

ORDINARY COUNCIL MEETING

Confirmed Minutes

9:00am Wednesday
16/12/2020

Nabawa Council Chambers

December 2020

SHIRE OF CHAPMAN VALLEY

Maurice Battilana

CHIEF EXECUTIVE OFFICER

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



SHIRE OF

Chapman Valley

Love the rural life!

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

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

Maurice Battilana
CHIEF EXECUTIVE OFFICER

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ORDER OF BUSINESS

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

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)	9:00am	11:44am
Cr Kirrilee Warr (Deputy President)	9:00am	11:44am
Cr Peter Humphrey	9:00am	11:44am
Cr Darrell Forth	9:00am	11:44am
Cr Nicole Batten	9:00am	11:44am
Cr Trevor Royce	9:00am	11:44am

Officers	In	Out
Maurice Battilana, Chief Executive Officer	9:00am	11:44am
Simon Lancaster, Deputy Chief Executive Officer	9:00am	11:44am
Dianne Raymond, Manager Finance & Corporate Services	9:00am	11:44am
Beau Raymond (Minute Taker)	9:00am	11:44am

Visitors	In	Out
David Byrne	9:00am	9:10am
Clare Fenwicke	9:00am	9:10am
Geoff Vivien	9:00am	10:42am

3.2 Apologies

Elected Members
Cr Beverley Davidson

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
10.3.6	Cr Nicole Batten	Impartiality	TAEG Item Member of group with item
10.1.2	Cr Trevor Royce	Proximity	Own land adjacent
10.3.6	Cr Kirrilee Warr	Impartiality	Financial member and committee member of Creating a Better Yuna
10.3.1	Maurice Battilana	Financial	Staff Matter – Code of Conduct
10.3.1	Simon Lancaster	Financial	Staff Matter – Code of Conduct
10.3.1	Dianne Raymond	Financial	Staff Matter – Code of Conduct
10.3.1	Beau Raymond	Financial	Staff Matter – Code of Conduct

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

7.3 Deputations

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

MOVED: Cr Forth

SECONDED: Cr Humphrey

8.1 Ordinary Meeting of Council held on Wednesday 18th November 2020

The Minutes of the Ordinary Meeting of Council held Wednesday 18th November 2020 be confirmed as true and accurate.

Voting 6/0

CARRIED

Minute Reference: 12/20-01

9.0 ITEMS TO BE DEALT WITH EN BLOC

MOVED: Cr Batten

SECONDED: Cr Warr

Council resolves to move the following items En bloc:

10.1.3, 10.1.4, 10.2.2, 10.3.1

Voting 6/0

CARRIED

Minute Reference: 12/20-02

10.0 OFFICERS REPORTS

10.1

Deputy Chief Executive Officer

10.1 AGENDA ITEMS

10.1.1 Proposed Building Envelope Relocation

10.1.2 Proposed Food Van

10.1.3 Agistment Lease Enquiry

10.1.4 Reserve Purchase Enquiry

10.1.1

Proposed Building Envelope Relocation

PROPONENT:	Warren Taylor Homes for K. Faulkner & L. Deadman
SITE:	29 (Lot 305) Patten Place, White Peak
FILE REFERENCE:	A1815
PREVIOUS REFERENCE:	Nil
DATE:	8 December 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)	Received submissions		✓

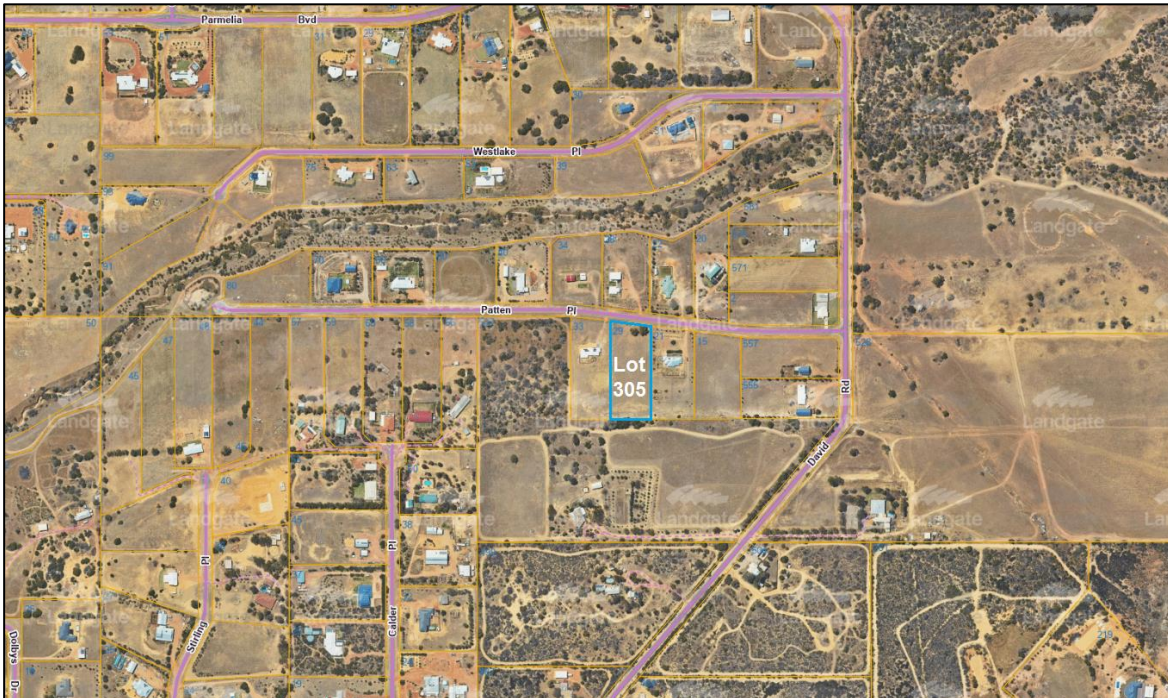
DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application for a residence upon 29 (Lot 305) Patten Place, White Peak that is proposed to be located outside of the building envelope established at the time of the Dolby Creek Estate subdivision. The application has been advertised for comment and is now presented to Council for its deliberation. This report recommends refusal of the application. Alternate wording is also provided in the report for Council's consideration in the event that it deems that the application should be approved.

Figure 10.1.1(a) – Location Plan of 29 (Lot 305) Patten Place, White Peak



COMMENT

Lot 305 is a vacant 7,997m² property with a 59.36m frontage along its northern boundary to Patten Place. The property slopes downward from the 79m contour in the rear south-eastern corner to the 72m contour at the Patten Place frontage in the north-western corner.

Figure 10.1.1(b) – Aerial photograph of 29 (Lot 305) Patten Place, White Peak



Figure 10.1.1i – View looking south from Patten Place at Lot 305



Figure 10.1.1I – View looking south-east from Patten Place at Lot 305



The applicant is seeking to construct a single storey 3 bedroom, 2 bathroom brick walled, colorbond roofed residence upon cut and fill earthworks of 1.3m cut behind the residence in the south-east-corner and 0.9m fill forward of the residence in the north-west corner.

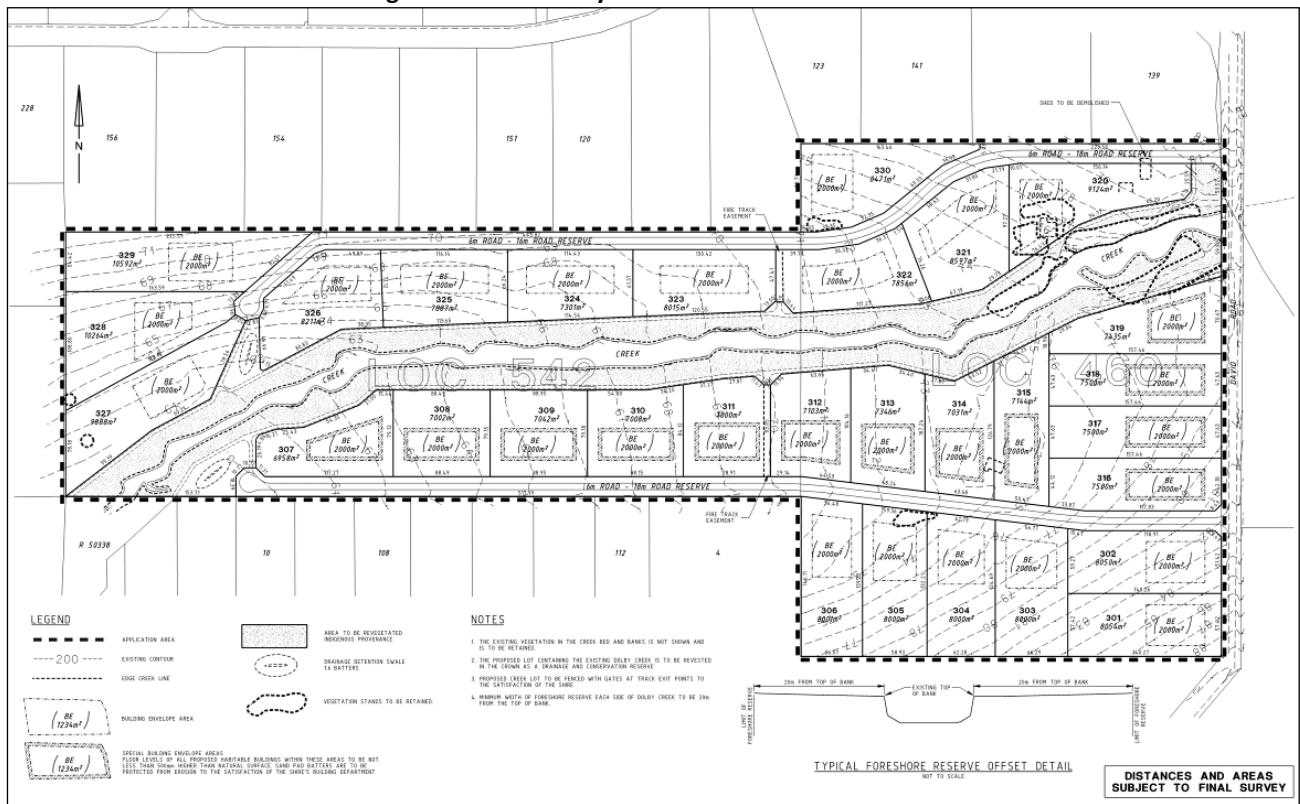
The residence is propped to be sited 20m from the rear (southern) boundary of the property and would be located 35m outside (south of) the building envelope for Lot 305 that was set towards the front of the property.

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 (and the proposed location for a new building envelope), elevation and floor plans of the proposed residence and the applicant's supporting correspondence outlining their reasons for wanting to site the residence in the proposed location.

Council adopted the Dolby Creek Estate Subdivision Guide Plan at its 20 October 2010 meeting that designated a 2,000m² building envelope for Lot 305, a copy of the building envelope plan is provided as **Figure 10.1.1I** and is also included as the last page in **separate Attachment 10.1.1(a)**.

Figure 10.1.1I – Dolby Creek Subdivision Guide Plan



STATUTORY ENVIRONMENT

29 (Lot 305) Patten Place, White Peak is zoned ‘Rural Residential’ 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 1 ha to 4 ha.
- To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.
- To set aside areas for the retention of vegetation and landform or other features which distinguish the land.”

The proposed development would meet with the definition of ‘Single House’ which is listed by the Scheme as a ‘P’ use in the ‘Rural Residential’ zone, that is a use that is permitted if it complies with all relevant development standards and requirements of the Scheme.

The Scheme also notes the following relevant to this application:

- “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*
 - l 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*
 - l 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 Residential

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.”*

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

The Dolby Creek Subdivision Guide Plan was adopted by Council at its 20 October 2010 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 would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

Council has previously granted approval for developments to be located outside of the building envelopes identified on the Dolby Creek Estate Subdivision Guide Plan, however, these have generally been relatively minor encroachments where only a portion of the building was located outside of the envelope, rather than a relocation of the building envelope in its entirety:

- Council approved an outbuilding upon 2 (Lot 316) Patten Place, White Peak that extended 2.1m outside of the building envelope at its 16 December 2015 meeting due to the narrow rectangular shape of the lot;
- Council approved the siting of a shed upon 31 (Lot 321) Westlake Place, White Peak that extended 3m outside of the building envelope at its 12 December 2018 meeting, due to the irregular shape of the building envelope and the lot, the landowner later reduced the shed size and the final shed was located within the building envelope;
- Council approved an ancillary dwelling upon 1 (Lot 320) Westlake Place, White Peak that extended 5m outside of the building envelope at its 17 June 2020 meeting to provide a greater setback from the historic cottage on the lot.

Council has previously only approved one application for development that was entirely outside of the building envelopes as shown upon the Dolby Creek Estate Subdivision Guide Plan. This being a shed that was approved by Council 18m outside of the building envelope upon 30 (Lot 330) Westlake Place, White Peak at its 16 December 2015 meeting. This application sought to elongate the building envelope (rather than entirely relocate it) and the agenda report noted the irregular triangular shape of the lot and curving street frontage as basis for consideration, and that the proposed location for the shed was at a lesser contour and therefore less likely to interfere with neighbours' views than were it to be located upon the higher contour as contained within the building envelope. It is also noted in that previous instance that the application sought to site the shed outside the building envelope but the residence would be contained within it, and no objection was received in that instance from surrounding landowners when the application was advertised for comment.

In the event that Council deems that the application to relocate the building envelope for 29 (Lot 305) Patten Place, White Peak has merit it may consider the following wording and conditions appropriate:

“That Council grant formal planning approval for the relocation of the building envelope upon 29 (Lot 305) Patten Place, White Peak subject to compliance with the following conditions:

- 1 *The building envelope shall be in accordance with the approved plans contained within 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 *Development upon the property 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 side property boundaries for the purpose of softening the visual impact of the development and assisting in privacy for adjoining landowners, to the approval of the local government.*
- 5 *Any soils disturbed or deposited on site must be stabilised, to the approval of the local government.*
- 6 *Installation of crossing place/s to the standards and specifications of the local government.*

Advice 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.”

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 10 surrounding landowners on 5 November 2020 providing details of the application and inviting comment upon the proposal prior to 27 November 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 5 submissions had been received, 4 in support of the application, and 1 in objection.

The nature of the objection related to the perceived loss of privacy if the residence was constructed to the rear of the lot rather than towards the front in the building envelope, and thereby in-line with, the other residences on this side of Patten Place.

A copy of the received submissions have been provided as **separate Attachment 10.1.1(b)** along with a map illustrating the parties written to inviting comment and the nature of the received responses (i.e. support/objection) for Council’s information.

The applicant was provided with the opportunity to respond to the issues raised during the advertising period and they advised on 2 December 2020 that they *“would be happy to do some strategic planting of native bushes/small trees such as grevilleas or hakeas if screening is required”*.

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 Batten

Suspend standing orders.

**Voting 6/0
CARRIED
Minute Reference: 12/20-03**

Discussion was undertaken on the item.

MOVED: Cr Forth

SECONDED: Cr Batten

Reinstate standing orders.

