upon which the development is located) slope facing Chapman Valley Road for the purpose of softening the visual impact of the development to the approval of the local government.
- 5 The vehicle access to the development is required to be on the portion of the outcrop not visible from Chapman Valley Road, and screened with landscaping, for the purpose of softening the visual impact of the development to the approval of the local government.
- 6 Noise attenuation treatment is required to be incorporated into the design of windows on the development to the approval of the local government.
- 7 The development is required to be constructed in accordance with Australian Standard 3959 – Construction of Buildings in Bush Fire Prone Areas.

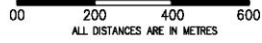
**Voting F5/A1
CARRIED
Minute Reference: 09/20-02**

Visitors Craig Casey and Terry Maher left the meeting at 9:15am.



RECOMMENDED BUILDING ENVELOPE
 BUILDING ENVELOPES ARE INDICATIVE ONLY AND MAYBE MOVED SUBJECT TO COUNCIL ASSESSMENT AT THE DEVELOPMENT APPLICATION STAGE.

NOTE
 SOME INFORMATION SHOWN ON THIS PLAN IS PRE-CALCULATED AND IS PRELIMINARY IN NATURE.
 INFORMATION SHOWN HEREON IS SUBJECT TO FINAL SURVEY AND PREPARATION OF AN OFFICIAL LANDGATE DEPOSITED PLAN.



REVISIONS

REV.	DATE	DESCRIPTION	INT.	BC
0	01/09/16			

SURVEYED BY: PW	DATE: MAY 10	AREA FILE: 335 & 999
DRAWN BY: GT	DATE: 01/08/10	CONT. INT'VAL: 5m
CHECKED BY:	V DATUM: AHD	H DATUM: GCG94
APPROVED BY:	FIELD Bk:	

HTD SURVEYORS & PLANNERS
 HILLE, THOMPSON & DELPOS
 PO Box 820, GERALDTON WA 6631
 PHONE: (08) 9821 3111 FAX: (08) 9821 8072



CLIENT: PETER COLE
CARNEY HILL ESTATE
SUBDIVISION GUIDE PLAN
 CHAPMAN VALLEY RD, NANSON - SHIRE OF CHAPMAN VALLEY
SCALE 1: 10000
DATE: 01/08/10
SIZE: A3
DRAWN: 1041PS1-1-0

10.1.2 Proposed Shed & Retaining Wall

PROPONENT:	Shoreline Outdoor World for M. Auld & C. Rayner
SITE:	3 (Lot 121) Dune Vista, Buller
FILE REFERENCE:	A1874
PREVIOUS REFERENCE:	07/18-2
DATE:	16 th September 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.2	Submitted Application	✓	

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application to construct an outbuilding and retaining wall upon 3 (Lot 121) Dune Vista, Buller. The application has been advertised for comment and no objections were received. This report recommends approval.

Figure 10.1.2(a) – Location Plan for 3 (Lot 121) Dune Vista, Buller



COMMENT

Lot 121 is a 4,002m² property on the eastern side of Dune Vista in the Wokarena Heights Estate with the following development history:

18/7/18 Council conditionally approved cut and fill earthworks upon Lot 121.

15/8/18 Council advised in Information Report of completion of earthworks.
19/10/18 Shire issued building permit for residence
16/9/19 Residence completed

Figure 10.1.2(b) – Aerial Photo of 3 (Lot 121) Dune Vista, Buller



Application has now been received for a 145.55m² colorbond ('Classic Cream') clad outbuilding, with a proposed 4m wall height and 4.789m gable height. The shed would comply with the requirements of the Shire of Chapman Valley Outbuildings Local Planning Policy which establishes a 180m² maximum area and 4m maximum wall height/5m maximum overall height for the Residential R2.5 zone.

The outbuilding would be set in the cut earthworks area and is proposed to be setback 4m from the northern/side property boundary at its closest point (increasing to 5m).

The outbuilding's northern side wall would run alongside the base of a two-tiered terraforce retaining wall, with the lower of the 2 walls sited 1.5m from the outbuilding. The two tiers of the retaining wall would be sited 1m apart and the upper wall would be sited 1.2m away from the boundary at its closest point (increasing to 1.6m).

The combined height of the 2 retaining walls (at their highest point at the eastern end) would be 1.98m although it should be noted that the retaining wall would be situated in cut (rather than retaining fill) so the retaining wall would face inwards towards the shed rather than be exposed to neighbouring lots.

Table 1 of the state-wide Residential Design Codes of Western Australia ('R-Codes') recommends a (non-front) boundary setback of 7.5m for Residential R2.5 zoned properties. The outbuilding and retaining wall are proposing variation to this R-Codes setback requirement, being 4m and 1.2m respectively from the northern (side) boundary.

Due to 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.

The applicant has advised as follows:

"We are wishing to erect a shed with front of shed being 4m and back of shed 5m from north boundary. We feel that these setbacks will give us better access past our house and fence to the shed. This setback will also allow sufficient room to turn around with large trailer, boat or caravan in back yard. Erecting the shed into the cut will also provide less obstruction of views for our neighbours."

We also wish to install terraforce retaining in cut behind the shed to provide stability to the soil and our north boundary. By finishing the retaining at least 1.5m x H from boundary (as per engineering) will mean it won't impact neighbours."

A copy of the received application has been provided as **separate Attachment 10.1.2** for Council's information.

Figure 10.1.2(c) – View of Lot 121 looking east from Dune Vista



Figure 10.1.2(d) – View of proposed shed location upon Lot 121



Figure 10.1.2(e) – View of Lot 121 looking west from Richards Road



Figure 10.1.2(f) – View of Lot 121 looking south from Wokarena Road

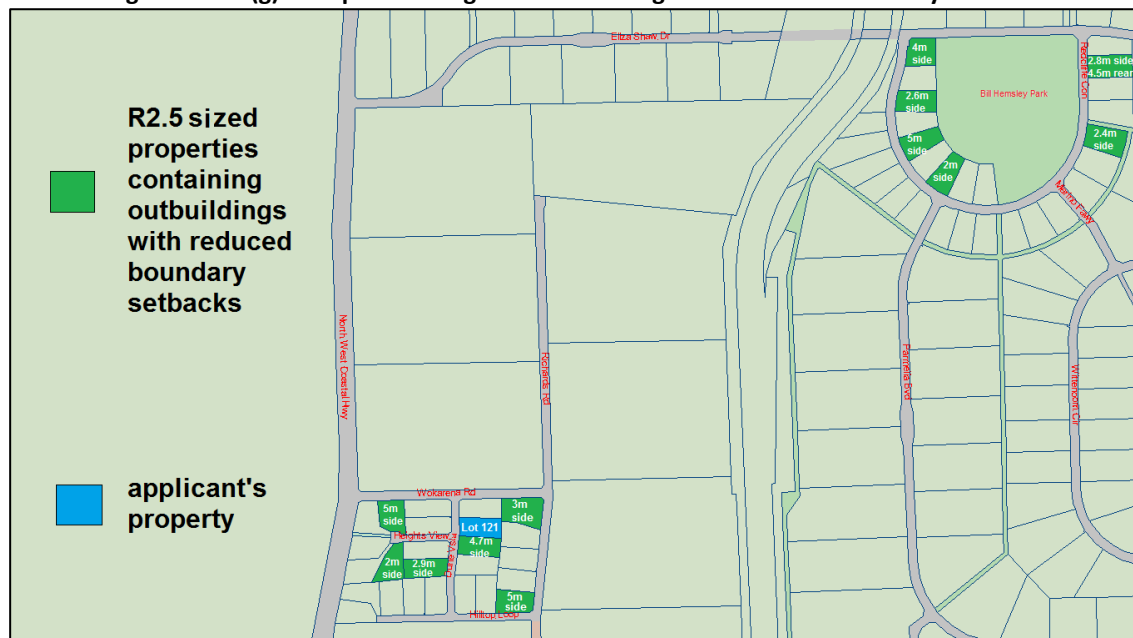


Consideration of the application's proposed variation to the side boundary setback requirements may be warranted in this instance, based upon the following:

- the proposed total outbuilding area of 145.55m² would comply with the 180m² maximum area requirement as specified in Council's Outbuildings Policy for the R2.5 zone;

- the outbuilding's proposed 4m wall height/4.789m gable height would meet with the 4m maximum wall height/5m maximum total height as specified in Council's Outbuildings Policy for the R2.5 zone, and the shed's visual impact would be further reduced through being situated in an area of existing cut earthworks, further lowering its overall height as measured from natural ground level);
- the outbuilding's proposed side boundary setback variation of 4m (at its closest point, rising to a side boundary setback distance of 5m) rather than the R-Code requirement of 7.5m, arises from their desire to maximise their backyard area and to enable vehicles to travel more directly along the driveway, rather than requiring an angled approach, and provide improved manoeuvring area;
- 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(g)**;
- given there are no windows on any of the elevations of the proposed outbuilding, and it will be situated in cut earthworks, the reduced setback would not present a privacy issue for neighbours;
- the outbuilding would be clad in 'Classic Cream' colorbond, and the terraforce retaining wall would be of earth colours, both of which would match the existing development upon Lot 121;
- the construction of an outbuilding to house items is considered to be of benefit to the landowner by enabling 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 application was advertised to the surrounding landowners inviting comment and no submissions were received, this may be considered to demonstrate a general level of acceptance or indifference for the proposed development.

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



STATUTORY ENVIRONMENT

3 (Lot 121) Dune Vista, 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 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.”

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;...
- ...(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 an outbuilding 4m, and a retaining wall 1.2m, 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.”

Section 6.7 of the Explanatory Guidelines for the R-Codes sets criteria for retaining walls that are due to filling of land noting that they have potential impacts upon adjoining properties in regards to overlooking and overshadowing, and are therefore for the purposes of assessment treated as though they are building walls and should be setback from property boundaries accordingly. However, the R-Codes also notes that in the case of retaining walls that are due to excavation (as is the case with this development) that:

“Development below natural ground level only rarely affects neighbouring sites, although it may be necessary to take account of the location of essential services, particularly where protected by a registered easement. By contrast, filling above natural ground level, especially where, it results in replacing a natural slope with level ground and retaining walls, is usually visually prominent.

Excavation below natural level is not usually as visually obtrusive as filling above natural level. Consequently, excavation behind the street setback line is normally acceptable, provided the resulting spaces and rooms conform to BCA standards.”

POLICY/PROCEDURE 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 6.7.b of Council’s Outbuildings Policy allows for a side boundary setback of 5m in the R2.5 zoned 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 7.4 of this policy).”

The application is seeking a further 1m reduction to the outbuilding side boundary setback down to 4m. It is not considered that this variation would be detrimental to the use of the surrounding properties and will not be out of character with the established built form in the Wokarena Heights Estate.

FINANCIAL IMPLICATIONS

Nil.

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

Lot 121 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/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 determination of this application would have impact in relation to the Strategic Community Plan.

CONSULTATION

Sections 6.7.b & 7.4 of the Shire's Outbuildings Local Planning Policy notes that applications seeking 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 3 August 2020 providing details of the application and inviting comment upon the proposal prior to 24 August 2020, 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, no submissions had been received, and this may be considered to demonstrate a general level of acceptance or indifference for the proposed development.