**Voting 6/0
CARRIED
Minute Reference: 12/20-04**

MOVED: Cr Humphrey

SECONDED: Cr Royce

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council refuse the application for the relocation of the building envelope upon 29 (Lot 305) Patten Place, White Peak for the following reasons:

- 1 The development is not considered to satisfy Sections 40 and Schedule 5 of the Shire of Chapman Valley Local Planning Scheme No.3.
- 2 The development is not considered to satisfy 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 6 of the Shire of Chapman Valley Local Planning Policy 'Building Envelopes'.
- 4 The proposed residence location is outside of the building envelope as identified on the Dolby Creek Estate Subdivision Guide Plan.
- 5 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, natural landscape character, privacy and amenity of residents of the surrounding locality.

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.

Voting 6/0
CARRIED
Minute Reference: 12/20-05

Cr Royce declared a Proximity Interest in relation to Item 10.1.2 and vacated chambers at 9.15am.

10.1.2 Proposed Food Van

PROPONENT:	E Ward & S Foster
SITE:	Reserve 50066 Coronation Beach Road, Oakajee
FILE REFERENCE:	A1956
PREVIOUS REFERENCE:	7/99-35, 10/00-8 & 10/20-04
DATE:	6 December 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.2	Food Van application		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application to operate a food van at Coronation Beach. This report recommends that Council conditionally approve the food van for a 12 month trial period.

Figure 10.1.2(a) – Aerial Photo of Coronation Beach



COMMENT

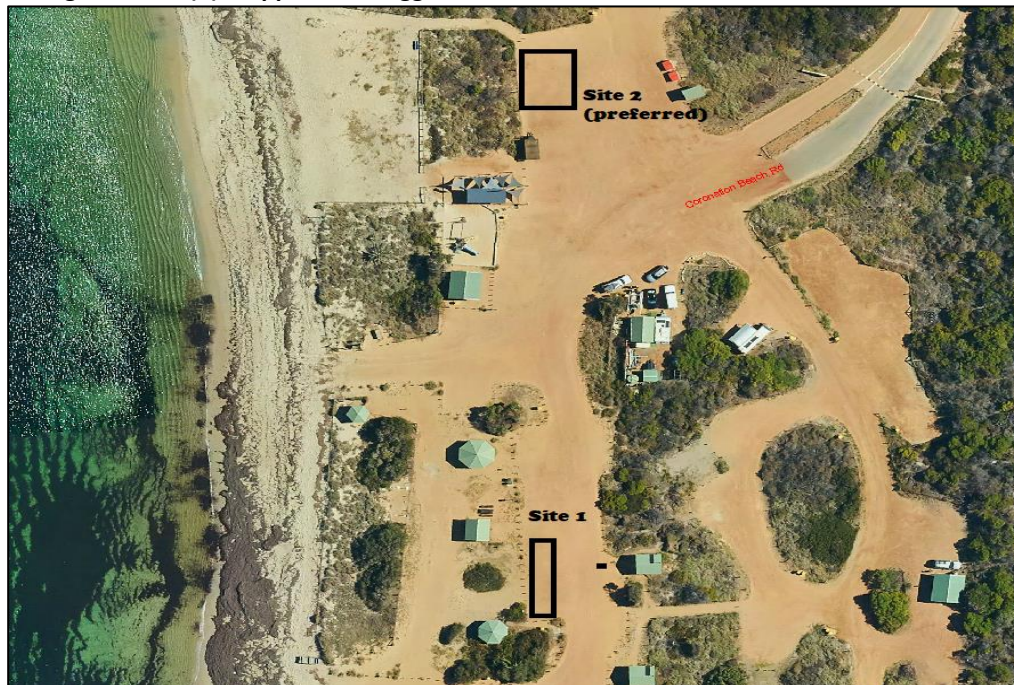
The applicant is seeking to site their food van at Coronation Beach from Thursday-Sunday 10:00am-3:00pm, and potentially also 5:00pm-8:00pm dependent upon demand. The food van would not be kept at Coronation Beach when not in use, and would be parked at the applicant's property on Nanson-Howatharra Road approximately 10km east of Coronation Beach.

The applicant is also seeking to set up 4 temporary gazebos when the food van is on-site with tables and chairs to provide shade for customers.

The received application that elaborates upon their proposed menu, proposed activities, the food van and its facilities, and the 2 applicants themselves, along with photographs of the food van has been provided as **separate Attachment 10.1.2** for Council's consideration.

The applicant is seeking to site the food van in one of the locations as illustrated in **Figure 10.1.2(b)**.

Figure 10.1.2(b) – Applicant's suggested locations for a food van at Coronation Beach



In support of their location options the applicant has advised as follows;

“Site 1 - is in the car parking area opposite the toilets, near the BBQ area. In this instance, the Van would be facing the beach and gazebos (the ones that we have requested) would be set up in the open area between the Van and the beach shrubbery. The truck would most likely have to be parked elsewhere (further away) if the council did not want to restrict public car parking spaces to the BBQs where people usually have stuff (e.g. eskies) to carry. This may make things a little more difficult if we get busy and need supplies from the Truck. Also the Truck cool room would require power from the generator running the Van so we would have to run a lead.

Site 2 - is in the main Coronation Beach car park, just north of the Kite West site and is the preferred option due to space and ease of parking.

Other considerations are;

Room for Gazebos to protect customers from the elements while purchasing and waiting.

Keeping all commercial operations in the same spot/precinct and away from the camping section. We all help keep the area clean and tidy.

Keeps BBQ area and other publicly used buildings (such as wooden Gazebo) unobstructed for the public use and we don't take up parking so close to amenities (toilets etc.)"

Council has previously approved the operation of a food van at Coronation Beach, calling for expressions of interest at its 20 July 1999 meeting and again at its 17 October 2000 meeting, however, a food van has not been present at Coronation Beach since 2004 (other than for one-off events such as Windsurfing Club events or Shire Australia Day events).

Council approved the application from the existing lessee (Kitewest) for the establishment of a food outlet at Coronation Beach at its 21 October 2020 meeting, that would consist of a sea container being sited alongside, and upgraded including wood cladding, decking and shade sails to match visually, their existing watersports school facility. Kitewest advised that they would not be seeking to site the second sea container until November 2021 with a view to commencing operation of their food outlet for summer 2021/2022.

It might therefore be deemed by Council that the interim siting of a food van at Coronation Beach would not be at odds with its previous decision relating to the development of a food outlet at this location. Further comment in relation to the issue of competition is discussed in the Strategic Implications section of this report.

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.

Reserve 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."*

Part 1 Section 4 of the *Planning & Development Act 2005* ('the Act') defines development as follows:

- "development means the development or use of any land, including —*
- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;*
 - (b) the carrying out on the land of any excavation or other works;*
 - (c) in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, any act or thing that —*
 - (i) is likely to change the character of that place or the external appearance of any building; or*
 - (ii) would constitute an irreversible alteration of the fabric of any building."*

Whilst the siting of a food van does not constitute a development as defined within parts (a)-(c) it should still be considered a development as by operating a commercial/retail activity from the land it does constitute the *"use of any land"*.

The proposal is further considered to constitute the use of land as it would be established for extended periods, and should therefore be viewed differently to a more transitory operation such as an ice cream van that is generally in motion and might typically only be stationary when hailed by customers, that might be able to be considered under the exemption provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Schedule 2 Part 7 Clause 61(2)(d) of the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations') provides for exemption from the requirement to obtain development approval for a temporary use which is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period. This application is not considered to meet this requirement as whilst the food van would be sited for periods of less than 48 hours, it would be sited at the location for a period of greater than 48 hours across a 12 month period.

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

- “(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;...*
- ...(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following —*
 - (i) environmental impacts of the development;*
 - (ii) the character of the locality;*
 - (iii) social impacts of the development*
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;...*
- ...(q) the suitability of the land taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk...*
- ...(s) the adequacy of—*
 - (i) the proposed means of access to and egress from the site; and*
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
- ...(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (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;...*
- ...(zb) any other planning consideration the local government considers appropriate.”*

POLICY/PROCEDURE IMPLICATIONS

The Shire of Chapman Valley Coastal Management Strategy and Action Plan (2016) identifies the objective for Coronation Beach as being:

“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. (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)

It is considered that the operation of a food van would align with these objectives.

It is also noted that both the previous Kitewest food outlet proposal and the current food van proposal are facilities that can be removed from the site, or relocated elsewhere at Coronation Beach, in the event that coastal erosion, or economic or compliance issues, or future Council requirements deem this necessary.

The Mid West Development Commission’s ‘Tourism Development Strategy’ (2014) includes amongst its identified priorities, increasing the range of eco nature based tourism activities, attractions and experiences. The Economic Development element of the Commission’s Mid West Blueprint (2015) notes the Mid West Tourism Potential as follows:

“The long term aspiration of this Blueprint is for the Mid West to attract one million overnight visitors (annually) by 2050. The Mid West would be highly developed as an inspiring nature based destination, that offers a wide range of high quality, year round experiences.”

FINANCIAL IMPLICATIONS

The Shire charges the current Coronation Beach lessee an annual lease fee of \$500 GST exclusive, intended to cover the administration and other costs associated with the ongoing water sports school lease.

The Shire charges an initial inspection fee of \$50 per premises to verify compliance with the requirements of the *Food Act 2008* and *Food Regulations 2009* and additional inspection fees may be charged in the event that follow-up inspections are required arising from matters of non-compliance. Itinerant food vendor licences also incur an annual fee of \$200.

Council might consider that these charges (i.e. \$250) are appropriate in this instance or alternatively consider it equitable to increase the overall figure charged to the food van applicant to \$500 to match the annual fee charged to the existing Coronation Beach lessee. This \$500 figure would also assist in cost recovery for any additional emptying of the skip bin that is sited at Coronation Beach that may be required over the 12 month period as a result of additional demand.

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

Council gave approval at its 21 October 2020 meeting for the current watersports school lessee (Kitewest) to expand their operations to include a food outlet. The lessee intends to commence this operation in November/December 2021.

Council’s resolution included specific notation that:

“The management licence issued to the applicant is not to be construed as the granting of an exclusive commercial use of the reserve, Council reserves the right to enter into management licences and/or other arrangements with other parties who may seek to conduct commercial activities at Coronation Beach.”

This advice was also previously given relevant to their watersports school application i.e. the granting of approval should not be deemed to mean that Council would not entertain approaches from other parties seeking to operate either a watersports school or food/drink operation at Coronation Beach.

The approval of a food van for the coming year can be considered to align with Council’s desire to see greater activation and servicing for campers and visitors at Coronation Beach, along with supporting its residents with their business ventures. It would also be in keeping with Council’s previous approval of food van operators at Coronation Beach.

The recommendation of this report is for the granting of approval for a 12 month period (expiry date 30 November 2021) meaning that at the time that Kitewest might be commencing, the period of approval for the food van would be expiring.

However, it would be reasonable to suggest that in the event that the food van operation provided a commercial return, the food van operator would be approach Council prior to the expiry date seeking an extension and Council would at that time be required to give the matter consideration.

The applicant has acknowledged the issue of Council’s prior approval to the existing lessee in their correspondence as follows:

*“Points of consideration / difference with Kite West proposed business:
Though on the surface we appear to have a similar business in mind, it is likely that we will not be in direct competition as much as first thought. Firstly, Kite West caters primarily for the wind surfing crowd for which favourable conditions usually involve a lot of wind. We would be looking to utilise the calmer days with better weather, making for a more enjoyable customer experience. We also hope to (in time) run some late afternoon/ sundowner events (from 5 – 8 PM) that will run outside of current Kite West hours*

(9AM–5PM). In addition, we would be looking to do this in good weather (obviously intermittently!) through the winter months, a time when Kite West School historically has not operated. An 8PM finish would allow for quiet at a reasonable time for campers.

We also believe we will have a point of difference in the food we offer with minimal pre-packaged foods on offer and a focus on good home cooked food, in a generous portion at a good price that will make it worth the drive! The idea behind the name of “The Home Cooks” for the business is that it allows us to be versatile in our offerings and take advantage of local food sources as they arise (and we cultivate relationships) but does not restrict us to one “type “of offering.(e.g. Taco Van). Hopefully “The Home Cooks” evokes thoughts of wholesome rustic nourishing fare that is real, honest and above all, delicious! We envisage that in time, our online presence coupled with good reputation would entice potential customers to come out for a visit and supplement the casual visitors and campers that would comprise our normal customer base.

Finally, Kite West indicated in their application that they did not foresee their venture firing up until the summer of next year 2021 – by which time – all going well, they may end up taking advantage of the exposure we intend to be giving to Coronation Beach! From our point of view, once Kite West starts up next year, they’ll be able to fill the gap/maintain a presence at Coronation Beach when we attend other events, so a little overlap here and there is unlikely to upset anyone.”

Freedom of economic competition, preventing undue restraint of trade and impact on existing local businesses are issues that local governments are often forced to grapple with, particularly where arguments have been mounted that an existing retailing operation offers multiple services and employment to a local community, and when faced with an arriving competitor that offers a more limited service (in terms of products or hours of operation) that undermines their profitability, this can result in the existing service provider no longer being viable and the local community resultantly losing those associated services and employment.

Council can have some (limited) regard for this issue with Clause 67 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* listing the following matter to be considered by local government:

“(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses.”

This is also an issue that Section 3.3.7 ‘Economic Competition’ of the Western Australian Planning Commission publication ‘Development Assessment Panel Training Notes – Making Good Planning Decisions’ (2011) addresses as follows:

“The threat of competition to existing businesses is not a relevant planning consideration. It only becomes a relevant planning consideration if there is a prospect that there will be a reduction in the facilities available to the community.

This was made clear in the High Court decision of *Kentucky Fried Chicken Pty Ltd v Gantidis* (1979) 140 CLR 675. In that case, Barwick CJ at [681] said that:

“economic competition feared or expected from a proposed use is not a planning consideration within the terms of the planning ordinance governing this matter”.

Stephen J at [687] noted that:

“...the mere threat of competition to existing businesses, if not accompanied by a prospect of a resultant overall adverse effect upon the extent and adequacy of facilities available to the local community if the development be proceeded with, will not be a relevant town planning consideration.”

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 consideration of this proposal would align with delivery of the following objectives.

No.	Objective	Strategy	Action	Timeline
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2.2	Provide support for business development and local employment	Consider business start-up incentives	Investigate possible planning improvements	Short
2.3	Welcome local tourism and participation in regional strategy.	Explore support needed by local tourism industries.	Encourage Tourism Operators to establish an Alliance for them to research support required. This must be industry driven, not Shire driven.	Short
2.4	Ensure town planning complements economic development activities	Town Planning Review/Initiatives	Ensure Planning is in place to encourage economic development activities	Medium

CONSULTATION

Council may wish to advertise this application for comment prior to making its determination.

Council might alternatively seek to monitor feedback on the food van's operations on an ongoing capacity, and/or conduct a more formal consultation exercise once the food van has been operational for a period of time to gauge camper and visitor response.

The Coronation Beach Planning Study (2002) that guided the Shire's development of the Coronation Beach Campground was based on extensive public consultation and Section 2.1-Consultation of the study noted that:

"There is a general presumption by existing users and key stakeholders with an interest in this coastal area, that Coronation Beach should be maintained for low-key tourist use (no major development), with informal camping/caravanning being one of the preferred activities." (page 3)

"The opportunity to upgrade facilities, including the provision of designated windsurf rigging area, shade shelters, additional ablutions, international signage, fire rings and barbeques, kiosk/information building, and improve carparking, traffic flow, beach access and general recreation areas." (page 6)

"Some opportunity exists for on-site servicing to support a small building such as a kiosk. The type of facility provided will depend on the level of management proposed for the Reserve (for example a full-time, on-site caretaker would require a different type of facility and different level of servicing to that of a seasonal operator of a kiosk facility only)." (page 20)

It is considered that the occasional siting of a food van is low-key in nature and does not conflict with the objective of this study.

The relatively small footprint of the food van and temporary gazebo area is not considered to be prejudicial to the ongoing discussion in regards to the Coronation Beach Masterplan, and the low-key nature of the proposal aligns with the feedback of the Steering Group during this project.

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

MOVED: Cr Warr

SECONDED: Cr Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council approve the temporary siting of a food van upon Reserve 50066 Coronation Beach Road, Oakajee subject to the following:

Conditions:

- 1 The approval is valid until 30 November 2021.
- 2 Any additions to or change of use of any part of the development (not the subject of this consent/approval) considered by the Shire Chief Executive Officer to represent significant variation from the approved development requires further application and planning approval for that use/addition.
- 3 The hours/days of operation of the food van being to the approval of the local government.
- 4 The location of the food van and associated shade area being to the approval of the local government.
- 5 Maintenance of public access about the mobile food & coffee van being to the approval of the local government.
- 6 The applicant shall ensure that the food van and immediate surrounding area is kept clean and tidy to the approval of the local government.
- 7 The applicant shall ensure that rubbish associated with the operation of the food van is managed to the approval of the local government.
- 8 The applicant shall ensure that wastewater generated while on-site is stored and disposed of into a suitable septic system or other approved system, and no wastewater is to be disposed of via the toilets/showers at Coronation Beach, or on the ground or into the ocean at Coronation Beach.
- 9 All furniture and objects (including, but not limited to, shade gazebos, chairs and tables) are to be well constructed/maintained and not a hazard (e.g. they should be able to withstand windy conditions).
- 10 No freestanding signs or hoardings advertising the operation of the food van are permitted to be erected whether temporary or permanent in nature unless approved by the Shire Chief Executive Officer.
- 11 The use of mechanical chimes or amplified music which could cause a noise nuisance is not permitted. The food van shall at all times comply with the *Environmental Protection (Noise) Regulations 1997*.
- 12 The food van shall comply with the requirements of the *Food Act 2008* and *Food Regulations 2009*.
- 13 The applicant shall obtain the written approval of the local government that the food van meets the required food, health, waste management and access standards before the commencement of operations.
- 14 The applicant must possess (and provide copy to the local government) public liability insurance cover of not less than \$10 million.
- 15 This approval is issued only to the applicant and is not transferable to any other party.
- 16 The applicant making payment of a \$500 fee to the Shire for use of the location.

Notes:

-
- (a) In relation to condition 1 the applicant is advised that this approval is only issued for a trial period of 12 months and the operation of this development will be monitored by the local government and should complaints arise and not be adequately managed to the satisfaction of the local government, then the local government reserves the right to terminate the approval period prior to the expiry date of 30 November 2021.
 - (b) In relation to conditions 9, 12 & 13 the applicant is advised that they are required to liaise with the Shire's Environmental Health Officer to ensure compliance before the commencement of the operations (and as required by legislation thereafter to continue operations).
 - (c) In relation to condition 16 the applicant is advised that the \$500 fee includes the initial inspection fee of \$50 per premises to verify compliance with the requirements of the *Food Act 2008* and *Food Regulations 2009* (however additional inspection fees may be charged in the event that follow-up inspections are required arising from matters of non-compliance), and the \$200 annual itinerant food vendor licence fee, and an additional amount to assist in cost recovery for any additional emptying of the skip bin that is sited at Coronation Beach that may be required over the 12 month period as a result of additional demand due to operation of the food van.
 - (d) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation and it is the applicant's responsibility to obtain any additional approvals required before the development commences.
 - (e) This planning approval issued to the applicant is not to be construed as the granting of an exclusive commercial use and the local government reserves the right to issue approval to other parties who may seek to conduct commercial activities.
 - (f) 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 5/0
CARRIED
Minute Reference: 12/20-06

Cr Royce returned to chambers at 9:22am

10.1.3

Agistment Lease Enquiry

PROPONENT:	C Fenwick & A Rosin
SITE:	Reserve 28055 (Lot 109) Eastough Street, Nanson
FILE REFERENCE:	A1982
PREVIOUS REFERENCE:	11/03-8
DATE:	6 December 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.3(a)	Received correspondence enquiring about potential lease		✓
10.1.3(b)	Site Photographs		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of correspondence enquiring about the potential leasing of a portion of Reserve 28055 Eastough Street, Nanson a copy of which has been included as **separate Attachment 10.1.3(a)** for Council's consideration. This report recommends that Council advertise this matter for comment.

Figure 10.1.3(a) – Location Map of Reserve 28055 Eastough Street, Nanson



COMMENT

Reserve 28055 is a 3.1497ha reserve comprising 4 parcels of land either side of the Durawah Gully and Chapman Valley Road.

The applicant is seeking to lease a portion of the 3,830m² Lot 109 section of Reserve 28055, this being the north-western of the 4 parcels that backs onto the applicant's 5 (Lot 5) Eastough Street, Nanson.

Figure 10.1.3(b) – Aerial Photo of Reserve 28055 and adjoining Lot 5 Eastough Street, Nanson



The applicant currently cares for macropods (kangaroos) upon their property at 5 (Lot 5) Eastough Street, Nanson prior to their release. The applicant is enquiring whether Council would be supportive of leasing a portion of the adjoining Reserve 28055 to enable their pre-release pen area to be expanded. A copy of the received enquiry has been included as **separate Attachment 10.1.3(a)**.

The lease pen area would be fenced with a cyclone fence with shade cloth similar to that already in place for a section of the property boundary. Photographs of the subject area have been provided as **separate Attachment 10.1.3(b)**.

Reserve 28055 contains the Chapman River Walk Trail and the applicant is proposing to assist in the maintenance of the trail as part of their lease arrangement.

Shire staff raise no objection to the leasing of a portion of Reserve 28055, however, consider that it should not be for the full area as marked in red in Appendix A of the applicant's correspondence (also provided in **Figure 10.1.3(c)**). It is considered that any lease should be confined to within the area bordered by (i.e. not include) the Chapman River Walk Trail. This is recommended to avoid confusion over whether the walk trail can be accessed by the public at all times and also avoid any liability issues for the lessee with them leasing a walk trail that is used by the general public. Shire staff's suggested alternative leased area is also provided in **Figure 10.1.3(c)**.

The leasing of a portion of Reserve 28055, as shown in yellow upon **Figure 10.1.3(c)**, might be considered worthy of some consideration based upon the following:

- Reserve 28055 does present fuel load issues and the leasing of the interface area between Crown and private land would provide a mechanism for, and enable, the adjoining landowner to manage this fuel load;
- the primary recreational purpose for Reserve 28055 is as part of the overall Chapman River Walk Trail, and leasing of a portion of the area that does not impact upon the trail would not conflict with this primary purpose;
- the expanding of the kangaroo rehabilitation pen area to abut an approximately 125m section of the walk trail, with visually permeable fencing, would provide a feature for the trail in keeping with its nature theme;
- the installation of the fence would provide a clearer edge for the walking trail and a basis for some future improved delineation works e.g. gravel path that would also serve as a fire break/access;
- this section of Reserve 28055 has been identified as flood prone by the Department of Water & Environment Regulation's Chapman River Flood Study (2020) and the proposed lease purpose would not involve siting of buildings.

Figure 10.1.3(c) – applicant’s submitted proposed lease plan on left, Shire alternative suggestion on right (red line – applicant’s suggestion, yellow line – Shire alternative suggestion, blue line – walk trail)



STATUTORY ENVIRONMENT

Reserve 28055 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.”*

Reserve 13085 is a Reserve for Parks and Recreation that has had a management order (formerly known as ‘vesting order’) issued to the Shire of Chapman Valley since 1998.

Council may under Section 3.54 of the *Local Government Act 1995* issue a licence for the private agistment use of Crown land under its control in the interest of controlling and managing that land.

“3.54 Reserves under control of local government

- (1) *If land reserved under the Land Administration Act 1997 is vested in or placed under the control and management of a local government, the local government may do anything for the purpose of controlling and managing that land that it could do under section 5 of the Parks and Reserves Act 1895 if it were a Board appointed under that Act to manage and control the land and for that purpose a reference in that section to a by-law is to be read as a reference to a local law.*
- (2) *Subsection (1) is subject to any express provision to the contrary made by an order under the Land Administration Act 1997 in respect of the land.”*

Section 5 of the *Parks & Reserves Act 1895* states that:

5 Boards’ specific functions

- (1) *In the exercise of its general powers in respect of the land placed under its control, a Board may, among other things, do as follows —*
 - (a) *fence in or otherwise enclose, clear, level, drain, plant, and form walks and carriage drives through and over the land, or any part thereof; and*
 - (b) *construct dams and reservoirs for the retention and formation of sheets of water thereon; and*

-
- (c) *otherwise improve or ornament the land, and do all such things as are calculated to adapt the land to the purposes of public recreation, health, and enjoyment; and*
 - (d) *establish and maintain zoological gardens therein; and*
 - (e) *grant licences for the depasturing of animals on the land, and take for the same such fees as the Board may, by any by-law, from time to time appoint; and*
 - (f) *grant licences for the removal of any sand, gravel, or other earth or mineral, and for cutting and removing wood under such restrictions, and at such reasonable price, or such weekly, monthly, or yearly sum as the Board may think fit.*
- (1a) *A Board shall not grant a licence under subsection (1)(e) or (f) unless —*
- (a) *the approval of the Minister has been first obtained; or*
 - (b) *the purpose for which the land the subject of the proposed licence is placed under the control of the Board is specifically that for which the licence is proposed to be granted.”*

POLICY/PROCEDURE IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Council has in the past charged a range of fees to adjoining landowners for grazing leases upon Crown Reserves under the management of the Shire.

Reserve 13085 Lauder Street within the Nanson townsite has been leased for grazing purposes with an annual fee of \$1.00 on demand (sometimes referred to as a ‘peppercorn’ lease) this fee was considered reasonable as the underlying purpose for the lease was to control fuel load and reduce a cost to Council. Reserve 13085 is only 1,012m² in area and grazing could not be considered a genuine commercial operation. Were the reserve not leased then Council would be required to undertake maintenance upon the property (e.g. slashing, weed control and general maintenance) which would require mobilising of staff and equipment when these resources could be better utilised elsewhere and that leasing the property is a more appropriate means of management.

In instances where Council has issued grazing leases to landowners where the scale might be argued to offer more of a commercial return to the lessee, such as Reserve 27944 (5.2987ha), Reserve 43205 (11.5521ha) and Reserve 8769 (ha) Council has charged an annual lease fee of \$150 GST ex.

It is considered that given the use of the lease area would be for rehabilitation of kangaroos, and the lease area would be approximately 1,200m² that this would not be a commercial purpose warranting more than a nominal lease fee. Any licence should be subject to the lessee having to perform land management responsibilities associated with the lease area including fire, weed and fence management, and the lease being subject to a 3 month notice of termination clause for the Shire that required the lessee to remove any improvements to the land to the Shire’s satisfaction.

Long Term Financial Plan (LTFP):

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19 July 2017 meeting, and it is not considered that consideration of this matter would have impact in relation to this plan.

STRATEGIC IMPLICATIONS

The Nanson Townscape Plan was adopted by Council on 16 March 2004 to provide guidance for future development and enhancement of the Nanson townsite and provide a supporting basis for the pursuit of funding for specific projects identified in the Plan. It is considered that the leasing of a portion of Reserve 28055 would not conflict with the strategic direction of the Nanson Townscape Plan, providing it does not impact upon the general public access along the walking trail.

The Nanson Townsite Foreshore Management Plan was adopted by Council at its 18 November 2003 meeting. Section 5.2 of the Foreshore Management Plan notes the following in relation to ‘Access Management’:

“With increasing numbers of people living and/or visiting the area, the pressure on the river environment will increase. The recommendations below provide for community access to the foreshore and river environment. The implementation of these recommendations will help to protect the integrity of the native flora and fauna, by directing access away from sensitive areas. By providing clearly defined nodes and marked trails, visitors to the area will be directed to areas that are able to withstand relatively high levels of impact. Public access to these nodes should be through low impact walk trails

The bulk of the study area should be considered a conservation area due to the importance of the floodplain and river valley for flood mitigation, and the limited extent of bushland. In order to preserve the integrity of the landscape in the reserve, development should be restricted to the provision of access along some of the widest parts of the foreshore with off-shoots leading to key scenic lookouts. These lookouts need to be placed in a manner which minimises the potential for the formation of erosion gullies during peak river flow events.

The position of formal access points and the supporting infrastructure are recommended above the floodway with low-key stabilised points within the floodway where visitors can access the foreshore.”

Section 5.2 of the Foreshore Management Plan notes the following in relation to ‘Recreation Opportunities’:

“Bush trail

There are a number of sections of an existing narrow path that function well and do not require upgrading. A loss of amenity is likely with formal structures in this environment. The cost of installation of formal tracks also makes formal tracks uneconomic.

The existing low key walk trails should be retained in the current form which is consistent with Australian Standard AS2156.1 – 2001, Class 3 (Appendix 2).

Brushcutting existing vegetation and/or installing a mulch track are suitable options for this track. The trails should be marked using directional arrow trail markers in accordance with Australian Standard AS2156.1 – 2001. All trails should be monitored for disturbance and any indiscriminate access noted. Should heavy use of informal tracks develop in the future, rationalisation and formalisation of the tracks may be required.

Some sections of the low-key narrow walk trail meandering through the trees may be suitable for widening to a minimum width of 1.5 m to allow for access for a more diverse group of people. This will require some localised clearing of dead plants and selective removal of low hanging branches of remnant vegetation to improve visibility along the track.

The paths will generally meander along the eastern bank of the river with small offshoots leading to small clearings on the river’s edge.”

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

It is recommended that Council advertise this matter prior to making its determination, and that this consultation include the following actions:

- letters being sent to the 26 Nanson townsite landowners inviting comment (this would ensure that local residents who were members of the Nanson Action Group that assisted with the preparation of the Nanson Townsite Foreshore Management Plan are consulted, alternatively Council might reduce this to the 8 Nanson townsite landowners that are south of the Nanson Museum);
- letter being sent to the Department of Water & Environment Regulation inviting comment; &
- a sign detailing the proposed matter being erected onsite.