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. Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant formal planning approval for an outbuilding and retaining wall to be constructed upon 3 (Lot 121) Dune Vista, Buller subject to the following conditions:

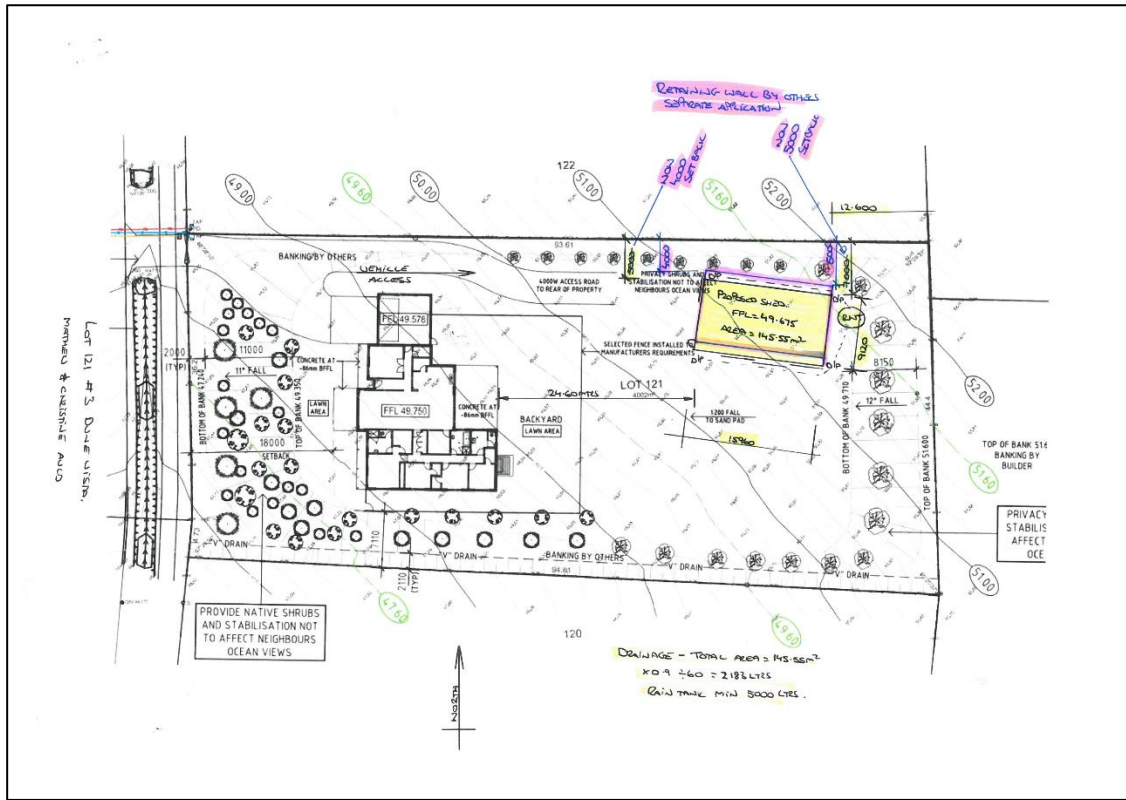
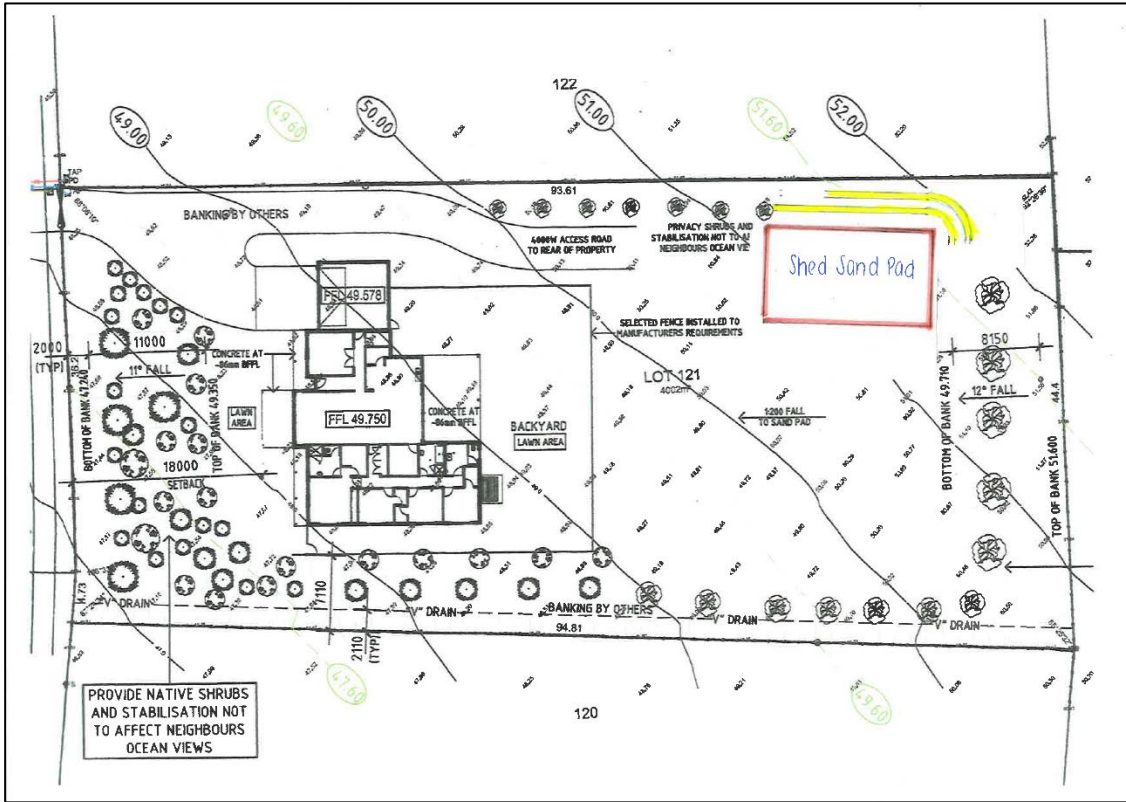
- 1 Development shall be in accordance with the approved plans as contained within **Attachment 10.1.2** and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local 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 121 to the satisfaction of the local government.

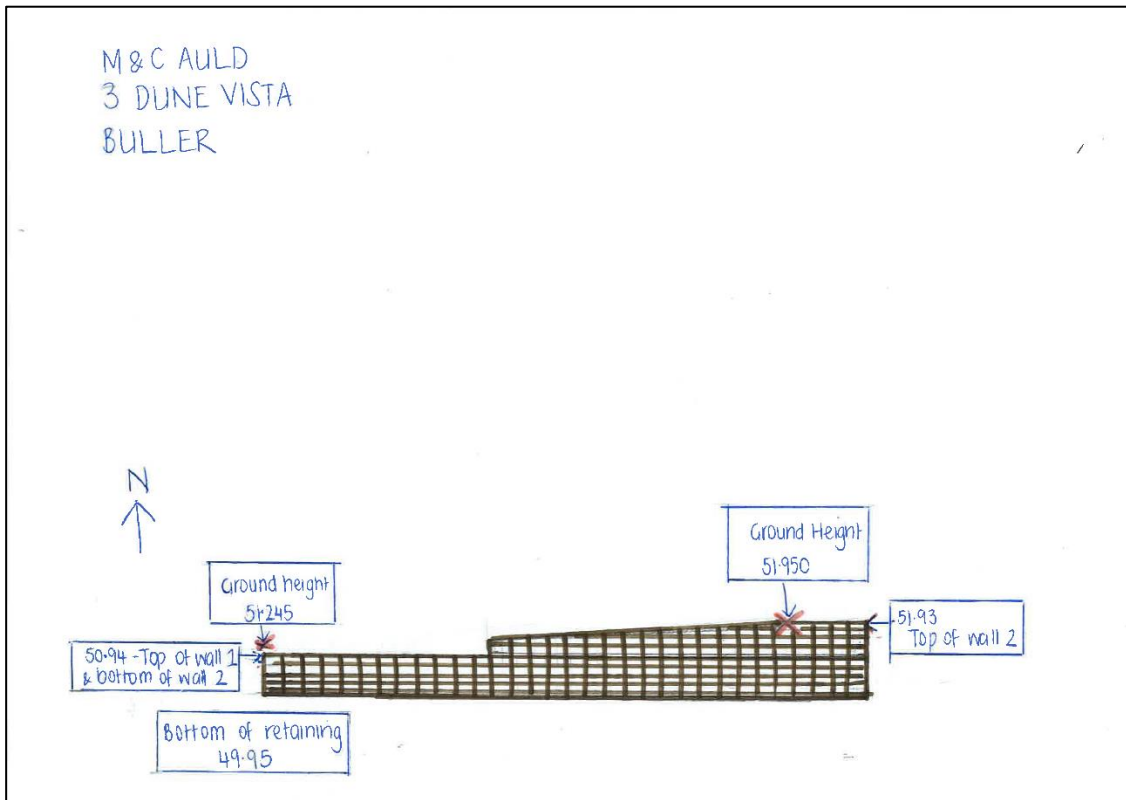
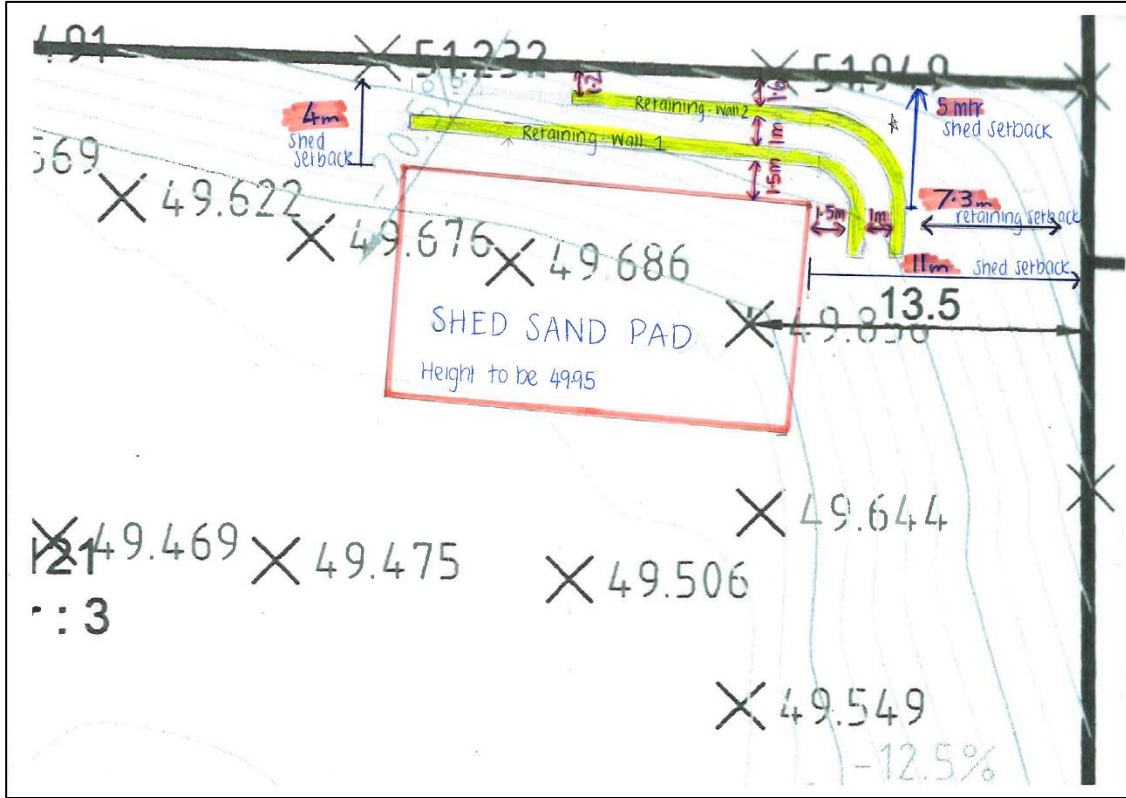
-
- 5 The external surface finish of the retaining wall must be consistent or complementary in colour with the existing development upon Lot 121, and the surrounding natural landscape features, and to a finish, to the approval of the local government.
 - 6 All stormwater must be contained and disposed of on-site to the satisfaction of the local government.
 - 7 Any soils disturbed or deposited on site shall be stabilised to the satisfaction of the local government.
 - 8 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.

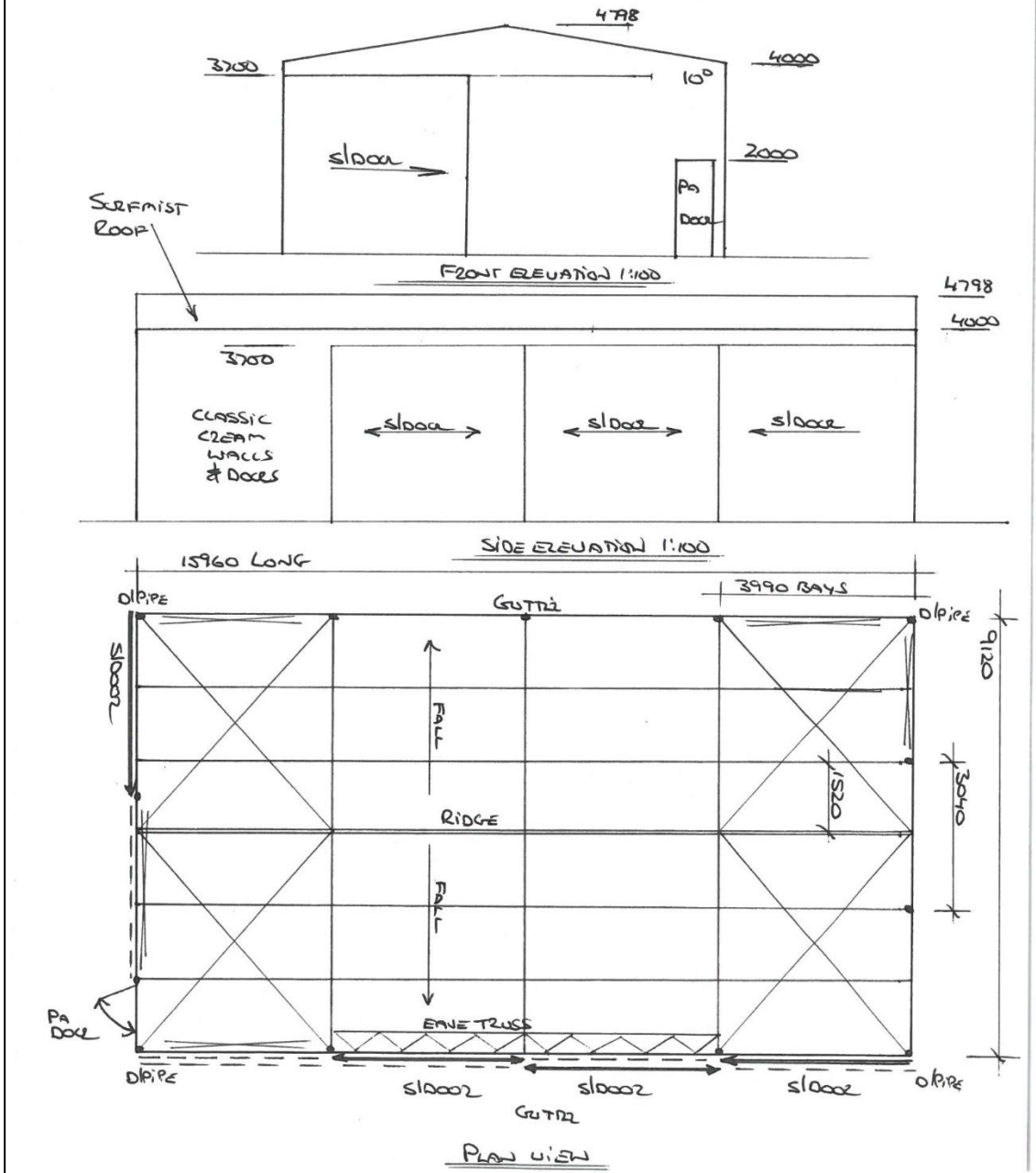
Voting F6/A0
CARRIED
Minute Reference: 09/20-03

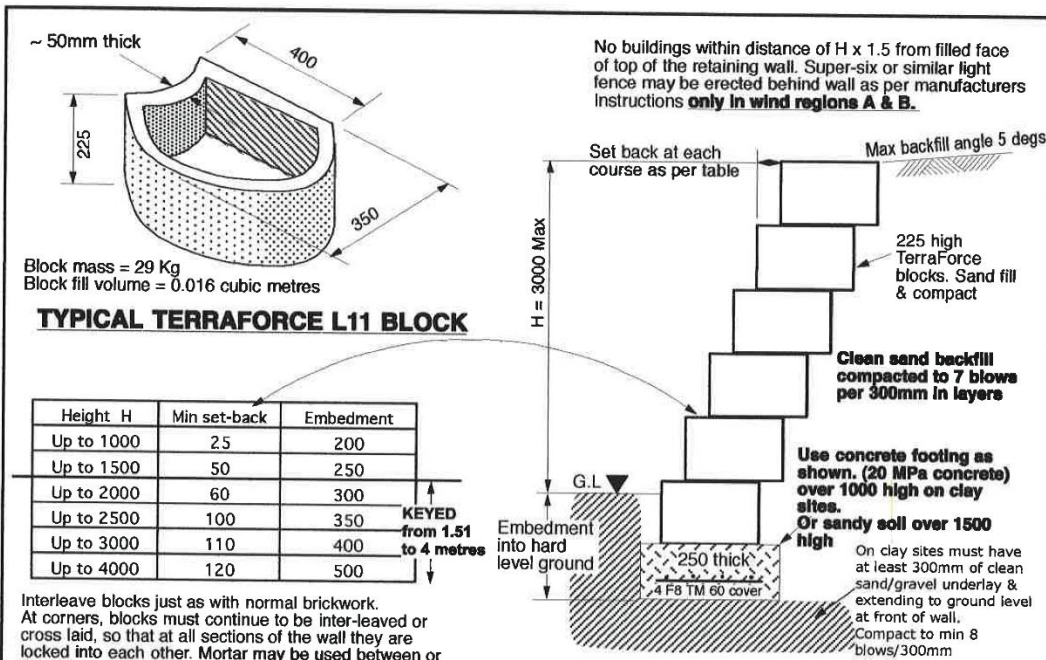




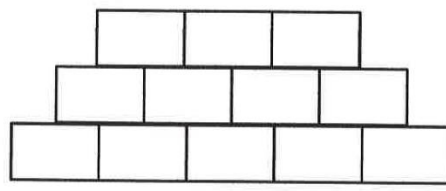
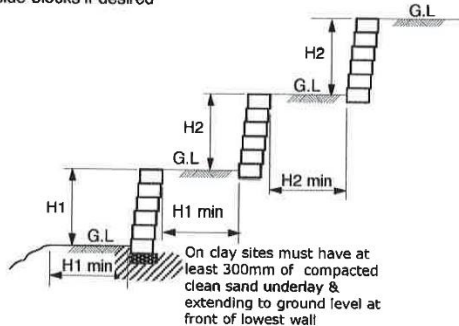
Shoreline Out Door World 66 Flores Road , Geraldton . WA 6530 PO Box 3223 , Bluff Point , Geraldton WA Tel. 99644447 Fax 99217119 leon@shorelineodw.com.au	Owner - Matthew and Christine Auld Address - #3 , Lot 121 , Dune Vista , Buller Proposed - Shed Scale 1: 100 Block area 4002 m2
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

All storm water run off is to be directed away from footings and boundaries by the owner





RETAINING WALL SECTION 1:20



NOTES :

- These walls should be built by experienced builders using the installation guidelines in the TerraForce pamphlets and using TerraForce components.
- This wall is designed for use in stable sand or rock soils with free draining sandy backfill. Maximum water table to be below bottom of wall. If in doubt contact the Engineer.
- Remove all topsoil, vegetation & deleterious fill material from the foundation area.
- Compact the foundation line to min 7 blows / 300mm (as tested with the Perth Sand Penetrometer) for a depth of at least 750mm below bottom of wall.
- The wall must be back filled in layers immediately after completion. Back fill to be carefully placed to ensure the wall is not disturbed & compacted to 7 blows/300mm to within 300mm of the wall.
 - The wall is to adequately propped during the compaction process.
 - All hollow centres of blocks to be sand filled well tamped down.
- Ensure no dead load (including buildings) or vehicle surcharge is allowed closer to the wall than a distance equal to one & half times the height of the wall.
 - Only light sheet fencing is allowed behind the wall.
- If walls have other walls in tiers behind them, build in accordance with terracing detail shown.
- Ensure the wall does not surcharge or undermine any adjacent retaining walls or structures either on this or adjoining properties.
- Do not build over/ beside any Water Corporation sewers till approved.

TERRAFORCE RETAINING WALL SYSTEM *from*
The Block Makers 105 Foskew Way, Nannulu, Geraldton
Ph: 98233360 Fax: 99649260 Mob: 0417 976 932

Designed For Wind Region A & B
Well Drained Site Class A, S, M. Earthquake Acceleration Coefficient 0.12

EngineeringOnline.com.au
 Engineering Online Australia Pty Ltd E: info@engineeringonline.com.au
 76b Forrest St, Geraldton, WA 6530, PO Box 101, Geraldton, WA 6531 Ph: 08467579377

Scale:	NOT TO SCALE	Client:	BLOCKMAKERS
Date:	18 July 2018	Project:	TERRAFORCE BLOCK GRAVITY RETAINING WALL
VOID UNLESS WET RED INK SIGNED:		Address must be filled in by applicant:	
Sign: <i>[Signature]</i> MPhil Eng(Curtin), B.Sc Eng, MIE Aust, CP Eng, NPER			

10.1.3 Proposed Culture Tours

PROPONENT:	T. Councillor
SITE:	Reserve 28869 corner Chapman Valley Road & Whelarra Road, Yuna
FILE REFERENCE:	A1987
PREVIOUS REFERENCE:	Nil
DATE:	16 th September 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.3	Submitted Correspondence	✓	

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of correspondence seeking approval to operate cultural tours on a portion of Reserve 28869 corner Chapman Valley Road and Whelarra Road, Yuna. This report recommends approval.

Figure 10.1.3(a) – Aerial Photo of Reserve 28869 corner Chapman Valley Road and Whelarra Road, Yuna



COMMENT

Reserve 28869 is a 61.7092ha land parcel, located 5km west of the Yuna townsite, comprising the 9.0308ha Lot 10976 that contains the former Geraldton-Yuna rail alignment and the 52.6784ha Lot 10975 to the rear/south.

The majority of Reserve 28869 is cleared and used for the purposes of a golf course and is subject to a management licence with the Yuna Golf Club. An approximately 10.2ha area at the eastern end of Reserve 28869 is uncleared and outside of the management licence area, and it is upon this portion of the reserve that the applicant is seeking to conduct cultural tours relating to the significance of the site. A copy of the received correspondence has been provided as **Attachment 10.1.3**.

Figure 10.1.3(b) – extract from Yuna Golf Club Management Licence illustrating the licensed and common area portions of Reserve 28869

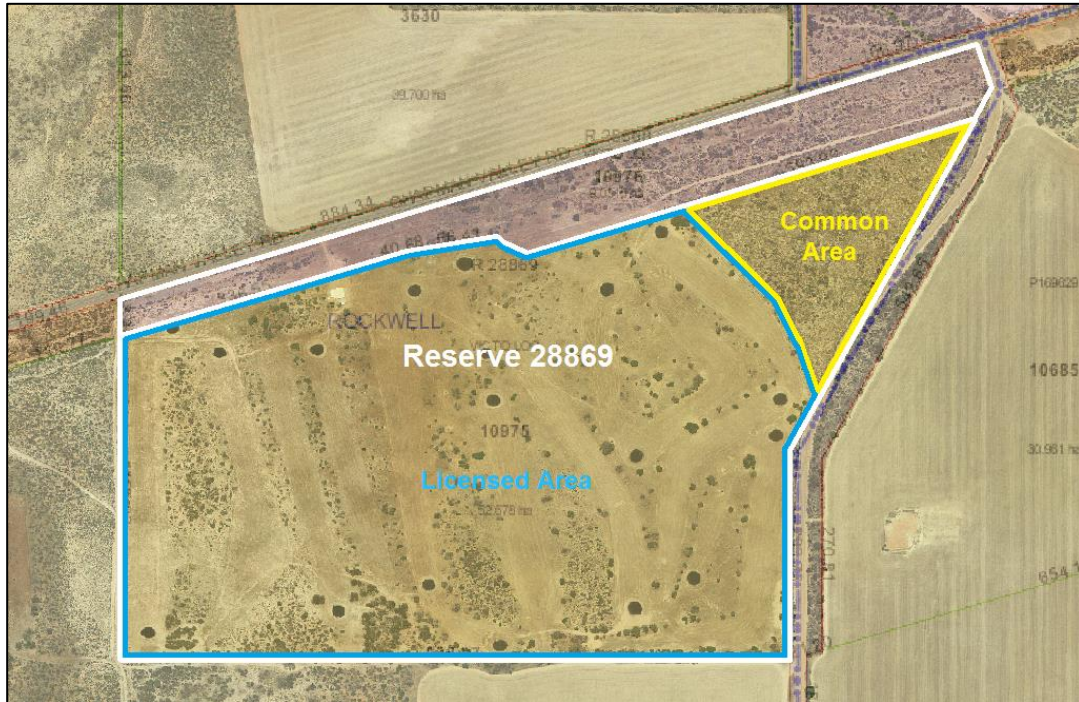


Figure 10.1.3(c) – View of Reserve 28869 looking north-west from Whelarra Road



Figure 10.1.3(d) – View looking south-west from internal vehicle track in Reserve 28869



STATUTORY ENVIRONMENT

Reserve 28869 has a management order issued to the Shire of Chapman Valley for the purpose of 'Recreation' with the power to lease whole or in part for a period of up to 21 years.