At the conclusion of the advertising period the matter would be returned to the 17 February 2021 meeting of Council for further consideration.

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

MOVED: Cr Batten

SECONDED: Cr Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council invite comment upon the proposal to lease portion of Reserve 28055 (Lot 109) Eastough Street, Nanson for macropod rehabilitation and at the conclusion of the advertising period return this matter to Council for its further consideration.

Council En Bloc Resolution
Voting 6/0
CARRIED
Minute Reference: 12/20-02

10.1.4

Reserve Purchase Enquiry

PROPONENT:	D. Byrne
SITE:	Reserve 13085 (Lot 39) Lauder Street, Nanson
FILE REFERENCE:	A1921
PREVIOUS REFERENCE:	02/05-11, 16/10-8, 07/15-2 & 6/20-2
DATE:	6 December 2020
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.4(a)	Received correspondence enquiring about potential purchase		✓
10.1.4(b)	Current grazing lease document		✓

DISCLOSURE OF INTEREST

The lessee is an employee of the Shire of Chapman Valley.

BACKGROUND

Council is in receipt of correspondence enquiring about the potential for purchase of Reserve 13085 (Lot 39) Lauder Street, Nanson a copy of which has been included as **separate Attachment 10.1.4(a)** for Council's consideration. This report recommends that Council advertise this matter for comment.

Figure 10.1.4(a) – Location Map of Reserve 13085 Lauder Street, Nanson



COMMENT

Reserve 13085 is a vacant 1,012m² property in the Nanson townsite that has a management order issued to the Shire of Chapman Valley for the purpose of 'Recreation'.

Figure 10.1.4(b) – Aerial Photo of Reserve 13085 Lauder Street, Nanson



Reserve 13085 has a grazing licence issued by the Shire to the adjoining landowner of Lots 40, 41 & 42 Lauder Street to the north.

Council previously resolved at its 15 February 2005, 23 June 2010 and 15 July 2015 meetings to issue a formal licence to Trevor Jeffery for the use of Crown Reserve 13085 for the expressed purpose of grazing for a period of 5 years at an annual fee of \$1.00 on demand.

Council also resolved at its 15 July 2015 meeting to:

“Advise the lessee/adjoining landowner and the Departments of Lands that Council has no objection to the Department of Lands disposing of Reserve 13085 to the lessee/adjoining landowner through its amalgamation into Lot 40 Lauder Street should they wish to purchase the property.”

The lessee wrote to the Shire on 1 February 2017 expressing interest in purchasing Reserve 13085 and this was forwarded to the Department of Planning, Lands & Heritage ('DPLH') by the Shire, along with background information, and a copy of Council's resolution supporting disposal of the reserve. On 20 December 2017 the DPLH advised that the lessee had withdrawn their application, and the purchase would not be proceeding. It is understood that the purchase negotiations between the lessee and the DPLH did not reach finalisation over issues pertaining to valuation and indemnification.

Council most recently resolved at its 12 June 2020 meeting:

“That Council pursuant to Section 3.54 of the Local Government Act 1995 issue a formal licence to Trevor Jeffery for the use of Crown Reserve 13085 for the expressed purpose of grazing. This licence will be valid for a period of five (5) years at an annual fee of \$1.00 on demand.”

A copy of the current lease agreement has been included as **separate Attachment 10.1.4(b)** for Council's consideration.

Given that the Shire has no plans to develop the land parcel for recreational purposes, and the adjoining landowner has managed this parcel of land for many years, and no complaints have been received by the Shire in regards to the use and management of the land, Council has regularly renewed the lease.

However it is also noted that although the lease is for grazing purposes, Reserve 13085 is not currently fenced and therefore grazing is not occurring.

Figure 10.1.4(c) – Reserve 13085 looking east from Lauder Street



Shire staff raise no objection to the disposal of Reserve 13085 on the following basis:

- Reserve 13085 is considered surplus to recreational requirements as formal recreational facilities are already provided 400m to the south at the Nanson Playground, and informal recreational opportunities are provided along the Chapman River reserve immediately to the west of Lauder Street;
- disposal of Reserve 13085 would remove any future Shire responsibility for the land relating to management (e.g. slashing, weed control and general maintenance) or liability and ensure that Shire resources can continue to be utilised elsewhere on assets that serve a greater community benefit;
- Council has no identified future purpose for Reserve 13085;
- disposing of Reserve 13085 would not be contrary with the Shire’s strategic direction as contained in the recommendations of the Nanson Townscape Plan; &
- the disposal of Reserve 13085 can allow for the later development of a residence upon the property thereby assisting in the renewal of the Nanson townsite community which has declined since the removal of the railway in 1956 and subsequent changes in farming practices.

STATUTORY ENVIRONMENT

Reserve 13085 is zoned ‘Rural Townsite’ 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 provide for a range of land uses that would typically be found in a small country town.”*

Reserve 13085 is a Reserve for Recreation that has had a management order (formerly known as ‘vesting order’) issued to the Shire of Chapman Valley since 1994.

Council’s role in the disposal of Reserves is an advisory one only, and the final decision on whether to dispose of the land, and to whom, will rest with the DPLH.

Council may under Section 3.54 of the *Local Government Act 1995* issue a licence for the private use of Crown land under its control in the interest of controlling and managing that land, and a copy of the current licence has been included as **separate Attachment 10.1.4(b)**. Whilst the current licence runs until 30 June 2025, Section 1 of the licence states that the

agreement may be terminated at any time at the expiration of 3 months notice in writing by either party, in the event that Council and the DPLH were in agreeance to the sale of the land.

POLICY/PROCEDURE IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Council's financial involvement would be limited to the very minor cost of advertising this matter for comment, although there may be some long-term financial benefit to Council in removing unrequired assets and management responsibility.

Should the DPLH be in agreeance to the disposal of the land it will request the Valuer General to set a valuation for the land, and will require the purchaser to accept this valuation price plus any incurred conveyancing expenses, and this money is retained by the State Government and not passed onto the Local Government.

Although Reserve 13085 has only been leased with an annual fee of \$1.00 on demand (sometimes referred to as a 'peppercorn' lease) it has been considered that such a lease has reduced a cost to Council. Were the reserve not leased then Council would be required to undertake maintenance upon the property (e.g. slashing, weed control and general maintenance) which would require mobilising of staff and equipment. It has been previously considered by Council that these resources could be better utilised elsewhere and that leasing the property is a more appropriate means of management.

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

The Nanson Townscape Plan was adopted by Council on 16 March 2004 to provide guidance for future development and enhancement of the Nanson townsite and provide a supporting basis for the pursuit of funding for specific projects identified in the Plan. It is considered that the disposal of Reserve 13085 would not conflict with the strategic direction of the Nanson Townscape Plan, as it identifies no Shire use for the land.

Strategic Community Plan/Corporate Business Plan:

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

CONSULTATION

Council recently resolved to advertise the potential disposal of Reserve 43117 East Terrace, Nanson at its 16 September 2020 meeting, and following the advertising period (in which no objections were received) resolved to advise DPLH that Council supported the disposal of Reserve 43117 at its 21 October 2020 meeting.

Were Council to consider that Reserve 13085 was surplus to its requirements, and to again support its disposal this would be consistent with its previous resolution regarding Reserve 13085 at its 15 July 2015 meeting and the disposal of Reserve 43117 at its 16 September 2020 and 21 October 2020 meetings.

It is recommended that, given there is a current lease on the land, Council write to the lessee inviting their comment upon the potential sale of the land. The lessee has previously explored with DPLH the possibility of purchasing Reserve 10385 themselves in 2017 but did not proceed to purchase.

Should Council advertise this matter for comment it is further suggested that it undertake this in a manner not dissimilar to the 35 day advertising period that it would for a ROW closure, to provide all parties with reasonable opportunity for comment, and this would include the following actions:

- letter being sent to the current lessee of Reserve 13085 (this also being the landowner of the 3 adjoining Lauder Street lots to the north);

- letters being sent to the other surrounding landowners (in this case being the landowner of the 2 adjoining Lauder Street lots to the south, and the East Terrace landowner to the rear/east);
- emails being sent to the relevant service authorities (in this instance this would be considered to be Telstra, Water Corporation and Western Power); &
- a sign detailing the proposed matter being erected onsite.

At the conclusion of the advertising period the matter would be returned to the 17 February 2021 meeting of Council for its further consideration.

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

MOVED: Cr Batten

SECONDED: Cr Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council invite comment from the lessee, adjoining landowners and service authorities in regards to the potential disposal of Reserve 13085 (Lot 39) Lauder Street, Nanson and at the conclusion of the advertising period return this matter to Council for its further consideration.

***Council En Bloc Resolution
Voting 6/0
CARRIED
Minute Reference: 12/20-02***

10.2

Manager of Finance & Corporate Services

10.2 AGENDA ITEMS

10.2.1 Financial Management Report for November 2020

10.2.2 Budget Variation Grant Funding

10.2.1

Financial Management Report for November 2020

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

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.1(a)	November 2020 Financial Management Reports		✓
10.2.1(b)	Confidential List of Accounts November 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 of November 2020 are detailed in the monthly management report provided as a separate attachment for Council's review.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

POLICY/PROCEDURE IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

As presented in the Financial Management Report for November 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	Review policy categories and set ongoing	Review current Council and Management policies and

	and processes are current and relevant	accountability for review processes	formalise update process and timelines.
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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 Forth

SECONDED: Cr Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION

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

- Statement of Financial Activities with notes
- Note 1 – Net Current Assets
- Note 2 – Cash & Financial Assets
- Note 3 – Receivables
- Note 4 – Other Current Assets
- Note 5 – Payables
- Note 6 – Rate Revenue
- Note 7 – Disposal of Assets
- Note 8 – Capital Acquisitions
- Note 9 – Borrowings
- Note 10 – Lease Liabilities
- Note 11 – Cash Reserves
- Note 12 – Other Current Liabilities
- Note 13 – Operating Grants and Contributions
- Note 14 – Non Operating Grants and Contributions
- Note 15 - Trust Funds
- Note 16 - Explanation of Material Variances

Additional Information

Budget by Program

Summary of Payments
Bank Reconciliation
Credit Card Statement

Voting 6/0
CARRIED
Minute Reference: 12/20-07

10.2.2 Budget Variation Grant Funding

PROPONENT:	Chief Executive Officer
SITE:	Shire of Chapman Valley
FILE REFERENCE:	306.00
PREVIOUS REFERENCE:	Nil
DATE:	16 th December 2020
AUTHOR:	Dianne Raymond, Manager Finance & Corporate Services

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Additional grant funding not yet budgeted is set to be received from two areas: National Australia Day Council and Department of Infrastructure, Transport and Regional Development.

COMMENT

Council's adopted budget at times will need variations made to reflect changes which occur after the budget has been formally adopted. The purpose of this report is to seek Council's endorsement for an amendment to the original budget to allow for increased revenue and expenditure from grant funding. The overall effect on the budget will be nil as each grant revenue will be offset by the equivalent expenditure.

The Shire has been approved for grant funds of \$1,000 which have been received in October 2020 from the National Australia Day Council for the Australian Day Messaging Grant. The expenditure is required to be acquitted as the grant application and agreement.

The Deputy Prime Minister wrote to the Shire of Chapman Valley 30 October advising an extension to the Local Roads & Community Infrastructure Program (LRCIP) in which the shire can apply for \$283,397 round 2 funding. The Chief Executive Officer has a further report at agenda item 10.3.2 to determine the use of the LRCIP additional funds. The purpose of this report however is to endorse a budget variation to annual budget which as adopted in July 2020 for the full amount of revenue to be received along with the relevant expenditure offset regardless of the project to be undertaken.

STATUTORY ENVIRONMENT

In accordance with legislative requirements of the Local Government Act, 1995, Section 6.8(1)(b) Council is required to resolve by **Absolute Majority** to incur expenditure from its municipal fund for an additional purpose that is not identified in the Adopted Budget i.e.

Local Government Act (1995) – Section 6.8. - Expenditure from municipal fund not included in annual budget
(1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:

- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
- (b) is authorised in advance by resolution*; or
- (c) is authorised in advance by the mayor or president in an emergency.

* Absolute majority required.

(1a) In subsection (1):

additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.

(2) Where expenditure has been incurred by a local government —

- (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
- (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

POLICY/PROCEDURE IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The Staff Recommendation is requesting the endorsement of both revenue and expenditure so there will be no impact on the 2020/2021 Annual Budget.

Long Term Financial Plan (LTFP):

No significant effect on the LTFP

STRATEGIC IMPLICATIONS

Strategic Community Plan/Corporate Business Plan:

Ref	Objective	Strategy	Action
5.3	Make informed decisions within resources and areas of responsibility	Council and Shire process formally incorporate integrated plans as references for decision making	Reference Strategic Community Plan, Corporate Business Plan, Asset Management Plan, Long Term Financial Plan and Workforce Plan regularly as part of decision making process

CONSULTATION

Not applicable

RISK ASSESSMENT

The associated risk would be the failure to comply with Local Government Act 1995 and Local Government (Financial Management) Regulations

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

Absolute Majority

MOVED: Cr Batten

SECONDED: Cr Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council endorse the budget variation for

1. Grant funded revenue of \$1,000 Australia Day Council and \$283,397 Department of Infrastructure and;
2. Grand funded expenditure of \$1,000 Australia Day Council and \$283,397 Department of Infrastructure

Council En Bloc Resolution
Voting 6/0
CARRIED
Minute Reference: 12/20-02

10.3

Chief Executive Officer

10.3 AGENDA ITEMS

- 10.3.1 Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020**
- 10.3.2 Local Road & Community Infrastructure Projects – Round 2**
- 10.3.3 Western Australian Local Government Association – AGM**
- 10.3.4 Local Government Act Review**
- 10.3.5 Draft Guidelines and Criteria for the Identification of Significant Local Government Roads**
- 10.3.6 Tourism & Events Advisory Group – Australia Day Awards**

M Battilana, S Lancaster, D Raymond & B Raymond declared Financial Interest in Item 10.3.1 yet remained in chambers.

10.3.1 Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020

PROPONENT:	Department of Local Government, Sport and Cultural Industries (DLGSCI)
SITE:	Local Government Authorities - Statewide
FILE REFERENCE:	404.02
PREVIOUS REFERENCE:	Minute Reference: 09/20-15
DATE:	16 th December 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.1(a)	Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020		✓
10.3.1(b)	Dept. Local Government – Draft Local Government (Model Code Of Conduct) Regulations 2020 – Explanatory Notes		✓
10.3.1(c)	Code of Conduct – Staff (CMP-026)		✓

DISCLOSURE OF INTEREST

Financial Interest - All staff in attendance at Council Meeting

BACKGROUND

The Department of Local Government, Sport and Cultural Industries (DLGSCI) emailed the following LG Alert regarding the release of the *Draft Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020* (copy provided at **Attachment 10.3.1(a)**).



Local Government Employee Code of Conduct

A draft copy of the Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020 is now available on the department's website for comment.

These regulations will bring into effect section 25 of the Local Government Legislation Amendment Act 2019, with a requirement for local government CEOs to prepare and adopt a code of conduct for employees.

Consultation closes on 6 January 2021.

The department's consultation on the draft [Local Government \(Model Code of Conduct\) Regulations 2020](#), bringing into effect a model code of conduct for council members, committee members and candidates, is open for consultation until 6 December 2020.

For a copy of the draft Local Government Employee Code of Conduct regulations and to find out how to provide feedback, visit the department's website.

[Employee Code of Conduct](#)

You are receiving this email because you are a CEO of a local government in Western Australia and/or are an officer of a local government authority.

Our postal address is: Department of Local Government, Sport and Cultural Industries
GPO Box R1250, Perth, WA 6844

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The DLGSCI has also provided the *Draft Local Government (Model Code Of Conduct) Regulations 2020 – Explanatory Notes* provided as **Attachment 10.3.1(b)** for Council information.

The DLGSCI is requesting comments on the Draft Amendment Regulations by the 6th January 2021.

COMMENT

The following has occurred over the past months, which has resulted in a distinct overlap between the Act Review process and these matters running in parallel:

Local Government Review Panel – Final Report for new Local Government Act for WA.	65 Recommendations
Inquiry Panel Report into the City of Perth	341 Recommendations

	(126 generic to the whole of LG)
State Government Parliamentary Select Committee into Local Government	36 Recommendations
WALGA Advocacy Paper Positions for a new Local Government Act -	Covering WALGA position across all aforementioned Recommendations

In addition to the above the DLGSCI is also releasing Draft Regulation Amendments for comment.

In regards to the Employee Code of Conduct Amendment Regulations presented by the DLGSCI I do not have any specific concerns other than possibly more regulatory burdens being place on local government administration, though these are not considered to be significant

STATUTORY ENVIRONMENT

Local Government Act, 1995 & associated Regulations.

POLICY/PROCEDURE IMPLICATIONS

The Shire currently has a Code of Conduct(Staff) (Corporate Management Procedure CMP-026) provided at **Attachment 10.3.1(c)**. The proposed Model Employee Code of Conduct (when legislation is passed) will replace this.

FINANCIAL IMPLICATIONS

I believe there may be some additional administrative resources required to administer and implement the Model Employee Code of Conduct, yet these shouldn't be significant. It would; however, be prudent to ask the question of the DLGSCI if a resource and cost analysis has been undertaken.

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+ 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. Adding to this 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 placed on local government.

However; I do not see the introduction of the Employee Model Code of Conduct having any significant effect on the Shire's LTFP.

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

As previously mentioned, the DLGSCI is seeking comments by the 6th January 2021.

RISK ASSESSMENT

Though the Employee Model Code of Conduct risk in isolation can be considered **Minor**, as previously reported the **total additional administrative burdens** being placed on local government across all the proposed legislative amendments, I would consider the risk being **Major** 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 Batten

SECONDED: Cr Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council support the *Draft Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2020* as presented by the Department of Local Government, Sport and Cultural Industries (DLGSCI) with the following comments:

- The Department undertake a detailed analysis of the possible additional cost and resources requirements incurred by local government authorities associated with the introduction of this legislation and all other future proposed new legislation being considered for imposition upon the local government industry.

A copy of this submission also be presented to the Western Australian Local Government Association.

Council En Bloc Resolution
Voting 6/0
CARRIED
Minute Reference: 12/20-02

10.3.2

Local Road & Community Infrastructure Projects – Round 2

PROPONENT:	Chief Executive Officer
SITE:	Shire of Chapman Valley
FILE REFERENCE:	309.02
PREVIOUS REFERENCE:	Minute Reference: SCM 07/20-03 and 10/20-10
DATE:	16 th December 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.3(a)	LRCIP Works Approved Schedule – Round 1		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council discussed the Local Road & Community Infrastructure Project (LRCIP) Round 1 Work Schedule at the two Draft 2020/21 Budget Workshops and endorsed the Works Schedule for Round 1 as part of the adoption of the whole 2020/21 Budget presented to a Special Meeting of Council held on the 31st July 2020.

A copy of the approved Work Schedule is provided at **Attachment 10.2.3(a)**.

Council also resolved the following at the October 2020 OCM:

“Council delegate authority to the Chief Executive Officer to adjust the budgeted funding allocation to individual Local Road & Community Infrastructure Project projects under the following conditions:

- 1. Prior approval being received from the grant provider (Department of Infrastructure, Transport, Regional Development and Communications);*
- 2. The Parkfalls Shoulder Extension Project to be used as the adjustment project to accommodate over and under expenditure as well as the situation of third party grants linked to specific projects being unsuccessful; and*
- 3. The overall Local Road & Community Infrastructure Project Budget grant allocation amount not being exceeded.”*

The following was reported to the November 2020 Concept Forum:

On 30 October 2020 the Deputy Prime Minister wrote to the Shire of Chapman Valley advising as follows:

“Dear Mayor

Local Roads and Community Infrastructure (LRCI) Program – Extension

We are writing to you following the 2020-21 Budget, where we have again demonstrated our commitment to partner with local governments as they play a critical role as part of the national recovery from the COVID-19 pandemic, delivering local jobs, through local projects.

As the closest tier of government to the people it serves, local governments remain an essential support for communities across Australia, helping them through this downturn and planning for the recovery.

Under the initial funding available through the LRCI Program, local government areas such as yours have identified more than 2,200 projects, providing opportunities and support for local jobs, firms and procurement in all areas of the nation.

The LRCI Program Extension will continue to assist local governments to deliver local road and community infrastructure projects, as well as create local job opportunities particularly where employment in other sectors have been negatively impacted.

We encourage you to identify projects to maximise the opportunity for a range of workers to be retained, redeployed and employed to deliver ready to roll-out projects that provide economic stimulus and benefits to communities.

Under the LRCI Program Extension, Shire of Chapman Valley will receive an additional funding allocation of \$283,397. This funding will be available from 1 January 2021, with the Program being extended until the end of 2021.

Program Guidelines and Grant Agreements are currently being drafted and will be provided in the coming weeks. In the meantime, we encourage you to consider projects you may wish to nominate for funding under the Program Extension.

If you have yet to submit Project Nominations for consideration under the initial funding available under the LRCI Program, we encourage you to submit these as soon as possible.

We look forward to continuing to work with you to deliver priority local road and community infrastructure projects.

Yours sincerely

THE HON MICHAEL MCCORMACK MP

Deputy Prime Minister

Minister for Infrastructure, Transport and Regional Development

THE HON MARK COULTON MP

Minister for Regional Health, Regional Communications and Local Government"

In summary the Shire will receive an additional funding allocation of **\$283,397** under the LRCI program and this funding will be available from 1 January 2021, with the program being extended until the end of 2021 (i.e. projects must be completed prior to 31 December 2021).

All Shire executive staff met on 4 November 2020 to raise potential projects to present to Councillors for discussion at the 18 November 2020 Concept Forum, with the intention being this matter then be presented to the 16 December 2020 Council meeting for formal consideration.

It was considered the initial LRCI (Round 1) funding had been allocated across the whole of the Shire of Chapman Valley on a wide variety of community and social projects in a fair and equitable manner.

It was also considered the next round of LRCI funding should be allocated towards road projects and particularly those that would otherwise be ineligible for standard external road funding and, if not attended to now, present a future financial burden to the Shire through having to be own-resourced.

The following two (2) projects were unanimously supported by Shire executive staff as being those that should be recommended to Council.

- Wandana Road (reseal, edge repair, crack sealing) - \$226,765 - This will be approximately 9kms of a 4m wide reseal with edge repairs and crack sealing. It will be entirely external costs and will mainly be a variation to our existing bitumen tender.

-
- White Peak Road (reseal) - \$54,981 - This will be approximately 1.33kms of a 7m wide reseal. It will be entirely external costs and will mainly be a variation to our existing bitumen tender.

The LRCI funding represents an opportunity to address some of upcoming significant road maintenance costs, that the Shire will be otherwise required to address internally, through an external funding opportunity that is unlikely to be repeated for some time (with the most recent example of a similar unexpected external funding source being the initial rounds of the Royalties for Regions program a decade ago).

Reseal projects are basically undertaken totally by external contract, services and materials cost (i.e. little or no internal labour or plant). Therefore it would opportune to complete these reseal projects from external grant funds.

It is also wise not to overburden staff with anymore internally resourced or managed projects as 2020 and 2021 is already full of such projects, making it a distinct possibility that some projects might not be completed by the due dates if additional internally resourced or managed projects are added to load. This includes all projects (e.g. RRG, Roads to Recovery, Internal Own Resourced, other Grant Funded Projects etc.) not just LRCIP Projects.

The Shire's Long Term Financial Plan identifies the maintenance of its road network as an issue that Council will face as follows:

"The Challenges We Face

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

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

..The road network is the Shire's biggest asset and transport the main priorities. Maintaining and upgrading the road network is important to the community. (page 1)

"Threats to Long Term Sustainability

The following have been identified as key issues impacting of the Shire's finances:

- *Being able to establish a revenue base so sufficient operational revenue is available to fund all operating expenses;*
- *The ability to maintain the Shire's asset base by renewing identified ageing infrastructure, ensuring cash reserves are quarantined and undertaking service delivery and asset rationalisation reviews;*
- *The continued availability of state and commonwealth funding to support asset renewals and the creation of new assets; and*
- *Managing community aspirations within a confined fiscal envelope." (page 3)*

"The major projects proposed in this plan are detailed in in the Shires 10 Year Roadworks Program, Plant Replacement Program and capital Buildings Program with estimated costs included in the LTFP. The keys risks associated with these Programs is the ability for the Shire to continue to attract State and Commonwealth grants, specifically for the roadworks scheduled...

Financial Environment – The State of the Council's Finances

- *The Shire is currently in a strong financial position however due to the small size of the Shire it remains exposed to the impact of any major new asset replacement requirement or external shock and is reliant on continued State and Commonwealth funding to maintain its assets and current levels of service." (page 4)*

“Financial Management Principles

In preparing the revised LTFP the following underpinning principles have been used:

- *Council will maintain its existing service levels to residents;*
- *Management will continually look for ways to structurally realign resources without changes to service standards;*
- *While limited growth is expected services and infrastructure in any new areas will be provided when they are needed;*
- *Council will continue to explore ways to improve its capacity to fund its recurrent operations and renew critical infrastructure;*
- *Council will manage within the existing financial constraints as much as possible.” (page 5)*

This issue is also echoed and documented in the Shire’s Strategic Community Plan where maintenance and upgrade of roads was repeatedly raised by the community as a priority.

COMMENT

It becoming evident some of the *Own Resource* (i.e. Shire roads ineligible for Commonwealth or State grants funds) road reseal projects are needing attention and the opportunity is now here to use the LRCIP (R2) grant funds to address some of the more urgent reseals. The only other option to fund own resource reseals is through the Shire Rate Revenue.

The two own resource reseals on Wandana & White Peak roads are considered to most urgent of attention.

STATUTORY ENVIRONMENT

Council already has a legally binding Grant Agreement with the Department of Infrastructure, Transport, Regional Development and Communications for LRCIP (R1) which incorporated an approved Work Schedule listing all the projects Council has endorsed as part of the 2020/21 Adopted Budget. Though, at the time of writing this report, we are yet receive the guidelines and Grant Agreement for LRCIP (R2) it is expected to be similar to LRCIP (R1).

As the LRCIP (R2) will result in additional income and expenditure in the 2020/2021 Budget it will be necessary for Council to endorse these Budget variations by absolute majority.

POLICY/PROCEDURE IMPLICATIONS

Other than the requirement to comply with procurement legislation and the Shire of Chapman Valley Purchasing Policy (CP-024) no other existing Policy/Procedure is affected.

Legal advice has been received from WALGA Procurement Service confirming Council can simply deal with the additional reseal works as a variation to the tender/quote allocated to Bitutek Pty Ltd for the 20/21 bitumen and aggregate seal program of works on Shire roads (i.e. there is no need to go through the tender/quote process for the additional works).

FINANCIAL IMPLICATIONS

There will be no adverse effect on the overall 20/21 Budget associated with the LRCIP (R2) Projects, as the additional expenditure will be fully covered by grant funds.

Long Term Financial Plan (LTFP):

There will be a positive effect on the LTFP as two own resource reseal projects will now be covered by external grant funds.

STRATEGIC IMPLICATIONS

It is sound to maintain assets in accordance with the forecast Asset Management Plan set and reviewed regularly, yet situations do arise where assets management can be required earlier than forecasted due to unforeseen circumstances and opportunities arise.

Strategic Community Plan/Corporate Business Plan:

Ref	Objective	Strategy	Action
4.1	Develop, manage and maintain built infrastructure	Asset Management Plan	Review Asset Management Plan regularly and maintain integration with other Strategic Plans within the Shire

CONSULTATION

Contact will continue to be made with the Department of Infrastructure, Transport, Regional Development and Communications to ensure proposed additional reseal project are eligible and endorsed by them before proceeding.

RISK ASSESSMENT

As the overall total expenditure will be fully covered by the LRCIP (R2) grant funds the only risk envisaged is compliance with the Grant Agreement the Shire will have with the Department of Infrastructure, Transport, Regional Development and Communications. The contractors undertaking the additional reseal works (Bitutek Pty Ltd) have formally signed a Variation Agreement and confirmed these works will be completed before 30th June 2020. Therefore the risk in this instance is considered to be *insignificant* i.e.

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

VOTING REQUIREMENTS

Absolute Majority (5 affirmative votes).

Alternate Motion

MOVED: Cr Humphrey

SECONDED:

Investigate the cost and practicality of completing shoulder reconstructive works inclusive of profiling to the main roads within the Parkfalls Estate which will both widen and stabilize the sealed surface area promoting safety for road users and longevity in the road structure.

MOTION LAPSED DUE TO NO SECONDER

MOVED: Cr Royce

SECONDED: Cr Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council:

-
1. Endorse an application to the Department of Infrastructure, Transport, Regional Development and Communications for the following Projects to be undertaken for the Local Roads and Community Infrastructure Program – Round 2:
 - i. Wandana Road (reseal, edge repair, crack sealing) - Reseal with edge repairs and crack sealing.
 - ii. White Peak Road (reseal) - Reseal.
 2. The Parkfalls Shoulder Extension Project continue to be used as the adjustment project to accommodate over and under expenditure for all LRCIP Projects (R1 & R2) as previously endorsed by Council (i.e. Minute Ref: 10/20-10).

Voting 5/1
CARRIED BY ABSOLUTE MAJORITY
Minute Reference: 12/20-08

10.3.3

Western Australian Local Government Association - AGM

PROPONENT:	Western Australian Local Government Association (WALGA)
SITE:	Crown Perth
FILE REFERENCE:	404.01
PREVIOUS REFERENCE:	NA
DATE:	16 th December 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
	NIL		

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Western Australian Local Government Association (WALGA) has emailed advice to all LGAs on the following events:

- **20th February 2021** - Sesquicentenary of Local Government in WA; and
- **19th to 21st September 2021** - WA Local Government Convention & AGM

The following email was received from the CEO WALGA on the 23rd November 2020, which was forwarded on to all Elected Members on the 24th November seeking interest on attending either or both events:

Subject: Changes to WALGA Convention and Sesquicentenary of Local Government in WA

*Mr Maurice Battilana
Chief Executive Officer
Shire of Chapman Valley*

Dear Mr Battilana

I am writing to inform you of some considerable changes to the date and format of the 2021 WA Local Government Convention, and advise of the upcoming Sesquicentenary of Local Government in WA.