The Chapman Valley Golf Club have a management licence in place for portion of Reserve 28869 until 13 December 2038.

It is suggested that the received application be treated as a planning matter and subject to conditions of approval pursuant to the planning process, and not through the licence/lease process. This suggestion is based upon the application only involving occasional visitation to a reserve, and does not involve matters that might ordinarily require a licence such as the siting of improvements upon a reserve, hire of existing facilities upon a reserve, or use of services (e.g. power, water) that the Shire might seek to recoup costs for. Further the common area of Reserve 28869 is not a fenced area of land for which exclusive use might be sought and on this basis it is suggested that a licence would not be entirely relevant in this instance.

Reserve 28869 is zoned 'Public Open Space' under Shire of Chapman Valley Local Planning Scheme No.3. Table 1 of the Scheme lists the objectives of the 'Public Open Space' zone as being:

- *To set aside areas for public open space, particularly those established under the Planning and Development Act 2005 s.152.*
- *To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage."*

It is considered that the occasional conducting of cultural tours within the common (i.e. unlicensed) portion of Reserve 28869 would be in keeping with the 'Public Open Space' zone.

POLICY/PROCEDURE 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.

The Shire of Chapman Valley has 2 local planning policies, that whilst not entirely relevant to this application, do provide some general guidance on its assessment and approval conditions:

- Local Planning Policy 2.3 – Rural Tourism; &
- Local Planning Policy 7.2 – Event Application.

The ‘Rural Tourism’ policy provides the following guidance:

“6.1 Applications for Rural Tourism will only be supported where the Local Government is satisfied that the proposal will not result in unacceptable environmental or amenity impacts as a result of noise, dust, light spill, odour, vibration, traffic movement, visual intrusion or contamination on the nearby residents or environment and that the quality of the development will present a positive image of the locality.”

The ‘Event Application’ policy (application form section) provides guidance in relation to public liability and risk management as follows:

*“5 Public Liability Insurance
Council requires public liability insurance be provided for all events to a minimum value of \$5,000,000. This insurance is the responsibility of the event organiser with evidence of such cover to be submitted as part of the application.*

*6 Risk Management Plan
The event organiser may be required to provide a risk management plan to the Shire’s Planning and Development Department prior to the event. Further information on this matter can be obtained from the Shire’s Risk Management Co-ordinator.”*

FINANCIAL IMPLICATIONS

Given that the proposed activities would not involve use of Shire facilities or services, and is not seeking exclusive use of a reserve (or portion thereof) it is not considered that there would be a financial cost to the Shire as a result of this activity, and therefore no fee for use (ordinarily intended to recoup whole or part of such costs) is suggested in this instance.

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 15 November 2017 meeting. Appendix 1 of the Strategic Community Plan notes amongst the Community Feedback a desire for ‘more cultural events’ with this being identified as an ‘act on opportunity’ action. Appendix 1 also notes ‘develop a heritage drive/trail’ and ‘improved signage for heritage and tourism attractions’ and the conducting of cultural tours upon portion of Reserve 28869 would tie-in with these aspirations, and could lead to further discussion with relevant parties on Aboriginal heritage signage and trail creation within Chapman Valley.

CONSULTATION

The subject area does not form part of the Yamatji Nation Indigenous Land Use Agreement and is not identified as a registered Aboriginal site. Further, given the application is seeking only to visit the common area portion of Reserve 28869 to conduct cultural tours, and is not seeking exclusive access or siting of permanent infrastructure, it is not suggested that consultation is required in this instance.

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. Humphrey

COUNCIL RESOLUTION

Council suspend Standing Order. (9:20am)

Voting F6/A0

CARRIED

Minute Reference: 09/20-04

MOVED: Cr. Forth

SECONDED: Cr. Warr

COUNCIL RESOLUTION

Council reinstate Standing Orders. (9:36am)

Voting F6/A0

CARRIED

Minute Reference: 09/20-05

MOVED: Cr. Forth

SECONDED: Cr. Davidson

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant formal planning approval for the conducting of cultural tours upon Reserve 28869 corner Chapman Valley Road and Whelarra Road, Yuna subject to the following conditions:

- 1 The activities shall be contained within the unlicensed (i.e. common area) portion of Reserve 28869.
- 2 Any additions to or change of activities (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The applicant must leave the area used at the end of each activity in the condition those areas were in at the beginning of the use.
- 4 The applicant is responsible to ensure that all parking of vehicles associated with the activities occurs within the reserve boundary, and the roadway and road verge area is to be kept free of such vehicles so as to not cause safety issue.
- 5 It is the responsibility of the applicant to ensure that appropriate risk assessments are undertaken prior to the activities and that emergency plans and procedures are in place.

-
- 6 The activities shall not to involve overnight camping or lighting of fires unless prior authorisation has been obtained from the Shire of Chapman Valley.
- 7 This approval is valid for a period of 12 months from the date of this decision, after which the further renewal of the approval by the Shire is required annually.

Notes:

- (a) The activities can be extended into the licensed areas of Reserve 28869 in the event that the agreement has been obtained by the applicant from the licensee (Yuna Golf Club).
- (b) In relation to condition 7 the Shire Chief Executive Officer is issued with delegated authority to renew approval annually in the event that no substantive, written, author-identified complaint regarding the activities is received. In the event that such a complaint is received it will be investigated/given consideration, and the Shire reserves the right to not renew the approval or apply additional conditions of approval to any new approval.
- (c) The applicant is advised that public toilet facilities are not available on-site and the closest such facilities are located within the Yuna townsite approximately 5km to the east.
- (d) The applicant is advised that the approval of this activity does not constitute an exclusive use of the subject area and the Shire may grant other approvals relating to the subject area in the event of receipt of application.
- (e) 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 F6/A0
CARRIED**

Minute Reference: 09/20-06

Visitors Theona Councillor left the meeting at 9:35am.

Wijimurra Culture tours within the Chapman Valley Shire

I am seeking a lease to conduct cultural eco tourism at the Yuna Reserve located on the Cnr of Chapman Valley Road and Wheelarra Road, Yuna.

I would create an authentic tourism experience and associated tours within the Chapman Valley Shire in close proximity of the City of Greater Geraldton. During Wilflower season many people visit and camp in Chapman Valley, on their way to Mullewa. I would like to offer a Cultural Eco Tours and share Naaguja culture

Develop Eco & Cultural Tourism by catering to

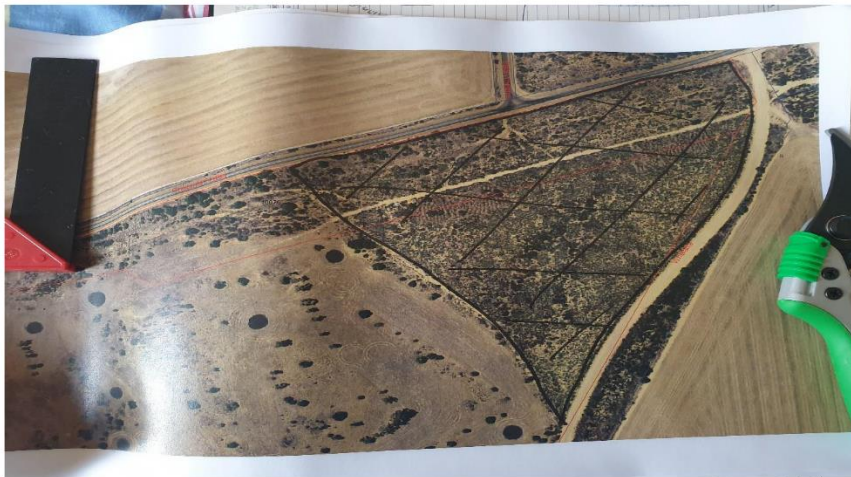
- Local schools in the Midwest Area
- Travelling tourist and Grey Nomads
- Tour Ships that come into port occasionally
- Caring for small area to do revegetation

Meaningful employment and Indigenous owned and operated tourism by a local Traditional owner

Provide culturally appropriate care for a Registered Aboriginal Heritage site

Reconnect to country by

- Conducting on country visits
- Education & Reclamation of both Naaguja-Wilunyu Language/s



Yuna Reserve Cnr Chapman Valley Road & Wheelarra Road, Yuna, Western Australia.

10.1.4 Windsurfing Club Facility

PROPONENT:	Geraldton Windsurfing Club
SITE:	Reserve 50066 Coronation Beach Road, Oakajee
FILE REFERENCE:	A1956 & 803.26
PREVIOUS REFERENCE:	05/20-7
DATE:	16 th September 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.4(a)	Windsurfing Club application		✓
10.1.4(b)	Draft Windsurfing Club Licence		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Following receipt of in-principle support from Council for the establishment of a storage and training area at Coronation Beach, the Geraldton Windsurfing Club have submitted the requested site layout and timeframe information. This report recommends that Council support the application and enter into a licence with the Windsurfing Club that establishes roles and responsibilities similar to the arrangement with other sporting groups within the Shire.

Figure 10.1.4(a) – Aerial photo of Coronation Beach illustrating proposed Windsurfing Club area



COMMENT

Reserve 50066 is the 2.3ha coastal reserve containing the day-use aspects at Coronation Beach such as the gazebos, car parks and kitesurfing and windsurfing rigging and launching areas. Reserve 50065 is located immediately west of the 2.041ha Reserve 19893 which contains the Coronation Beach Nature Based Campground.

Figure 10.1.4(b) – Aerial photo of southern gazebo area at Coronation Beach



The initial approach from the Windsurfing Club, proposing to develop a storage, rigging and training area at Coronation Beach, was presented to the 20 May 2020 meeting where Council resolved to:

- “1 Advise the Geraldton Windsurfing Club that it supports in-principle the establishment of a storage and training area at Coronation Beach as outlined in its correspondence.
- 2 Instruct Shire staff to continue discussions with the Windsurfing Club on the following issues so that this matter may be returned to Council for more formal consideration at a later meeting:
 - (a) details of the proposed building works (including visual improvements to the exterior cladding of the sea containers and the connecting structure between the sea containers);
 - (b) the dimensions of the proposed clearing area (and potential treatments to assist in stabilisation and weed suppression including jute matting or similar) and its fencing;
 - (c) the timeframe for the completion of the works;
 - (d) potential partnerships between the Shire, the Greenough Regional Prison Crew and the Windsurfing Club to achieve outcomes; &
 - (e) drafting of a lease agreement between the Shire and Club (drawing upon similar agreements prepared for other sporting and community groups in the Shire of Chapman Valley to address matters such as insurance, liability, areas of responsibility, areas of exclusivity, club and user conduct, risk management etc.).”