2021 WA Local Government Convention & AGM

We have taken the opportunity this year to review the format of the annual WA Local Government Convention and as a result have implemented some significant changes. The event in 2021 will move to Crown Perth and has been confirmed for Monday, 20 and Tuesday, 21 September, with the Opening Welcome Reception taking place on the evening of Sunday, 19 September.

The AGM will be held on the morning of Monday, 20 September and will be incorporated into the Convention program.

Event details will be available via the WALGA website as they are confirmed. Registration is scheduled to open in early June 2021.

Sesquicentenary of Local Government in WA

Almost 150 years ago on 21 February 1871, the Municipal Institutions' Act, 1871 came into effect creating six original municipalities (additional to Perth): Fremantle; Guildford; Bunbury; Busselton; Albany; and Geraldton. To commemorate and celebrate this significant anniversary, WALGA will host a Gala Dinner at Crown Perth on Saturday, 20 February 2021. This event will be ticketed and open to all those who work, or have worked in or for Local Government. More information will be made available in the coming weeks, but for now, I encourage you to save the date in your diaries.

As part of this process, WALGA is also developing a logo to commemorate the Sesquicentenary of Local Government in WA. Once finalised, the logo will be made available to all Councils to utilise as part of any sesquicentenary celebrations being organised, should they wish to.

For more information on either of these events, please feel free to email WALGA Manager, Convention, [Emily Ferguson](mailto:Emily.Ferguson@walga.asn.au) or call (08) 9213 2097.

Kind regards,

Nick Sloan | Chief Executive Officer | WALGA

(p) (08) 9213 2025 | (m) 0408 941 792 | (e) nsloan@walga.asn.au



COMMENT

At the time of writing the Report the following responses have been received from Elected Members on attendance to either or both events:

Elected Member	Sesquicentenary of Local Government in WA 20 th February 2021	WA Local Government Convention & AGM 19 th to 21 st September 2021	Comments
Cr Farrell	N	Y	
Cr Warr	Y	Y	
Cr Batten	N	Y	Can't confirm the welcome reception
Cr Davidson	N	N	
Cr Forth	N	N	
Cr Humphrey	N	Y	
Cr Royce	N	N	

STATUTORY ENVIRONMENT

Not applicable

POLICY/PROCEDURE IMPLICATIONS

Council Corporate Policy (CP006) deals with attendance at events i.e.

POLICY NO	CP-006
POLICY	ATTENDANCE AT EVENTS POLICY
RESPONSIBLE DIRECTORATE	CEO

PREVIOUS POLICY No.	CMP-030
LEGISLATION	Section 5.90A of the Local Government Act 1995
RELEVANT DELEGATIONS	1019

1. OBJECTIVES

- 1.1. To introduce policy to address section 5.90A. of the Local Government Act 1995 Policy for attendance at events
- 1.2. To provide elected members and staff with consistent guidelines to ensure transparency, relevance, and value for money for ratepayers.
- 1.3. This Policy does not cover Elected Member Training. Refer to Management Procedure Ref CMP-030: “*Elected Member Training & Professional Development*”.

2. POLICY STATEMENTS

- 2.1. In developing the Attendance at Events Policy, council needs to actively consider the purpose of and benefits to the community from council members and CEOs attending events. The policy should not be used to intentionally circumvent conflict of interests which may arise from attending events hosted by a provider who will have a significant matter before council. The Attendance at Events policy is to enable council members to attend events as a representative of council without restricting their ability to participate in council meetings.
- 2.2. This policy addresses attendance at any events, including concerts, conferences, functions or sporting events, whether free of charge, part of a sponsorship agreement, or paid by the local government. The purpose of the policy is to provide transparency about the attendance at events of council members and the Chief Executive Officer (CEO).
- 2.3. Attendance at an event in accordance with this policy will exclude the gift holder from the requirement to disclose an interest if the ticket is above \$300 and the donor has a matter before council. Any gift received that is less than \$300 (either one gift or cumulative over 12 months from the same donor) also does not need to be disclosed as an interest. Receipt of the gift will still be required under the gift register provisions.

3. LEGISLATION

- 3.1. 5.90A. Policy for attendance at events

In this section — *event* includes the following —

- a) a concert;
 - b) a conference;
 - c) a function;
 - d) a sporting event;
 - e) an occasion of a kind prescribed for the purposes of this definition.
- 3.2. A local government must prepare, and adopt* a policy that deals with matters relating to the attendance of council members and the CEO at events, including —
 - a) the provision of tickets to events; and
 - b) payments in respect of attendance; and
 - c) approval of attendance by the local government and criteria for approval; and
 - d) any prescribed matter.

****Absolute majority required.***

3.3. A local government may amend* the policy.

****Absolute majority required.***

3.4. When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.

3.5. The CEO must publish an up-to-date version of the policy on the local government's official website.

4. PROVISION OF TICKETS TO EVENTS

4.1. Invitation

4.1.1.

All invitations of offers of tickets for a council member or CEO to attend an event should be in writing and addressed to the Chief Executive Officer. Invitations made directly to an Elected Member are to be handed to the Chief Executive Officer for action to be taken in accordance with this Policy.

4.1.2.

Any other invitation or offer of tickets not addressed to an Elected Member or the Chief Executive Officer in general is not captured by this policy and must be disclosed in accordance with the gift and interest provisions in the Act.

4.1.3.

A list of events and attendees authorised by the local government in advance of the event is recorded in Attachment A.

5. APPROVAL OF ATTENDANCE

5.1 In deciding on attendance at an event, the Council will consider:

- a) who is providing the invitation or ticket to the event,
- b) the location of the event in relation to the local government (within the district or out of the district),
- c) the role of the council member or CEO when attending the event (participant, observer, presenter) and the value of their contribution,
- d) whether the event is sponsored by the local government,
- e) the benefit of local government representation at the event,
- f) the number of invitations / tickets received, and
- g) the cost to attend the event, including the cost of the ticket (or estimated value of the event per invitation) and any other expenses such as travel and accommodation.

5.2 Decisions to attend events in accordance with this policy will be made by simple majority or by the CEO in accordance with any authorisation provided in this policy.

5.3 The CEO is authorised to determine matters relating to staff attending conferences, seminars or training (in addition to those listed at Attachment A) that form part of the ongoing operational requirements of the Shire using the considerations as outlined in 5.2 of this policy.

6. PAYMENTS IN RESPECT OF ATTENDANCE

-
- 6.1 Where an invitation or ticket to an event is provided free of charge, the local government may contribute to appropriate expenses for attendance, such as travel and accommodation, for events outside the district if the council determine attendance to be of public value.
 - 6.2 For any events where a member of the public is required to pay, unless previously approved and listed in Attachment A, the council will determine whether it is in the best interests of the local government for a council member or the CEO or another officer to attend on behalf of the council.
 - 6.3 If the council determines that a council member or CEO should attend a paid event, the local government will pay the cost of attendance and reasonable expenses, such as travel and accommodation.
 - 6.4 Where partners of an authorised local government representative attend an event, any tickets for that person, if paid for by the local government, must be reimbursed by the representative unless expressly authorised by the council.

ATTACHMENT A – EVENTS AUTHORISED IN ADVANCE

Event Description	Date of event	Approved Attendee/s	Position	Approved contribution	Date of council resolution or CEO authorisation
Western Australian Local Government Association (WALGA) Annual Conference and AGM	Annual Event	President, Deputy President 2 x Elected Members CEO	Elected Members & CEO	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses. Note: Alcoholic beverages are not covered.	Elected Members – Min Ref:##/##-## Staff – CEO discretion (Clause 5.3)
Northern Country Zone Conferences	Periodical	President, Deputy President Elected Members CEO DCEO	Elected Members & CEO DCEO	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses. Note: Alcoholic beverages are not covered.	Elected Members – Min Ref:##/##-## Staff – CEO discretion (Clause 5.3)
State Government Budget announcement, launches and other events	Ongoing	President, Deputy President CEO	Elected Members & CEO	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses. Note: Alcoholic beverages are not covered.	Elected Members – Min Ref:##/##-## Staff – CEO discretion (Clause 5.3)

Event Description	Date of event	Approved Attendee/s	Position	Approved contribution	Date of council resolution or CEO authorisation
WALGA Road Conference	Annual Event	President, Deputy President 2 x Elected Members CEO Manager Works & Svc	Elected Members & CEO Manager Works & Svc	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses. Note: Alcoholic beverages are not covered.	Elected Members – Min Ref:##/##-## Staff – CEO discretion (Clause 5.3)
Local Government Professionals Annual Conference	Annual Event	CEO DCEO	CEO DCEO	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses. Note: Alcoholic beverages are not covered.	Staff – CEO discretion (Clause 5.3)
Synergy Soft IT Annual User Group Conference	Annual Event	CEO Manager Finance & Corporate Services	CEO Manager Finance & Corporate Services	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses. Note: Alcoholic beverages are not covered.	Staff – CEO discretion (Clause 5.3)
Moore Stephens Annual Budget Finance Conferences	Annual Event	CEO Manager Finance & Corporate	CEO Manager Finance & Corporate Services	Registration, Accommodation, Travel, Meals and other	Staff – CEO discretion (Clause 5.3)

Event Description	Date of event	Approved Attendee/s	Position	Approved contribution	Date of council resolution or CEO authorisation
		Services		reasonable cost & living expenses. Note: Alcoholic beverages are not covered.	
Works Supervisors Annual Conference	Annual Event	CEO Manager Works & Svc	CEO Manager Works & Svc	Registration, Accommodation, Travel, Meals and other reasonable cost & living expenses. Note: Alcoholic beverages are not covered.	Staff – CEO discretion (Clause 5.3)

It will be noted in the Policy where the endorsed attendees at the WALGA AGM are:

- President,
- Deputy President
- 2 x Elected Members
- CEO
- Staff – CEO discretion

The Staff Recommendation dealing with the WALGA AGM to be held in September 2021 lists the President and Deputy President as attending (as per Policy) and seeks determination from Council which two additional Elected Members are to attend this event.

FINANCIAL IMPLICATIONS

Council budgets annual for attendances at the WALGA Conference and AGM in accordance with Policy.

STRATEGIC IMPLICATIONS

Ref	Objective	Strategy
5.1	Ensure governance and administration systems, policies and processes are current and relevant	Review policy categories and set ongoing accountability for review processes

CONSULTATION

The email from WALGA basically suggests the dates for the two events be saved in calendars with formal invitation and event details to be provided at a later date.

An email was sent out to all Elected members on the 24th November seeking expressions of interest to attend either or both events.

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

MOVED: Cr Royce

SECONDED: Cr Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION 1

Council:

1. Endorse the following priority list of attendees for the Western Australian Local Government Association's Annual General Meeting to be held in Perth from the 19th to 21st September 2021 in accordance with Corporate Policy CP-006:
 - i. President (Voting Delegate);
 - ii. Deputy President (Voting Delegate);
 - iii. Cr Batten (Proxy Voting Delegate); and
 - iv. Cr Humphrey (Proxy Voting Delegate)

2. The Chief Executive Officer (or his delegate) to attend the Western Australian Local Government Association's Annual General Meeting in accordance with Corporate Policy CP-006.

COUNCIL RESOLUTION/STAFF RECOMMENDATION 2

Council endorse the following attendees for the Western Australian Local Government Association's Sesquicentenary of Local Government WA Gala Dinner to be held in Perth on the 20th February 2021 in accordance with Corporate Policy CP-006:

- i. Deputy President; and
- ii. Chief Executive Officer (or his delegate)

Voting 6/0
CARRIED
Minute Reference: 12/20-09

10.3.4

Local Government Act Review

PROPOSERS:	Western Australian Local Government Association, State Government Parliamentary Select Committee into Local Government, 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 & 09/20-15
DATE:	16th December 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.4(a)	WALGA Advocacy Position Paper		✓
10.3.4(b)	State Government Parliamentary Select Committee into Local Government Report		✓
10.3.4(c)	Select Committee into Local Government – CEO Comments		
10.3.4(d)	CoP Inquiry – CEO’s Comments		

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)

Council also resolved the following at the September 2020 OCM:

“Council

- 1. 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
2. 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.”

(Note: Some of the information in this report was also provided to the November 2020 Concept Forum.)

COMMENT

The WALGA Advocacy Position Paper is provided at **Attachment 10.3.4(a)**. The Staff Recommendation has been structured along the lines of supporting the WALGA Advocacy Position Paper (conditionally) whilst also dealing with the excessive number of individual recommendations provided from the following inquiry, reviews, etc. i.e.

Local Government Review Panel – Final Report for new Local Government Act for WA.	65 Recommendations
Inquiry Panel Report into the City of Perth	341 Recommendations (126 generic to the whole of LG)
State Government Parliamentary Select Committee into Local Government	36 Recommendations

Note: A total of 227 generic recommendations effecting the whole LG industry, with many overlapping

The Staff Recommendation also deals with retaining the position Council has already taken when dealing with the resolution at the September 2020 OCM on the position presented by WALGA Staff on the *Local Government Review Panel – Final Report for new Local Government Act for WA* recommendations.

Local Government Review Panel Final Report

The *Local Government Review Panel Final Report* (65 Recommendations) 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 appropriately and in accordance with the Shire’s Corporate Procedure. 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 attending. 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 NCZ position above was not supported by the WALGA State Council, resulting in WALGA deciding to develop an Advocacy Position Paper covering all areas arising out of the various reviews, inquiries, whilst maintaining the WALGA State Council’s position on proposed legislative changes.

City of Perth Inquiry

As reported at the 16 September 2020 OCM the City of Perth (CoP) Inquiry had 341 Recommendations broken up into two (2) 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)

On 6 November 2020 the CEO sent an email to all Elected Members with a summary of the 126 generic recommendations from the *CoP Inquiry*, which included the CEO's comments. This document was structured in the same way as the *Local Government Review Panel – Final Report for new Local Government Act for WA* and presented to the 16 September 2020 OCM for information and discussion, yet no decision was made on the 126 Recommendations at this OCM.

The CEO's comments on Generic CoP Recommendations were provided as separate attachment to the November 2020 Concept Forum for consideration and discussion with the consensus being:

“CEO to determine after the NCZ Meeting to be held on the 23rd November 2020 if it is necessary to present an Agenda Item to the December OCM for further consideration.”

At the Northern Country Zone Meeting held on the 23rd November 2020 to following was resolved:

“That:

- 1. Ongoing advocacy relating to the Review of the Local Government Act 1995 be noted; and,*
- 2. The Advocacy Positions for a New Local Government Act: Key issues from recent Inquiries into Local Government – be endorsed.”*

The COP Recommendations and the CEO's comments are again provided at **Attachment 10.3.4(d)** for Council information, consideration and determination.

State Government Parliamentary Select Committee into Local Government

The Select Committee into Local Government report has been analysed and placed into a tabled format with the CEO's comment and is provided at **Attachment 10.3.4(c)**.

I have used the format provided by the Shire of Mingenew (with the CEO's permission) and amended comments to reflect my position accordingly. Therefore the format is marginally different from the analyses undertaken previously, though the concept remains the same (i.e. Support, Unsure, Oppose).

WALGA Advocacy Paper - Positions for a new Local Government Act

WALGA released its *Advocacy Paper – Position for the New Local Government Act* on 10 November 2020. This Paper was presented to the WALGA State Council Meeting on 2 December 2020 and the following being resolved by the State Council:

That:

- 1. Ongoing advocacy relating to the Review of the Local Government Act 1995 be noted; and,*
- 2. The Advocacy Positions for a New Local Government Act: Key issues from recent Inquiries into Local Government – be endorsed, subject to the following amendments;*

-
- I. *Roles and Responsibilities:*
That clarification of the roles and responsibilities for mayors/presidents, councillors and CEO's be considered to ensure that there is no ambiguity.

 - II. *External Oversight:*
The Local Government sector supports:
 1. *Establishing an Office of the Independent Assessor to replace the Standards Panel to provide an independent body to receive, investigate and assess complaints against elected members and undertake inquiries.*
 2. *Remove the CEO from being involved in processing complaints.*
 3. *That an early intervention framework of monitoring to support Local Governments be provided with any associated costs to be the responsibility of the State Government.*

 - III. *Financial Management and Procurement:*
That the Local Government sector:
 1. *Requests the Minister for Local Government to direct the Department of Local Government to prepare a Model set of Financial Statements and Annual Budget Statements for the Local Government sector, in consultation with the Office of the Auditor General;*
 2. *Requests the Department of Local Government to re-assess the amount of detail required to be included in annual financial reports, in particular for small and medium sized entities as suggested by the Office of Auditor General;*
 3. *Supports Local Governments being able to use freehold land to secure debt;*
 4. *Supports Building Upgrade Finance being permitted for specific purposes such as cladding, heritage and green improvements;*
 5. *Supports the alignment of Local Government procurement thresholds, rules and policies with the State Government.*

 - IV. *Intergovernmental Cooperation:*
That a Partners in Local Government Agreement promoting a collaborative partnership approach be signed by the Premier, Minister for Local Government, Western Australian Local Government Association and Local Government Professionals WA, at the commencement of each term of the State Government.

The CEO sent an email to Councillors on 11 November 2020 with both the *WALGA Advocacy Paper – Position for the New Local Government Act* and the *State Council Agenda Item* advising this will also be presented to the 18 November 2020 Concept Forum for discussion. The Paper is provided at **Attachment 10.3.4(a)** for Council reference and information.

As previously reported, there does not appear to have been any shift in WALGA's position on the proposed new Local Government Act and they have held the majority LG industry position in their comments, submissions, etc. throughout the numerous reports and inquiries proposing legislative changes to the LG Act.

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; as previously advised, 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 an additional \$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

It is currently unsure how the recommendations from the various inquiries, reports, etc. will be dealt with. 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 as these could form the development of the new Local Government Act & Regulations.

RISK ASSESSMENT

Due to the ever-increasing legislative and administrative 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 Batten

SECONDED: Cr Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION 1

Council endorse the Western Australian Local Government Association's *Advocacy Paper - Positions for a new Local Government Act* as presented (in principle) under the following conditions:

1. Council will retain its current position on previously considered recommendations from the *Local Government Review Panel – Final Report for new Local Government Act for WA* as per Minute Reference 09/20-15;
2. Council will reserve the right to advocate a position different from any position adopted by Western Australian Local Government Association's or the Northern Country Zone on any specific recommendation(s) or issue(s) raised as part of the Local Government Act Review process;

-
3. The Chief Executive Officer is to present to Council any proposed legislative changes being advocated from any source, which it is felt may require Council's consideration, attention and advocacy.

COUNCIL RESOLUTION/STAFF RECOMMENDATION 2

Council endorse the responses to recommendations from the *City of Perth Inquiry (Attachment 10.3.4(d))* and the *State Government Parliamentary Select Committee into Local Government for new Local Government Act for WA (Attachment 10.3.4(c))* and submit these to the Department of Local Government, Sport & Cultural Industries, Western Australian Local Government Association (WALGA) and the Northern Country Zone of WALGA.

Voting 6/0

CARRIED

Minute Reference: 12/20-10

Meeting adjourned – 9:55am

Citizenship Ceremony undertaken.

Meeting resumed – 10:33am

10.3.5

Draft Guidelines and Criteria for the Identification of Significant Local Government Roads

PROPONENT:	Main Roads WA & Western Australian Local Government Association
SITE:	Whole of State
FILE REFERENCE:	1003.04
PREVIOUS REFERENCE:	NA
DATE:	16 th December 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.5(a)	Draft Guidelines and Criteria for the Identification of Significant Local Government Roads		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Main Roads WA (MRWA) and the Western Australian Local Government Association (WALGA) have released *Draft Guidelines and Criteria for the Identification of Significant Local Government Roads* requesting comments by 11 December 2020. I have contacted WALGA and they have agreed to accept Council's comments after this date due to the monthly Council meeting cycle issues.

COMMENT

A copy of the *Draft Guidelines and Criteria for the Identification of Significant Local Government Roads* is provided under separate cover (see **Attachment 10.3.5(a)**).

Below are some comments on the Draft Guidelines:

Document Section	Document Text	Comments
Significant Local Roads Amendments	Should a RRG agree to seek an amendment to the endorsed Significant Local Government Roads this must be documented on the attached Road Justification and Development Strategy Submission Form. After approval by the RRG, it must be sent to the Road Classification Manager at Main Roads to confirm the road/route meets the criteria. The Road Classification Manager will then submit the application to the State Road Funds to Local Government Advisory Committee (SAC) for endorsement. If endorsed, the Road Classification Manager shall update the RRG Roads List.	<p>This appears a long, bureaucratic process, yet perhaps necessary.</p> <p>The concern is the SAC having the final say and perhaps the right of veto after the application has been through the Technical Group, RRG and the Road Classification Manager at Main Roads to confirm the road/route meets the criteria.</p> <p>Clarity is required to confirm the SAC does not have the right to reject an application if it has been through the Technical Group, RRG and MRWA check and endorsement process.</p>

Significant Local Roads Amendments	If an affected road crosses into an adjoining Region, then agreement should be reached with the adjoining RRG on the proposed change and both RRGs must apply for the amendments submitting copies of the approved forms from the adjoining RRG with the application.	The concern is the neighbouring region(LGA) may not see the adjoining road/route as a priority resulting in an agreement not being reached. Perhaps there needs to be a process in place to remove LGA parochialism to ensure cross-regional roads/routes of significance are recognised for the betterment of the regional and State road transport network. This could be a role for the SAC.
Criteria for Significant Local Roads – Network/Significant	Roads connecting areas of significant population (>500). ABS Census population of town (UCL).	Criteria connecting areas of significant population >500 is too high and appears to be totally arbitrary. Indigenous population criteria is only 250 or 50. If there has to be a population figure then it should be consistent for all population centres.
Criteria for Significant Local Roads – Traffic Volume	Has a PCU adjusted traffic AADT count of over 200 AADT. (PCU = Passenger Car Unit.) (AADT = Annual Average Daily Traffic)	Why has the arbitrary number of >200 AADT been chosen for the traffic volume? A lesser AADT is preferred.
Criteria for Significant Local Roads – Tourism	Roads that provide access to tourist attractions or recreation areas of State or regional significance as per the Tourism WA website link below, OR Roads that form part of a State tourist drive or way. Tourist Spot Map WA (Click on “MAP” button).	The concern here is the <i>Tourist Spot Map WA</i> becoming the determining factor for this criteria. How does a tourist or recreational attraction actually get onto (or removed from) this list? Perhaps traffic volume, type and mix should be the determining factor, not a Tourist Spot Map, which there is no LGA control over the content.
Criteria for Significant Local Roads – Other Considerations	The development of parallel routes to roads already providing the network function should be avoided.	This criteria has been too vague and open to interpretation in the past and should be expanded upon. Perhaps it has been left vague in the Draft Guidelines because any set criteria (e.g. distance separating parallel routes) will be challenged if a particular route is rejected. Maybe this section should state: <i>“Parallel routes should be avoided; however, this is not to be a determining factor to reject an application if the LGA and RRG approve the proximity of a parallel route being appropriate and warranted.”</i>
Criteria for Significant Local Roads – Definitions	Regional Route – Shall be defined as a road that provides a connection between inter – regional routes (State Roads) or between inter – regional routes (State	Regional route population is also too high. Very few regional and remote towns have a population higher than 5000.

	Roads) and areas of significant population. ABS population data by region. Must show more than 5000 within the relevant UCL	
Criteria for Significant Local Roads – Definitions	Regional Heavy Haulage Route – Over 100 RAV vehicles per day of RAV 2 NETWORK and above with anecdotal evidence supporting regional movement.	Regional Heavy Haulage of over 100 RAV vehicles per day is too high and should be reduced (to 50).
Ongoing Review & Update Process – Flow Chart	Technical Group (if applicable) Considers for Submission to RRG.	The Flow Chart indicates the Technical Group has the power to reject an application. This should not be the case and the Technical Group should only have the role of considering applications and making a recommendation to the RRG via the Sub-RRG (if these are in existence). The Technical Group is not an elected body of LGA representations and should not be afforded to power to reject an application.

General Comments on the overall content of the Draft Guidelines:

- 1) Guidelines do not state if roads currently on the RRG significant road list will stay or be reassessed under the new guidelines. Most Councils have spent and/or committed major investments on these routes, and they should remain on the list and not be reassessed. The recommended removal of any specific road/route currently listed as a significant road, must be accompanied by a fully detailed analysis of the financial impact this may have on the local government authority, specifically for those roads part way through upgrade works and future maintenance requirements (e.g. reseals).
- 2) There appears to be a bias towards roads connecting to significant tourist areas, which will be at the expense of heavy haulage transport routes, specifically in the Wheatbelt areas of the State. If there has to be a change of criteria, it should be on a level playing field. The criteria appears obscure and it is difficult to verify exactly what a relevant tourist attraction is.
- 3) Local governments have complied with medium to long term planning for road improvements under the current criteria, including obtaining clearing permits, commissioning engineering designs and carrying out safety audits. There appears to have been little regard for the extensive planning work that has been carried out when it is suggested roads meeting the current criteria yet not the revised criteria will no longer qualify for funding.
- 4) The Guidelines appears to be attempting to establish the concept of **One-Size-Fits-All**, which cannot be supported and is a concept local government (and WALGA) has been opposing strongly with the current Local Government Act Review process. It is important the unique individual circumstances of each region needs be taken into consideration when Guidelines are being considered. The Draft Guideline are basically insinuating we do not have it right now and there is a need for change. This may not necessarily be the case in many RRG areas.
- 5) The submission period on the proposed guidelines must be extended for at least six months to ensure the local government industry has appropriate time for consideration and debate all proposed changes to the guidelines and an analysis has been undertaken on the effects of any changes on each local government authority.

State funding for local government roads is derived from (a diminished) 20% of licence revenue. This percentage has been reduced by the State Government over the years. The Draft Guidelines, if adopted could result in a large number of roads currently qualifying for funding through RRG's to be deleted from the program. The fact remains these roads will still need to be improved and maintained into the future if they are to be fit for purpose.

The removal of existing significant roads also sends the message to the State Government the demand/need for road funding is not as high as it actually is (i.e. once existing RRG significant roads have been upgraded/improved the demand for State funding will diminish). The truth is the Guidelines need to be relaxed to ensure more local government roads are added to the RRG significant road list (not removed) as this will send a strong message to the State of there being a significant unmet need for road grant funding to local government roads, not the opposite.

It is also worth noting the Wheatbelt of Western Australia already has the highest road fatality rate per capita in the State and has the oldest road pavement inventory in the State, so any reduction in funding on rural roads will only exacerbate this issue.

The other concern is the Draft Guideline are basically insinuating we do not have it right now and there is a need for change. I personally have seen how the Midwest & Gascoyne LGAs deal with RRG funds and determine Significant Roads and they are vastly different in how roads are recognised as significant and funds are allocated. The Midwest has an very strong process whereas the Gascoyne process is far less stringent. This is not a criticism of the Gascoyne as the process they have adopted works well for their area. The Draft Guidelines appear to promote the concept of **One-Size-Fits-All**, which cannot be supported and is a concept local government (and WALGA) has been opposing strongly with the current Local Government Act Review process.

STATUTORY ENVIRONMENT

Though the Guidelines will not be a Statutory document they will (without doubt) be the determining factor upon which roads will be recognised as regionally significant and therefore eligible for State RRG funding.

POLICY/PROCEDURE IMPLICATIONS

Council Corporate Management Procedure (IMP-025) has the following Shire roads listed (and recognised) as Significant Roads/Route which are eligible for RRG grant funding:

Rd No.	Road Name
19	Balla Whelarra
130	Chapman Valley Road
34	Coronation Beach
8	Dartmoor
21	Dartmoor Lake Nerramyne
12	East Bowes
1; 15 & 14	Durawah, Station, Station Valentine Route
150	East Chapman
16	East Nabawa
10	Nanson Howatharra
7	Narra Tarra
131	Northampton – Nabawa
132	Yuna – Tenindewa
13	Valentine

It is unsure if all the above existing recognised significant roads will retain this status or have to be reassessed under any new criteria established for the recognition of RRG Significant Roads.

FINANCIAL IMPLICATIONS

There could be a considerable financial impact on the Shire if any of its existing MWRRG recognised significant roads are reassessed as not being eligible under a newly established criteria, specifically those roads which are part way through an

upgrade program (e.g. Valentine, East Nabawa, Northampton Nabawa, Durawah, Dartmoor/Dartmoor Lake Nerramyne). There will also be long term considerable financial impacts for future grant opportunities being removed if any of the existing recognised significant roads are deemed ineligible (e.g. Durawah/Station/Station Valentine route).

STRATEGIC IMPLICATIONS

Establishing regionally significant roads and routes is important as it ensures funds are allocated to the areas of most need, yet it is also difficult to remove existing significant roads/routes for a funding source which has been linked to the LGA's long term asset management and financial plans.

Ref	Objective	Strategy	Action
4.1	Develop, manage and maintain built infrastructure	Asset Management Plan	Review Asset Management Plan regularly and maintain integration with other Strategic Plans within the Shire
		Development Projects	Review Strategic Community Plan to identify possible development projects
4.2	Manage and maintain roads, drainage and other essential infrastructure	Capital Road Works Programs	Review Road Hierarchy and Ten Year Road Works Program

CONSULTATION

It is of critical importance a proper consultative process is established to discuss the warrant for a review of the current criteria and to determine the parameters of a review. This should be circulated to all local governments and placed on the agenda of all Regional Road Groups and WALGA Zones with a request for feedback to WALGA. The response time for submissions needs to be extended for at least six months for this to be properly considered.