The Windsurfing Club have now submitted the requested further information that outlines their proposed works and staged timeframe, a copy of which is provided as **separate Attachment 10.1.4(a)**.

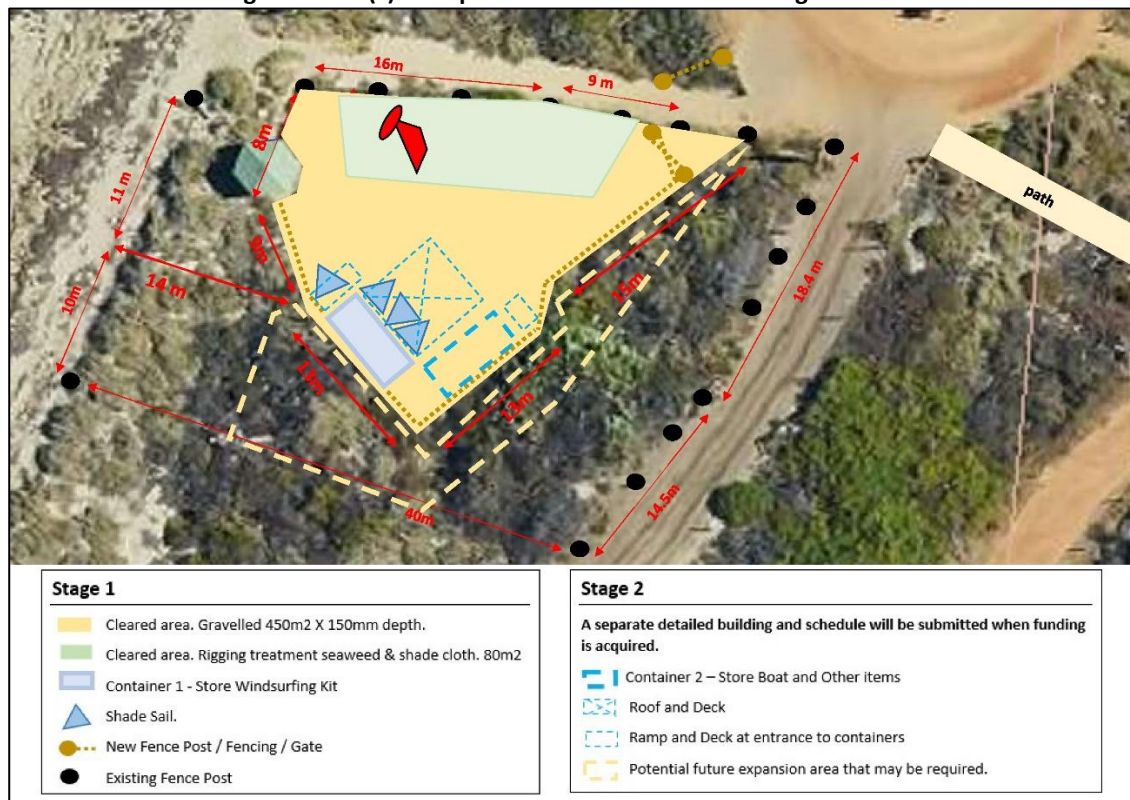
The Club are proposing to site 2 sea containers that have been donated to them in an L-shaped configuration approximately 9m to the south-east of the southern-most gazebo at Coronation Beach. Works would be undertaken to the sea containers to give them a similar appearance to the kitesurfing school sea container already sited at Coronation Beach.

The western sea container would be used to store equipment to enable the Windsurfing Club to conduct training and coaching (and this would be installed on-site in Stage 1) and the eastern sea container (that forms Stage 2) would be used to store a dinghy and associated equipment.

The intention is for the area immediately in-front-of/between the 2 sea containers to be developed with a deck and patio, although as an interim measure during Stage 1 it is proposed to have shade sails affixed in front of the 1st sea container. The sea container and improvements would form the basis for the licence area.

The area between the proposed buildings and the existing walk path (that connects the car park and beach) is proposed to be levelled with a gravel base, over a portion of which would be laid sea weed and second-hand shade sails to serve as a rigging area. The gravel area would be open to the pathway but fenced along its boundary to the south and east to provide a demarcation with the coastal vegetation to assist in its protection and discourage access into those areas. The rigging area would not be contained within the area licensed to the Windsurfing Club and this would be common user area.

Figure 10.1.4(c) – Proposed Site Plan for Windsurfing Club area



The Windsurfing Club have selected the proposed location at the southern end of Coronation Beach as it is in front of an area of shallow water over the reef, and siting it immediately behind the beach would prevent users, including children who are learning to windsurf, from crossing the vehicle thoroughfare whilst carrying equipment. Another factor is that the selected site is the southern-most windsurfing launch area which means that people learning to windsurf would have the maximum separation distance from the kitesurfing launch area which is towards the northern end of Coronation Beach i.e. windsurfing novices carried by the prevailing southerly wind would have a safer environment and the maximum time to master sailing across the wind.

The proposed location is considered suitable as it would not conflict with; kitesurfing activities which occur towards the northern end of Coronation Beach; longboarding activities which occur further south; boat launching activities which occur further north across the beach. It is also noted that windsurfing is generally undertaken in the afternoon as the southerly coastal wind picks up and by this time swimming activity at Coronation Beach (which tends to occur more often in the morning when the wind is either not in effect or in an easterly direction) has generally ceased.

Shire staff have drafted a licence agreement, similar to those prepared for other sporting groups in the Shire of Chapman Valley, to address matters such as insurance, liability, areas of responsibility, areas of exclusivity, club and user conduct, risk management etc. The draft licence agreement has been provided to the Windsurfing Club for comment and a working draft version, including a map illustrating the suggested licence area and common user area, has been provided as **separate Attachment 10.1.4(b)**.

The Windsurfing Club would ideally like the sea container to be in place on-site by mid-October and be undertaking works with the hope of being operational in time for a youth windsurfing event in November.

It is considered that the sea containers should not be placed on-site until a licence agreement is signed and in effect. This would be consistent with Council's relationship with other sporting and community groups that use Shire facilities and reserves, and also consistent with the approach taken with the operator of the kitesurfing school at Coronation Beach.

Figure 10.1.4(d) – View of proposed Windsurfing Club storage and training area



STATUTORY ENVIRONMENT

Reserve 50066 has a management order issued to the Shire of Chapman Valley for the purpose of 'Camping and Recreation' with the power to lease (or sub lease or licence) the whole or any portion of the reserve for any term not exceeding 10 years.

Reserves 50066 is zoned 'Public Open Space' under the Shire of Chapman Valley Local Planning Scheme No.3. Table 1 of the Scheme lists the objectives for this zone as being:

- *To set aside areas for public open space, particularly those established under the Planning and Development Act 2005 s. 152.*
- *To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage."*

The establishment of a storage, training and rigging area to assist the Windsurfing Club would in keeping with the intent of this zoning.

POLICY/PROCEDURE IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Council does charge an annual lease fee to some of the sporting and community groups operating in the Shire, and in other cases charges a 'peppercorn' (dollar on demand) fee. Lease fees charged by Council vary in each case dependant upon the demand on services/utilities, the floor area, the type of facilities, level of use etc. The draft licence provided in **separate Attachment 10.1.4(b)** suggests that the latter would be appropriate in this instance, given that there would not be water/power servicing to the facility (and associated charges to recoup), the footprint would be relatively small and the ongoing maintenance cost relatively low (and the licence has been worded to make this a responsibility of the Windsurfing Club). The licence has also been worded to provide Council the ability to review this fee structure in the event that a 'peppercorn' arrangement is no longer deemed suitable.

Shire staff have held preliminary discussions with the Windsurfing Club to explore whether there might be overlapping areas and timeframes where the Shire, the Greenough Regional Prison Crew and the Windsurfing Club might be able to work together. It would appear that the timeframe that the Windsurfing Club are seeking to pursue for Stage 1 (prior to the 2020/2021 windsurfing season) would be earlier than the likely timeframe whereby the Shire and Prison Crew might be on-site (likely to be end of summer 2021) although discussions will continue as to whether there might be some synergies achievable.

The adopted 2020/21 Council budget includes several items relevant to Coronation Beach including replacement of the playground, construction of a toilet, installation of an communications mast (and accessing track), upgrades to the southern vehicle approach track and rigging area improvements. In addition to discussions regarding potential for co-timing of works to achieve efficiencies (particularly in relation to the last 3 budget items which are to take place towards the southern end of the reserve) Shire staff will also explore with the Windsurfing Club opportunities to apply for grant funding for their project and whether these Council budgeted works may be able to be utilised by the Shire/Club to leverage external funding to assist the Club with their project.

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 working with the Geraldton Windsurfing Club to meet the needs of users at Coronation Beach would align with Section 2.9 'Community Involvement' of the Shire of Chapman Valley Coastal Management Strategy and Action Plan (2016):

"The Shire should work with other coastal land managers (including NACC) to encourage involvement of community groups (including user groups such as the Geraldton Windsurfing Club, Geraldton Longboard Club, Geraldton 4WD Club etc.) to help address coastal issues where possible. This can also help to increase community knowledge of the coastal environment, and achieve community level behavioural change, which can result in increased care for the environment and a reduction in harmful activities."

It is considered that the establishment of a training, education and meeting place for the Windsurfing Club at Coronation Beach can assist in meeting the following key issues identified by the Shire of Chapman Valley Coastal Management Strategy and Action Plan:

"Environmental Management

Appropriate management of recreational land uses to reduce and mitigate environmental degradation

Land Use & Facilities

Protection and enhancement of recreational activities popular in the area such as windsurfing, kiteboarding and longboarding.

The need to identify provision of facilities with appropriate controls to sustainably provide for tourist and recreational demands.

Community Involvement

The need to continue and enhance community involvement in coastal management, particularly coastal land owners as well as user groups and community groups with an interest in coastal management issues.” (page 16)

“To protect and enhance the ambiance and low impact character of Coronation Beach and to facilitate the continued recreational uses in the area.” (page 61)

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 the approval of this application would align with Objective 1.2.

Objective	Strategy	Outcome	Timeline
Strengthen our advocacy role and regional partnerships to support the provision of local services and facilities	Be present in conversations and gatherings related to the provision of essential and desired services for Chapman Valley residents and visitors	Participate in and advocate for regional resource sharing and cross-boundary cooperation.	Ongoing

CONSULTATION

Provision of a windsurfing rigging area to better cater for use and demand has been one of the shared goals of the Shire and the Club, as it has been considered that the creation of a more formalised rigging area will assist in preventing current practices of people rigging up on dune vegetation which can damage both plants and sails.

Discussions as part of the Coronation Beach Masterplan process have looked at low-key measures such as fencing off an area and laying jute matting, or similar materials, such as used by Main Roads WA when stabilising excavated slopes alongside roads. This form of matting prevents weed growth and assists in stabilising and biodegrades over time, at which point a replacement roll can be laid. This form of site coverage is more environmentally sustainable and cost effective than other measures (such as lawn, artificial grass, rubber matting, concrete) and more in keeping with the nature based amenity of Coronation Beach which has repeatedly been raised by the Coronation Beach Masterplan Steering Group as a key attraction of the area.

On 23 July 2020 Shire staff met on-site with representatives from the Windsurfing Club to discuss the proposed facility and the Club’s views on a windsurfing rigging area.

On 7 August 2020 Shire staff met on-site with local windsurfing community representatives and the kitesurfing school operator to obtain feedback from the perspective of more general windsurfers/recreational users (and all also being Chapman Valley residents) on the Windsurfing Club’s proposal and also their views on kitesurfing and windsurfing rigging areas. Generally their feedback aligned with the Windsurfing Club’s thoughts.

Following the meeting and based on the feedback obtained it is suggested that the Shire undertake the matting trial in the ‘island’ windsurfing rigging area in the car park, as this area is popular with people who back their cars up to this bollarded area and undertake rigging there.