There should be dialogue initiated by WALGA at a Ministerial level to ensure all parties are cognisant of the impacts of any intended changes to the current criteria and for the opportunity to debate and consider all proposed changes.

This matter should be included as an agenda item on the WALGA Transport/Roads Forum scheduled for the 11th February 2021.

RISK ASSESSMENT

As mentioned, the removal of existing recognised roads of significance will result in a considerable impact on the Shire's ability to attract funds for the RRG Grant Program. The risk could range between **Major** and **Catastrophic** from a pure grant allocation perspective. However; as it is not sure what the effect will be on the Shire if (or when) any new RRG Guidelines are established and introduced the actual risk is unknown.

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
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

VOTING REQUIREMENTS

Simple Majority.

MOVED: Cr Royce

SECONDED: Cr Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council submit the following comments to Main Roads WALGA and the Western Australian Local Government Association in the *Draft Guidelines and Criteria for the Identification of Significant Local Government Roads*:

Document Section	Document Text	Comments
Significant Local Roads Amendments	Should a RRG agree to seek an amendment to the endorsed Significant Local Government Roads this must be documented on the attached Road Justification and Development Strategy Submission Form. After approval by the RRG, it must be sent to the Road Classification Manager at Main Roads to confirm the road/route meets the criteria. The Road Classification Manager will then submit the application to the State Road Funds to Local Government Advisory Committee (SAC) for endorsement. If endorsed, the Road Classification Manager shall update the RRG Roads List.	<p>This appears a long, bureaucratic process, yet perhaps necessary.</p> <p>The concern is the SAC having the final say and perhaps the right of veto after the application has been through the Technical Group, RRG and the Road Classification Manager at Main Roads to confirm the road/route meets the criteria.</p> <p>Clarity is required to confirm the SAC does not have the right to reject an application if it has been through the Technical Group, RRG and MRWA check and endorsement process.</p>
Significant Local Roads Amendments	If an affected road crosses into an adjoining Region, then agreement should be reached with the adjoining RRG on the proposed change and both RRGs must apply for the amendments submitting copies of the approved forms from the adjoining RRG with the application.	<p>The concern is the neighbouring region(LGA) may not see the adjoining road/route as a priority resulting in an agreement not being reached.</p> <p>Perhaps there needs to be a process in place to remove LGA parochialism to ensure cross-regional roads/routes of significance are recognised for the betterment of the regional</p>

		and State road transport network. This could be a role for the SAC.
Criteria for Significant Local Roads – Network/Significant	Roads connecting areas of significant population (>500). ABS Census population of town (UCL).	Criteria connecting areas of significant population >500 is too high and appears to be totally arbitrary. Indigenous population criteria is only 250 or 50. If there has to be a population figure then it should be consistent for all population centres.
Criteria for Significant Local Roads – Traffic Volume	Has a PCU adjusted traffic AADT count of over 200 AADT. (PCU = Passenger Car Unit.) (AADT = Annual Average Daily Traffic)	Why has the arbitrary number of >200 AADT been chosen for the traffic volume? A lesser AADT is preferred.
Criteria for Significant Local Roads – Tourism	Roads that provide access to tourist attractions or recreation areas of State or regional significance as per the Tourism WA website link below, OR Roads that form part of a State tourist drive or way. Tourist Spot Map WA (Click on “MAP” button).	The concern here is the <i>Tourist Spot Map WA</i> becoming the determining factor for this criteria. How does a tourist or recreational attraction actually get onto (or removed from) this list? Perhaps traffic volume, type and mix should be the determining factor, not a Tourist Spot Map, which there is no LGA control over the content.
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Criteria for Significant Local Roads – Definitions	Regional Route – Shall be defined as a road that provides a connection between inter – regional routes (State Roads) or between inter – regional routes (State Roads) and areas of significant population. ABS population data by region. Must show more than 5000 within the relevant UCL	Regional route population is also too high. Very few regional and remote towns have a population higher than 5000.
Criteria for Significant Local Roads – Definitions	Regional Heavy Haulage Route – Over 100 RAV vehicles per day of RAV 2 NETWORK and above with anecdotal evidence supporting regional movement.	Regional Heavy Haulage of over 100 RAV vehicles per day is too high and should be reduced (to 50).

Ongoing Review & Update Process – Flow Chart	Technical Group (if applicable) Considers for Submission to RRG.	<p>The Flow Chart indicates the Technical Group has the power to reject an application. This should not be the case and the Technical Group should only have the role of considering applications and making a recommendation to the RRG via the Sub-RRG (if these are in existence).</p> <p>The Technical Group is not an elected body of LGA representations and should not be afforded to power to reject an application.</p>
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General Comments on the overall content of the Draft Guidelines:

- 1) Guidelines do not state if roads currently on the RRG significant road list will stay or be reassessed under the new guidelines. Most Councils have spent and/or committed major investments on these routes, and they should remain on the list and not be reassessed. The recommended removal of any specific road/route currently listed as a significant road, must be accompanied by a fully detailed analysis of the financial impact this may have on the local government authority, specifically for those roads part way through upgrade works and future maintenance requirements (e.g. reseals).
- 2) There appears to be a bias towards roads connecting to significant tourist areas, which will be at the expense of heavy haulage transport routes, specifically in the Wheatbelt areas of the State. If there has to be a change of criteria, it should be on a level playing field. The criteria appears obscure and it is difficult to verify exactly what a relevant tourist attraction is.
- 3) Local governments have complied with medium to long term planning for road improvements under the current criteria, including obtaining clearing permits, commissioning engineering designs and carrying out safety audits. There appears to have been little regard for the extensive planning work that has been carried out when it is suggested roads meeting the current criteria yet not the revised criteria will no longer qualify for funding.
- 4) The Guidelines appears to be attempting to establish the concept of **One-Size-Fits-All**, which cannot be supported and is a concept local government (and WALGA) has been opposing strongly with the current Local Government Act Review process. It is important the unique individual circumstances of each region needs be taken into consideration when Guidelines are being considered. The Draft Guideline are basically insinuating we do not have it right now and there is a need for change. This may not necessarily be the case in many RRG areas.
- 5) The submission period on the proposed guidelines must be extended for at least six months to ensure the local government industry has appropriate time for consideration and debate all proposed changes to the guidelines and an analysis has been undertaken on the effects of any changes on each local government authority.

Voting 6/0

CARRIED

Minute Reference: 12/20-11

MOVED: Cr Forth

SECONDED: Cr Humphrey

Close meeting to public at 10:42am in accordance with Section 5.23(2)(b) as item dealt with the personal affairs of a person(s).

Voting 6/0

CARRIED

Minute Reference: 12/20-12

10.3.6 Tourism & Events Advisory Group – Australia Day Awards

PROPONENTS:	TOURISM & EVENTS ADVISORY GROUP
SITE:	Local Government Authorities – Statewide
FILE REFERENCE:	403.04
PREVIOUS REFERENCE:	Nil
DATE:	16th December 2020
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.6(a)	CONFIDENTIAL – TEAG Meeting Notes and Additional Information		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Tourism & Events Advisory Group (TEAG) met on the 2nd December 2020. Briefing Notes from this meeting have been provided under separate cover (see **Attachment 10.3.6(a)**) due to the need to keep the Australia Day Award nominations and recommended recipients confidential until they are announced at the Australia Day Event to be held on the 26th January 2021.

Councillors and Staff are therefore requested to treat the TEAG Minutes as CONFIDENTIAL.

COMMENT

The TEAG met to discuss:

2021 Australia Day Awards.

2021 Australia Day Event.

Due to the need for confidentiality this Report, and the Staff Recommendation will not mention the recommended Australia Day Award recipients.

The TEAG also discussed directional signage relating to tourism.

At the September 2020 TEAG meeting the following was determined in regards to the Australia Day event:

“Direction from Advisory Group: Australia Day Function 2021 to be held at Bill Hemsley Community Centre as a breakfast function. Book the Smoothie van and a Coffee van for the function”

STATUTORY ENVIRONMENT

Not applicable.

POLICY/PROCEDURE IMPLICATIONS

Below is an extract from Management Procedure CMP-033 (Honour Awards) relevant to the Australian Day Awards:

Shire of Chapman Valley Australia Day Awards and Function

For personal commitment, service and contribution to the community of the Shire of Chapman Valley

Nominations called in October and close in November (or as determined by the Australia Day Council).

The Council Appointed Working Group shall:

- Evaluate annual Australia Day Award Nominations and submitting these to Council in readiness for presenting the awards at the Shire’s annual Australia Day Function.*
- Assist with coordinating the annual Australia Day function(s).*
- Discuss all other item(s) referred to them by Council in the areas of tourism and events.*

FINANCIAL IMPLICATIONS

No financial implications are envisaged at this stage as the costs for Australia Day Awards/Event has been budgeted for as per previous years and it not expected to exceed this amount.

Long Term Financial Plan (LTFP):

No adverse effect of the LTFP envisaged.

STRATEGIC IMPLICATIONS

It is important to both recognize the achievement of constituents and Australia Day.

Ref	Objective	Strategy	Action
1.1	Nurture the sense of community	Determine a whole of Shire community integration approach	Advocate a sense of community when opportunity arises.

CONSULTATION

The TEAG met with staff to determine a recommendation to Council for award recipient(s) and event details.

The 2020 Citizen of the Year was approached to participate in the assessment of the forthcoming Australia Day awards, but was unable to attend the meeting on the day due to harvest commitments.

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

MOVED: Cr Humphrey

Suspend standing orders at 10:45am.

SECONDED: Cr Forth

Voting 6/0

CARRIED

Minute Reference: 12/20-13

Discussion was undertaken on the item.

MOVED: Cr Royce

Reinstate standing orders at 10:55am

SECONDED: Cr Warr

Voting 6/0

CARRIED

Minute Reference: 12/20-14

MOVED: Cr Humphrey

SECONDED: Cr Batten

COUNCIL RESOLUTION/ADVISORY GROUP RECOMMENDATIONS – TEAG 12/20-3 & 4

Council:

1. Endorse the Tourism & Events Advisory Group's recommendation for recipient of the Citizen of the Year 2021 Australia Day Award.
2. Council award the Community Group of the Year 2021 Australia Day Award to the second listed organisation in the table shown in the Tourism & Events Advisory Group's meeting notes.

Voting 6/0

CARRIED

Minute Reference: 12/20-15

MOVED: Cr Forth

SECONDED: Cr Humphrey

COUNCIL RESOLUTION/ADVISORY GROUP RECOMMENDATIONS – TEAG 12/20-5

Council:

-
1. Approach Main Roads WA to improve the directional tourism signage at highway intersections relating to location and business in the Shire of Chapman Valley (utilising Account 3952 and Account 3562 as necessary).
 2. Improve directional/traffic signage along Chapman Valley Road prior to the entrance/exit to the Fig Tree Crossing Campground.
 3. The Tourism and Events Advisory Group hold a tourism business and signage audit tour in February/March 2021 with all Councillors invited.

**Voting 6/0
CARRIED
Minute Reference: 12/20-16**

MOVED: Cr Royce

SECONDED: Cr Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council delegate authority to the Chief Executive Officer arrange the Australia Day Function 2021 to be held at Bill Hemsley Community Centre as a breakfast function including Smoothie and Coffee Vans for the function, with the TEAG members assisting with the event.

**Voting 6/0
CARRIED
Minute Reference: 12/20-17**

MOVED: Cr Forth

SECONDED: Cr Humphrey

Reopen the meeting to the public at 11:12am.

**Voting 6/0
CARRIED
Minute Reference: 12/20-18**

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

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

13.0 DELEGATES REPORTS

COUNCILLOR	ITEM
Cr Farrell	Dongara Northampton Corridor Meeting
Cr Warr	Dongara Northampton Corridor Meeting
Cr Forth	FABCV Meeting
Cr Humphrey	Batavia Local Emergency Management Committee Meeting

14.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION
Cr Farrell – Thanked Staff for organising the End of Year Function.

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

MOVED: Warr

SECONDED: Royce

Council close the meeting to the public for the following Agenda Item(s) in accordance with the Local Government Act, 1995:

15.1 – Freeman Award Nomination

Section 5.23(2)(b) as item dealt with the personal affairs of a person(s).

15.2 – Tender 2 -20/21 – Supply One (1) Prime Mover

Section 5.23(2)(c) - Item relates to contracts entered into, or which may be entered into, by the local government and which relates to matters to be discussed at the meeting; and

Section 5.23(2)(e) – Item relates to a matter that if disclosed, would reveal information that has a commercial value to a person or information about the business, commercial or financial affairs of a person

Voting 6/0

CARRIED

Minute Reference: 12/20-19

15.1 FREEMAN AWARD – NOMINATIONS

MOVED: Cr Humphrey

SECONDED: Cr Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION 1 (Simple Majority)

Council:

1. Bestow the title of 'Honorary of Freeman Shire of Chapman Valley' upon Pauline Forrester in recognition of her outstanding services rendered to the Shire of Chapman Valley and community.
2. The Shire President and Chief Executive Officer work with the award recipient to convene a function to commemorate the conferral of the 'Honorary Freeman of Shire of Chapman Valley' upon Pauline Forrester.

Voting 6/0

CARRIED

Minute Reference: 12/20-20

MOVED: Cr Forth

SECONDED: Cr Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION 2 (Absolute Majority)

Council authorise a budget variation of \$10,000 from the anticipated additional surplus funds available from the end of 2019/2020 financial year position to accommodate the Freeman Award function and associated costs in 2020/2021.

In the event the Freeman Award Function is to be held in the 2021/2022 financial year, or expenditure incurred over the current and next financial year, the unspent funds be quarantined in the budget for 2021/2022.

Voting 6/0

CARRIED

Minute Reference: 12/20-21

15.2 DISPOSAL OF IVECO POWERSTAR 500 TIP TRUCK

COUNCIL RESOLUTION – DEAL WITH A LATE ITEM

MOVED: Cr Farrell

SECONDED: Cr Humphrey

Council agree to deal with the late item presented regarding disposal of Iveco Powerstar 500 Tip Truck and the acceptance of Tender for the supply of a new prime mover.

Voting 6/0

CARRIED

Minute Reference: 12/20-22

MOVED: Cr Warr

SECONDED: Cr Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council:

1. Awards Tender 2-2021 to Purcher International for the supply of one (1) only Freightliner Coronado 114 and accept their offer for the trade item of plant.
2. The acceptance of this offer is under the condition the supplier complies with all specification stipulated in the tender.
3. Not accept tenders for the Outright Purchase of the Iveco Powerstar 6 wheeler tipper trade item of plant, and inform the unsuccessful tenderers.

Voting 6/0

CARRIED

Minute Reference: 12/20-23

16.0 CLOSURE

The Deputy President thanked Elected Members and Staff for their attendance and for the great effort put in by everyone during what has been a very challenging year for many and varied reason.

The President stated he was proud to be the President of this Shire and wished everyone a very safe and enjoyable Christmas and New Year period.

The President then declare the meeting closed at 11:41am.