The other trial area would be in front (north) of the proposed Windsurfing Club facility as this area would be alongside an existing walk trail linking the car park to the beach. This trial area would use seaweed as a base and potentially also second-hand shade sails (re-used from playground sites).

RISK ASSESSMENT

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

STAFF RECOMMENDATION

That Council:

- 1 Support the Geraldton Windsurfing Club proposal for a storage and training area at Coronation Beach as contained within Attachment 10.1.4(a).
- 2 Issue delegated authority to the Chief Executive Officer to prepare a licence, as generally contained within Attachment 10.1.4(b), subsequently undertake modifications to, and then finalise the licence, for a storage and training area at Coronation Beach with the Geraldton Windsurfing Club.
- 3 In the event that the Chief Executive Officer and Geraldton Windsurfing Club reach agreement concerning the licence, the Shire President and Chief Executive Officer are authorised to complete signing and sealing of the licence document on behalf of Council.
- 4 In the event that there any disputes in relation to the licence this matter is to be returned to Council for its consideration.
- 5 The sea container(s) are not to be placed on-site until such time as the licence agreement has been signed and sealed by the Shire of Chapman Valley and the Geraldton Windsurfing Club as required.
- 6 The Geraldton Windsurfing Club shall not commence any windsurfing events or windsurfing activities at Coronation Beach until such time as it has provided a Risk Management Plan to the approval of the Shire of Chapman Valley, and a copy of their liability and indemnity insurance to the Shire of Chapman Valley (that lists the Shire of Chapman Valley as an interested party upon the insurance policy) to the approval of the Shire of Chapman Valley.

MOVED: Cr. Warr

SECONDED: Cr. Batten

ALTERNATE COUNCIL RESOLUTION

That Council:

- 1 Support the Geraldton Windsurfing Club proposal for a storage and training area at Coronation Beach as contained within Attachment 10.1.4(a).
- 2 Issue delegated authority to the Chief Executive Officer to prepare a license, as generally contained within Attachment 10.1.4(b), subsequently undertake modifications to, and then finalise the license, for a storage and training area at Coronation Beach with the Geraldton Windsurfing Club, subject to a nominal annual fee being negotiated with the GWC and to the satisfaction of the CEO.

-
- 3 In the event that the Chief Executive Officer and Geraldton Windsurfing Club reach agreement concerning the license, the Shire President and Chief Executive Officer are authorised to complete signing and sealing of the license document on behalf of Council.
 - 4 In the event that there any disputes in relation to the license this matter is to be returned to Council for its consideration.
 - 5 The sea container(s) are not to be placed on-site until such time as the license agreement has been signed and sealed by the Shire of Chapman Valley and the Geraldton Windsurfing Club as required.
 - 6 The Geraldton Windsurfing Club shall not commence any windsurfing events or windsurfing activities at Coronation Beach until such time as it has provided a Risk Management Plan to the approval of the Shire of Chapman Valley, and a copy of their liability and indemnity insurance to the Shire of Chapman Valley (that lists the Shire of Chapman Valley as an interested party upon the insurance policy) to the approval of the Shire of Chapman Valley.

Voting F6/A0
CARRIED
Minute Reference: 09/20-07

REASON FOR DEVIATION: Terms of nominal annual fee to be negotiated with the Geraldton Windsurfing Club and to the satisfaction of the CEO was considered appropriate by Council.

Visitor Mark Wilson left the meeting at 9:45am.

10.2

Manager of Finance & Corporate Services

10.2 AGENDA ITEMS

10.2.1 Financial Management Report for August 2020

10.2.1

Financial Management Report for August 2020

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

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.1(a)	Financial Management Reports August 2020		✓
10.2.1(b)	Confidential List of Accounts August 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 August 2020 are detailed in the monthly management report provided as a separate attachment for Council's review. The budget by program has yet to be developed due to resource constraints, however we will endeavour to include this within next month's reporting cycle.

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 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. Batten

SECONDED: Cr. Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council receives the financial management report supplied under separate cover for the month of August 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 F6/A0
CARRIED
Minute Reference: 09/20-08**

10.3

Chief Executive Officer

10.3 AGENDA ITEMS

10.3.1 Elected Member & Committee Representation Vacancies

10.3.2 Local Government Act Review

10.3.3 DFES Bushfire Tank Grants Program

10.3.1 Elected Member & Committee Representation Vacancies

PROPONENT:	Chief Executive Officer
SITE:	Shire of Chapman Valley
FILE REFERENCE:	401.00
PREVIOUS REFERENCE:	NA
DATE:	16 th September 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

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

DISCLOSURE OF INTEREST

Nil

BACKGROUND

As a result of Cr Ian Maluish resigning (effective from 20th August 2020) it is necessary for Council to determine if:

- To conduct an extraordinary election to fill the vacancy; or
- Defer filling the vacancy until the October 2021 Local Government Ordinary Elections are held.

COMMENT

The purpose of this Agenda Report is to seek a resolution of Council to leave the office of Elected Member vacated by Ian Maluish unfilled until the October 2021 ordinary local government elections.

The Local Government Act states the following:

2.32. How extraordinary vacancies occur in offices elected by electors

The office of a member of a council as an elector mayor or president or as a councillor becomes vacant if the member —

- (a) *dies; or*
- (b) ***resigns from the office;*** or
- (c) *does not make the declaration required by section 2.29(1) within 2 months after being declared elected to the office; or*
- (d) *advises or accepts under section 2.27 that he or she is disqualified, or is declared to be disqualified by the State Administrative Tribunal acting on an application under section 2.27; or*
- (da) *is disqualified by an order under section 5.113, 5.117 or 5.119 from holding office as a member of a council; or*
- (e) *becomes the holder of any office or position in the employment of the local government; or*
- (f) *having been elected to an office of councillor, is elected by the electors to the office of mayor or president of the council.*

In accordance with requirements of the Local Government Act Council is required to determine how the vacancy should be filled.

Section 4.17 (see below) provides Council with the option to defer filling the vacancy until the next Ordinary Election, scheduled for the October 2021, rather than conduct an Extraordinary Election to fill this vacancy i.e.

4.17. *Cases in which vacant offices can remain unfilled*

- (1) *If a member's office becomes vacant under section 2.32 on or after the third Saturday in July in the election year in which the term of the office would have ended under the Table to section 2.28, the vacancy is to remain unfilled and the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*
- (2) *If a member's office becomes vacant under section 2.32 —*
 - (a) *after the third Saturday in January in the election year in which the term of the office would have ended under the Table to section 2.28; but*
 - (b) *before the third Saturday in July in that election year,*

the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.
- (3) ***If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.***

**** Absolute majority required.***

(4A) Subsection (3) applies —

- (a) ***if —***
 - (i) ***the office is for a district that has no wards; and***
 - (ii) ***at least 80% of the number of offices of member of the council in the district are still filled;***

or
- (b) ***if —***
 - (i) *the office is for a ward for which there are 5 or more offices of councillor; and*
 - (ii) *at least 80% of the number of offices of councillor for the ward are still filled.*
- (4) *If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.*

If Council does want to hold an Extraordinary Meeting to fill the current vacancy then the following legislation is relevant:

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.”*

In accordance with section 4.9(1(b) above Council need to determine the date of an Extraordinary Election (if this is the preferred option) by the 20th September 2020 (i.e. Cr Maluish’s resignation was effective from the 20th August 2020).

The other issue with the departure of Ian Maluish is representation on Committees & Working Groups. Below is a list of vacant positions on Committee & Advisory Group, which I believe can remain unfilled until the October 2021 Local Government Ordinary Elections have been completed (if Council agree to defer filling the vacancy). Council will undertake a full review of representations on all Committee, Working & Advisory Groups and external organisations after the October 2021 elections:

	Current Representatives	Comments
Building & Disability Services Committee	Cr Farrell Cr Humphrey Cr Batten Cr Forth Vacant	Purpose: Will meet at least annually to inspect all Shire Buildings/Properties and then subsequently to: ☐ Review preliminary costings for proposed works for consideration in draft Council Budget. ☐ Review the Capital & Building Works Program. ☐ Disability Access & Inclusion Plan; and ☐ Any other building/property items referred to the Committee by Council. Delegation – Nil
Community Growth Fund Advisory Group	Cr Farrell (President) Cr Warr Cr Davidson Vacant Chief Executive Officer Manager Finance & Corp Svc Comm. Develop. Officer	Purpose: Evaluate application received for funding under the Shire of Chapman Valley Community Growth Fund program in accordance with guideline, policies and procedures set by Council and make recommendations to Council to allocate funds Delegation – Nil

STATUTORY ENVIRONMENT

Legislation relevant to filling a vacant Elected Member position is detailed in the **Comments** section of this report. Below is legislation relevant to membership on local government committees:

Subdivision 2 — Committees and their meetings

5.8. *Establishment of committees*

A local government may establish committees of **3 or more persons** to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

5.9. *Committees, types of*

- (1) *In this section —*
other person means a person who is not a council member or an employee.
- (2) *A committee is to comprise —*
 - (a) *council members only; or*
 - (b) *council members and employees; or*
 - (c) *council members, employees and other persons; or*
 - (d) *council members and other persons; or*
 - (e) *employees and other persons; or*
 - (f) *other persons only.*

5.10. *Committee members, appointment of*

- (1) *A committee is to have as its members —*
 - (a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
 - (b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

** Absolute majority required.*

- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
 - (a) *to be a member of the committee; or*

(b) that a representative of the CEO be a member of the committee,

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11A. Deputy committee members

(1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.

* Absolute majority required.

(2) A person who is appointed as a deputy of a member of a committee is to be —

- (a) if the member of the committee is a council member — a council member; or
- (b) if the member of the committee is an employee — an employee; or
- (c) if the member of the committee is not a council member or an employee — a person who is not a council member or an employee; or
- (d) if the member of the committee is a person appointed under section 5.10(5) — a person nominated by the CEO.

(3) A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.

(4) A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.
[Section 5.11A inserted: No. 17 of 2009 s. 20.]

5.11. Committee membership, tenure of

(1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —

- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be; or
- (b) the person resigns from membership of the committee; or
- (c) the committee is disbanded; or
- (d) the next ordinary elections day,

whichever happens first.

(2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —

- (a) the term of the person's appointment as a committee member expires; or
- (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or
- (c) the committee is disbanded; or
- (d) the next ordinary elections day,

whichever happens first.

5.12. Presiding members and deputies, election of

(1) The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule —

-
- (a) to “office” were references to “office of presiding member”; and
 - (b) to “council” were references to “committee”; and
 - (c) to “councillors” were references to “committee members”.

(2) The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —

- (a) to “office” were references to “office of deputy presiding member”; and
- (b) to “council” were references to “committee”; and
- (c) to “councillors” were references to “committee members”; and
- (d) to “mayor or president” were references to “presiding member”

5.13. Deputy presiding members, functions of

If, in relation to the presiding member of a committee —

- (a) the office of presiding member is vacant; or
- (b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member,

then the deputy presiding member, if any, may perform the functions of presiding member.

5.14. Who acts if no presiding member

If, in relation to the presiding member of a committee —

- (a) the office of presiding member and the office of deputy presiding member are vacant; or
- (b) the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of presiding member,

then the committee members present at the meeting are to choose one of themselves to preside at the meeting.

5.15. Reduction of quorum for committees

The local government may reduce* the number of offices of committee member required for a quorum at a committee meeting specified by the local government if there would not otherwise be a quorum for the meeting.

* Absolute majority required.

5.16. Delegation of some powers and duties to certain committees

(1) Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.

* Absolute majority required.

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

(3) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —

- (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
- (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.

(4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

5.17. *Limits on delegation of powers and duties to certain committees*

- (1) *A local government can delegate —*
- (a) *to a committee comprising council members only, any of the council's powers or duties under this Act except —*
 - (i) *any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and*
 - (ii) *any other power or duty that is prescribed;**and*
 - (b) *to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and*
 - (c) *to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —*
 - (i) *the local government's property; or*
 - (ii) *an event in which the local government is involved.*
- (2) *A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).*

POLICY/PROCEDURE IMPLICATIONS

No Policy or Procedure relevant or affected.

FINANCIAL IMPLICATIONS

There is a cost associated with conducting an Extraordinary Election, with a contingency amount of \$8,500 allocated in the 2020/2021 Budget for this purpose. A quote received from the WA Electoral Commission (see **Attachment 10.3.1(a)**) to undertake this task, in the event Council does not resolve to defer filling the vacant position until the October 2021 Ordinary Local Government Election, is \$16,000 (plus local advertising). This will result in the need for a Budget variation to the 2020/2021 Adopted Budget

As Council has been conscious of reducing expenditure, keeping rates to a zero increase, etc. in 2020/2021 it is felt perhaps prudent to seriously consider if the cost to run an Extraordinary Election to fill the current vacancy is warranted.

The concept of conducting the Extraordinary Election to give someone in the community a short period as an Elected Member to determine if this is something they would want to take on long term is understood, yet is not supported as:

- a) The eleven month (or ten meeting) tenure would not be enough for most people to get a clear understanding of how local government functions. It can take a couple of years for most newly elected Councillors to get an appreciation of local government operations, so the short period in this instance may also be a deterrent for continuity in the position;
- b) The elected person will need to be part of the whole election process again, within eleven months of the initial extraordinary election, including the Candidate Induction process, which may be a deterrent to them renominating;
- c) The four year term is structured to give Elected Members an appropriate length of service to undertake training, development and gather a good understanding of the roles and responsibilities of the position. It is my opinion eleven months (or ten OCM's) is considered too short a period for this to occur; and
- d) As previously mentioned, is the expense warranted.

The Staff Recommendation is to defer filling the Elected Member vacancy until the October 2021 Ordinary Elections. However; if Council wants to proceed with holding an Extraordinary Election the following is an *Alternative*

Recommendation, which incorporates the need to implement a budget variation to cover the shortfall budgeted in 2020/2021 for an extraordinary election(s):

ALTERNATIVE RECOMMENDATION (Absolute Majority)

1. Council endorse conducting and Extraordinary Election by Postal Election to fill the current Elected Member vacancy and in accordance with section 4.9(1(b) of the Local Government Act, 1995, set the date for the Extraordinary Election as being the Friday 4th December 2020 and advise the Western Australian Electoral Commission accordingly.
2. The additional cost required to conduct the Extraordinary Election be funded by applying the following 2020/2021 Budget variation:

COA	Description	Current Budget	Amended Budget	Variation
0112	Election & Poll Expenses	\$8,500	\$16,000	+\$7,500
0682	Consultancy Fees (Provisional)	\$6,000	\$5,000	-\$1,000
2722	BHPCC – Additional Screening to Gazebos	\$2,500	\$0	-\$2500
2722	Yuna Hall – Replace existing septic System	\$4,000	\$0	-\$4,000
	<i>Totals</i>	\$21,000	\$21,000	\$0

STRATEGIC IMPLICATIONS

There is no envisaged adverse strategic implications relevant to deferring the filling of the vacant elected member position until the Ordinary Local Government Election due to be held in October 2021.

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 CEO has been in contact with the WA Electoral Commission and confirmed they would be willing to endorse a resolution of Council to defer filling the Elected Member vacancy until the October 2021 Local Government Elections (subject to Council resolving by Absolute Majority to do this at the September 2020 OCM) see **Attachment 10.3.1(a)**.

An email was also sent out to all Elected Members on the 20th August 2020 of which some feedback was received.

RISK ASSESSMENT

Non-compliance with legislation could result in a **major risk**. However; in this instance the risk is considered as **Minor** due to the estimated **additional cost** associated with conducting an Extraordinary Election, rather than to defer filling the Elected Member vacancy until the October 2021 Local Government Elections:

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

Staff Recommendation 1 - Absolute Majority (5 Affirmative Votes).

Staff Recommendation 2 - Simple Majority

MOVED: Cr. Forth

SECONDED: Cr. Warr

COUNCIL RESOLUTION

Council suspend Standing Orders. (9:52am)

Voting F6/A0

CARRIED

Minute Reference: 09/20-09

MOVED: Cr. Warr

SECONDED: Cr. Batten

COUNCIL RESOLUTION

Council reinstate Standing Orders. (10:11am)

Voting F6/A0

CARRIED

Minute Reference: 09/20-10

MOVED: Cr. Humphrey

SECONDED: Cr. Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION

STAFF RECOMMENDATION 1 (Absolute Majority)

Council endorse approval from the Western Australian Electoral Commission, in accordance with Section 4.17 of the Local Government Act, 1995, to allow the vacancy created by the resignation of Cr Ian Maluish to remain unfilled until the Ordinary Local Government Election due to be held in October 2021.

**Voting F6/A0
CARRIED
Minute Reference: 09/20-11**

MOVED: Cr. Warr

SECONDED: Cr. Humphrey

STAFF RECOMMENDATION 2 (Simple Majority)

Council leave the following positions on Committees, Working & Advisory Groups vacated by the resignation of Cr Ian Maluish unfilled until all position are reviewed after the October 2021 Ordinary Local Government Elections:

- Building & Disability Services Committee
- Community Growth Fund Advisory Group

**Voting F6/A0
CARRIED
Minute Reference: 09/20-12**

Meeting Adjourned at 10:13am.

Meeting Reconvened at 10:31am.

10.3.2

Local Government Act Review

PROPONENT:	Western Australian Local Government Association, Local Government Review Panel and City of Perth Inquiry
SITE:	Local Government Authorities - Statewide
FILE REFERENCE:	404.02
PREVIOUS REFERENCE:	Minute Reference: 02/19-2
DATE:	16 th September 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.2(a)	Stage 2 Local Government Act Review Survey Responses		✓
10.3.2(b)	City of Perth – Extract of Some Generic Recommendations		✓
10.3.2(c)	Ministerial Circular – City of Perth Inquiry		✓
10.3.2(d)	CEO's Position Table on Local Government Review Panel Final Report Recommendations in comparison to WALGA's unconfirmed position (at the time of writing)		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council resolved the following at the February 2019 OCM regarding Stage 2 of the Local Government Act Review process being undertaken by the Department of Local Government, Sport & Community Industries (DLGSCI):

MOVED: CR BATTEN

SECONDED: CR FORTH

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

Voting 7/0

CARRIED

Minute Reference: 02/19-2

(Motion moved en-bloc)

(See **Attachment 10.3.2(a)** for a copy of the response referred to in the resolution above).

COMMENT

Since Council last discussed the Act Review at the February 2019 OCM the following has occurred and recently released (both within a week of each other in mid-August 2020):

-
- Inquiry Panel Report into the City of Perth:
 - Local Government Review Panel – Final Report for new Local Government Act for WA

The City of Perth Inquiry had 341 Recommendations broken up into two areas:

- i. Specific to the City of Perth and the City of Perth Act (215 Recommendations)
- ii. Generic across the whole local government industry in Western Australia (126 Recommendations)

I extracted 57 of the 127 generic whole of local government recommendations for the City of Perth Inquiry Report, which I initially felt would be of significant interest, and sent these out to Elected Members in an email dated 14th August 2020 (**Attachment 10.3.2 (b)**). Since then I have compiled my responses to all 126 generic whole of local government recommendations within the Inquiry Report, yet will defer presenting this until a later Council meeting for consideration as the immediate concern is the LG Review panel Report items.

The link to the full City of Perth Inquiry is shown within the Ministerial Circular included in the email sent and at **Attachment 10.3.2 (c)** to this Agenda Report.

The Local Government Review Panel Final Report (which has 65 Recommendations) and was presented to the August 2020 Concept Forum for discussion. The consensus at the Concept Forum was for Shire Delegates to the Northern Country Zone of WALGA and the CEO to listen to debate and respond accordingly and in accordance with the Shire's Corporate Procedure on this matter. Also report back to Council on outcomes.

The Local Government Review Panel Final Report was discussed at the Northern Country Zone meeting held in Mingenew on the 24th August 2020, which both the Shire President and CEO attended. After much discussion the following was resolved by the Northern Country Zone:

- *The Northern Country Zone of WALGA requests that the paper be laid on the table until such time as all Zones have had an opportunity to form a considered response; and*
- *The Northern Country Zone of WALGA does not support the report in its current form.*

The WALGA State Council Staff Recommended position on the Local Government Review Panel Final Report not supported by the Northern Country Zone was as follows:

1. *That WALGA SUPPORT the following Recommendations from the Local Government Review Panel Final Report:*
 - *Recommendations 1, 2, 3, 4, 6 and 7;*
 - *Recommendation 8;*
 - *Recommendation 11;*
 - *Recommendations 12, 13 and 14;*
 - *Recommendation 15;*
 - *Recommendations 16 and 17;*
 - *Recommendation 24;*
 - *Recommendations 25(b) to (f);*
 - *Recommendations 26(b), (d), (e) and (f);*
 - *Recommendations 28, 29, 30, 31, 32(1)(a) to (o) and 32(2)(a);*
 - *Recommendations 33 and 34;*
 - *Recommendations 36 and 37;*
 - *Recommendations 38(c), (d) and (e);*
 - *Recommendations 39, 40, 41(a) to (g) and (i);*
 - *Recommendation 42;*
 - *Recommendations 43 and 44;*
 - *Recommendations 45, 46, 47, 48 and 49;*
 - *Recommendations 50, 51 and 52;*

-
- Recommendation 54;
 - Recommendations 55(a), (b), (d), (e), (f), (h) and (i);
 - Recommendation 56;
 - Recommendation 57;
 - Recommendation 59;
 - Recommendations 62 and 63;
 - Recommendation 64(c);
 - Recommendations 65(a) to (e).
2. That WALGA OPPOSE the following Recommendations from the Local Government Review Panel Final Report:
- Oppose Recommendation 5;
 - Oppose Recommendation 19;
 - Oppose Recommendations 23 and 25(a);
 - Oppose Recommendation 26(c);
 - Oppose Recommendations 32(2)(b) and (c);
 - Oppose Recommendation 35;
 - Oppose Recommendations 38(a) and (b);
 - Oppose Recommendation 41(h);
 - Oppose Recommendations 53(a) and (b);
 - Oppose Recommendations 55(c) and (g);
 - Oppose Recommendation 58;
 - Oppose Recommendation 60;
 - Oppose Recommendation 61;
3. That WALGA CONDITIONALLY SUPPORT the following Recommendations from the Local Government Review Panel Final Report as described:
- Recommendations 9 and 10 and but oppose any proposal to remove the poll provisions (Dadour provisions) in Schedule 2.1, Clause 8 of the Local Government Act;
 - Recommendation 18 and reiterate WALGA's current advocacy position that there be adequate funding of legislative responsibilities assigned to Local Governments in relation to service delivery to remote Aboriginal communities;
 - Recommendations 20, 21 and 27 in support of a broad review of the property franchise including a community consultative process;
 - Recommendation 26(a) conditional upon a review of the relative benefits and merits of changes to reduce numbers of Elected Members on Council be supported, on the following basis:
 - Populations up to 5,000 – 5 to 7 Councillors (incl. President)
 - Populations between 5,000 and 75,000 – 5 to 9 Councillors (incl. Mayor/President)
 - Populations above 75,000 – up to 15 Councillors (incl. Mayor);
4. That WALGA carry out further consultation on the following Recommendations from the Local Government Review Panel Final Report:
- Recommendation 22 – All In/All Out Elections;
 - Recommendations 64(a) and (b) - WALGA
 - Recommendation 65(f) – Transfer of Employee Entitlements

At the WALGA State Council Meeting the WALGA Staff Recommendations (Item 1, 2, 3 & 4 above) was not endorsed and the NCZ's Resolution to defer the item was lost, with the following Alternate Resolution being adopted:

1. WALGA acknowledge the panel report and the responses received from WALGA Zones and seek Government's commitment to further consultation on the recommendations contained therein;

-
2. *Seek a formal commitment from the Minister for Local Government that the Local Government Sector be consulted on the Draft Local Government Act Bill in line with the State/Local Government Partnership Agreement and that WALGA actively participates in the legislative drafting process to develop the new Local Government Act; and*
 3. *WALGA strongly encourage individual Local Governments to consider responding to recommendations of the panel report and advise WALGA of their submissions by 31 October 2020*

I compiled a Table of the WALGA Staff Recommended position and my own position on each of the Local Government Review Panel Final Report Recommendations, which was presented to the Northern Country Zone meeting in Mingenew by the President and CEO. This has been amended since the Zone meeting to reflect some of the discussions held at this meeting and is now presented to Council for formal consideration (see **Attachment 10.2.3.(d)**).

STATUTORY ENVIRONMENT

Local Government Act, 1995 & associated Regulations.

POLICY/PROCEDURE IMPLICATIONS

I am yet to determine if any of the recommended changes to the Act will have an effect on any of the Shire's current Policies and Management Procedures. This will be a separate exercise if/when changes are actually introduced.

FINANCIAL IMPLICATIONS

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

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

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

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

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

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

It would fair to state the issue has worsened significantly since the mid 2000's and I am sure the legislation cost across the local government sector would closer to \$20m per annum. However, as you would imagine, ascertaining the actual cost

burden would be a major exercise and one I am sure this shire alone (or even the NCZ member LGAs) could not afford the time or resources to undertake.

Long Term Financial Plan (LTFP):

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

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

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

STRATEGIC IMPLICATIONS

Strategic Community Plan/Corporate Business Plan:

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

CONSULTATION

The issue with this current situation is the initial (unconfirmed) indication from the State Government there may not be an opportunity to respond to the Local Government Review Panel's Final Report for new Local Government Act as the consultation and submission stage for this review has already occurred. This is a position WALGA is disputing with the State Government, hence the need to present the Shire of Chapman Valley's position on the recommendations to the NCZ and WALGA as a matter of urgency.

It is currently unsure how the Inquiry Panel Report into the City of Perth recommendations will be dealt with. This is the first time local government has had the opportunity to see the recommendations coming out of this Inquiry. I would have thought there should be an opportunity for the local government sector to be given the opportunity to consider and respond to the recommendations relating to the whole sector.

This matter was presented to the Shire's August 2020 Concept Forum and to the NCZ meeting held on the 24th August 2020 which the President and CEO attended.

RISK ASSESSMENT

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

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

VOTING REQUIREMENTS

Simple Majority

MOVED: Cr. Forth

SECONDED: Cr. Humphrey

COUNCIL RESOLUTION

Council suspend Standing Orders. (10:32am)

Voting F6/A0

CARRIED

Minute Reference: 09/20-13

MOVED: Cr. Batten

SECONDED: Cr. Forth

COUNCIL RESOLUTION

Council reinstate Standing Orders. (11:15am)

Voting F6/A0

CARRIED

Minute Reference: 09/20-14

MOVED: Cr. Forth

SECONDED: Cr. Davidson

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council

- Endorse the responses to recommendations of Local Government Review Panel's Final Report for new Local Government Act for WA as provided at **Attachment 10.3.2(d)** and lodge these with to both the Western Australian Local Government Association (WALGA) and the Northern Country Zone of WALGA with the following amendments
 - Revise table headings to read: WALGA Staff Recommendation
 - Remove the words 'ludicrous and ridiculous' from the comments section
 - Amend errors in colour coding
- Request the WALGA approach the State Government to insist the local government sector-wide recommendations from the Inquiry Panel Report into the City of Perth be presented to all local government authorities for responses and submissions in accordance with the *State/Local Government Partnership Agreement*. This consultation should occur before the State Government undertakes any further consideration of these recommendation. Consultation

with the local government industry on these recommendations must be over a period which ensures appropriate and adequate time is given to the industry to respond.

**Voting F6/A0
CARRIED
Minute Reference: 09/20-15**

10.3.3

DFES Bushfire Tank Grants Program

PROPONENT:	Department of Fire & Emergency Services
SITE:	Various Location within Shire of Chapman Valley
FILE REFERENCE:	601.03
PREVIOUS REFERENCE:	NA
DATE:	16 th September 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
	NIL		

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Correspondence has been received from the Department of Fire & Emergency Services (DFES) advising of a \$2.0 million grant funding program for the provision of water tanks at existing bushfire facilities for BFB located in high bushfire risk areas currently without water tanks i.e.

From: DUDARZ Natasha <Natasha.Dudarz@dfes.wa.gov.au>

Sent: Tuesday, 18 August 2020 11:14 AM

Subject: CR2016407 - WA Recovery Plan - Bush Fire Brigade Water Tank Initiative - INVITATION FOR APPLICATIONS

To the Chief Executive Officer

Through the State Government's WA Recovery Plan, DFES was provided \$2.0 million over two years (2020/21 & 2021/22) for the provision of water tanks at existing bush fire facilities (not funded through Emergency Services Levy (ESL) collections). The additional funding is intended for bush fire brigades (BFB's) located in high bushfire risk areas that do not already have a water tank.

DFES has previously engaged with a number of local governments (LG) to establish demand and subsequently a formal application process has now commenced.

How to apply

Applications are being sought from all LG's and are to be submitted through the following online form link <https://app.smartsheet.com/b/form/f7f4b662c6c44a9781dc7ee584e1e0b3>. Priorities will be assessed and agreed to by the Bushfire Operations Committee (BOC).

What do I need to do to apply?

1. It is beneficial to view the form first and note what is required. If you select “Yes” to the first question the remainder of the form will expand. There is no option to cancel, so once viewed simply close the webpage.
2. Individual forms are required for each brigade. This option will present itself after the first submission and then subsequent to each.
3. Each form requires the submission of a quote(s). Quotes can be inclusive of more than one brigade, however please attach the quote to each individual form.
4. The quote specific to a water tank is required to include the following elements;
 - a. BFB name
 - b. Water Tank size with standard fittings including delivery and installation
 - c. Tank level gauge
 - d. Dust and vermin proofing seal
 - e. Pump kit (Ensure pump capacity is sufficient)
 - f. Electrical requirements
 - g. Plumbing requirements
 - h. Site works
5. Additional information i.e. photos etc. can also be attached to the quotation section (max of 10 files allowed)

Closing Date/Time: Applications must be submitted by 5pm **Tuesday 31 August 2020.**

(Note: this date has since been extended to 5pm Friday 18th September 2020.)

If additional information is required for assessment, a Smartsheet update form will be forwarded direct to the person who submitted the original application.

For enquiries relating to the initiative, including advice or assistance with your application, please contact me by phone or email.

Warm regards

Natasha Dudarz

Resource Allocation Officer

20 Stockton Bend, Cockburn Central 6164

T: +61 8 9395 9857 / M: 0438 920 382 / E: natasha.dudarz@dfes.wa.gov.au dfes.wa.gov.au



FOR A SAFER STATE

COMMENT

Staff contacted Brigade Fire Control Officer's (FCO) in Brigade areas where it was considered there was a current lack of water source storage points. Those contacted were Howatharra, Naraling & Durawah/Valentine Brigade to determine an interest and possible locations for Water Tanks, if Council agreed to proceed with an application(s) with the responses being:

Howatharra BFB

There is an interest from the Brigade with the location being suggested on private property located on Bella Vista Road where an existing water source is present.

Durawah/Valentine BFB

There is an interest from the Brigade with the location being suggested on private property located on Valentine Road where an existing water source is present.

Naraling BFB

There is an interest from the Brigade with the location being suggested on private property located on Balaam Road where an existing water source is present.

The issue may be locating tanks on private properties as the email states "*...for the provision of water tanks at existing bush fire facilities...*". However; when contact was made with DFES on the conditions/guidelines associated with the grant program on this and other queries the response was uncertain and ambiguous. Therefore the recommendation is to submit applications on the basis of the suggested tank location on private properties being eligible.

The other questions asked of DFES on including items such as pumps, solar panels, batteries, etc. to operate the water source were also responded to with uncertainty, so the intention is to apply for tanks being fully fitted out with equipment to operate the water source (not just the tank acquisition and installation costs).

It is also unsure is whether the three aforementioned locations are considered as being "*... located in high bushfire risk areas..*" as stated in the DFES correspondence. Initial research indicates the Shire of Chapman Valley has not been declared a high bushfire risk area, so may not be eligible.

The other issue is the question within the Grant Application Form of the Shire being declared a water deficient area. It appears the Shire has not been declared such an area; however, when seeking clarification from DFES, it was expressed this isn't an eligibility requirement, rather an indicator of assessment priority.

Timing of the grant submission closure date and the cycle of Council's monthly meetings has required the item has been presented to the September 2020 OCM for consideration. Therefore, irrespective of the uncertainty of the Shire's eligibility status the purpose of this Agenda Report is to seek Council endorsement (or otherwise) for lodging an application, subject to eligibility.

STATUTORY ENVIRONMENT

Not applicable.

POLICY/PROCEDURE IMPLICATIONS

No existing Policy/Procedure affected.

FINANCIAL IMPLICATIONS

There is no contribution required for the acquisition and installation of the BFB Water tanks. However, the Shire will be responsible for the ongoing operational and maintenance costs of the tanks & equipment as well as the future capital replacement costs if tanks need to be replaced in the future.

The estimated costs associated with operational & maintenance costs of existing water source points throughout the Shire, used predominantly for road works and bush fire purposes, varies subject to the individual setup and structures. However an example of possible ongoing operational and maintenance costs for the water source (200,000 litre tank & equipment) at the Farrell's property on Dartmoor Rd is approximately \$1,000 which is predominantly the Shire's share of the main power consumption cost.

An amount is also budgeted annually as a contingency for pump & equipment repairs/replacements for all water points within the Shire of approximately \$10,000, which is only used as required.

STRATEGIC IMPLICATIONS

It is strategically sound to have water source points located around the Shire to assist with bushfire fighting.

Ref	Objective	Strategy
4.1	Develop, manage and maintain built infrastructure	Asset Management Plan

CONSULTATION

Staff have contacted Fire Control Officer in Brigades where it was considered water sources points for bushfire purposes was deficient.

RISK ASSESSMENT

Establishing strategically located water source points for bushfire fighting can assist with reducing the risk to property, produce and people. If the water source storage points are increased with a successful application to establish new points then the risk based upon estimated annual operational costs may be considered as **Minor**.

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

VOTING REQUIREMENTS

Simple Majority

MOVED: Cr. Batten

SECONDED: Cr. Farrell

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council endorse an application to the Department of Fire and Emergency Services (DFES) *WA Recovery Plan - Bush Fire Brigade Water Tank Initiative* for the installation of water tanks and associated operational equipment in the Howatharra, Naraling and Durawah/Valentine Bushfire Brigade areas.

The Chief Executive Officer is to determine the priority and location of sites after consultation with Brigade Fire Control Officers and landowners.

The application is only to proceed if it is confirmed with DFES the Shire's proposal is considered eligible under the grant conditions and guidelines.

Voting F6/A0

CARRIED

Minute Reference: 09/20-16

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

COUNCILLOR	ITEM
Cr. Batten	CV Progress Group (FAB CV)
<p>New Item of Business – Waiver of venue hire fees</p> <p>MOVED: Cr. Humphrey SECONDED: Cr. Batten</p> <p>Council deal with a late item of business to consider a waiver of venue hire fees for the newly formed community group called “For A Better Chapman Valley”(FAB CV).</p> <p style="text-align: right;">Voting F6/A0 CARRIED Minute Reference: 09/20-17</p> <p>MOVED: Cr. Batten SECONDED: Cr. Warr</p> <p>Council agree to waiver the venue hire fees for the FAB CV until the 31st of December 2020 in accordance with resolution number 07/20-12 as part of the COVID-19 pandemic community health and wellbeing assistance.</p> <p style="text-align: right;">Voting F6/A0 CARRIED Minute Reference: 09/20-18</p>	
Cr. Humphrey	Emergency Management Meeting (BLEMC)
Cr. Farrell	Zone Meeting, Regional Communication Meeting

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 11:48am.