

ORDINARY COUNCIL MEETING

CONFIRMED MINUTES

9:00am Wednesday
17/02/2021

Nabawa Council Chambers

February 2021

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"*



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

Maurice Battilana
CHIEF EXECUTIVE OFFICER

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ORDER OF BUSINESS

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The President, Cr Farrell welcomed Elected Members and Staff and declared the meeting open at 9:01am.

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)	9:01am	11.22am
Cr Kirrilee Warr (Deputy President)	9:01am	11.22am
Cr Peter Humphrey	9:01am	11.22am
Cr Beverley Davidson	9:01am	11.22am
Cr Nicole Batten	9:01am	11.22am
Cr Trevor Royce	9:01am	11.22am

Officers	In	Out
Maurice Battilana, Chief Executive Officer	9:01am	11.22am
Simon Lancaster, Deputy Chief Executive Officer	9:01am	11.22am
Dianne Raymond, Manager Finance & Corporate Services	9:01am	11.22am
Beau Raymond (Minute Taker)	9:01am	11.22am

Visitors	In	Out
Geoff Vivian	9:01am	11.18am
David Byrne	9:01am	10.13am
Clare Fenwick	9:01am	9.21am
Rebecca Davidson Mid-West Development Commission	10.47am	11.22am

3.2 Apologies

Elected Members
Cr Darrell Forth

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

Nil

4.0 PUBLIC QUESTION TIME

4.1 Response to Previous Public Questions on Notice

Nil

4.2 Public Question Time

Nil

5.0 APPLICATIONS FOR LEAVE OF ABSENCE (by Resolution of Council)

Nil

6.0 DISCLOSURE OF INTEREST

Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Section 5.60A:

“a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.”

Section 5.60B:

“a person has a proximity interest in a matter if the matter concerns –

(a) a proposed change to a planning scheme affecting land that adjoins the person’s land; or

(b) a proposed change to the zoning or use of land that adjoins the person’s land; or

(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person’s land.”

Regulation 34C (Impartiality):

“interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.”

Item No.	Member/Officers	Type of Interest	Nature of Interest
10.1.4	Cr Trevor Royce	Proximity	Farm Land next to land in question
10.3.4	Maurice Battilana	Financial	Code of Conduct Employees - deals with gifts to employees
10.3.4	Dianne Raymond	Financial	Code of Conduct (employee)
10.3.4	Simon Lancaster	Financial	Code of Conduct Employees deals with gifts to employees
10.3.4	Beau Raymond	Financial	Code of Conduct (employee)
12.1	Cr Trevor Royce	Proximity	Own land in area

15.1	Maurice Battilana	Financial	CEO Performance Appraisal as review is linked to remuneration
15.2	Simon Lancaster	Financial	Renewal of employment contract

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

10.30am Rebecca Davidson Mid-West Development Commission (Oakajee renewable hydrogen project)

7.3 Deputations

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

MOVED: Cr. Warr

SECONDED: Cr. Humphrey

8.1 Ordinary Meeting of Council held on Wednesday 16th December 2020

That the Minutes of the Ordinary Meeting of Council held Wednesday 16th December 2020 be confirmed as true and accurate.

Voting F6 /A0

CARRIED

Minute Reference:02/21-01

9.0 ITEMS TO BE DEALT WITH EN BLOC

MOVED: Cr. Batten

SECONDED: Cr. Warr

Council resolves to move the following items En Bloc:

10.1.2, 10.1.3., 10.3.4

Voting F6 /A0

CARRIED

Minute Reference: 02/21-02

10.0 OFFICERS REPORTS

10.1

Deputy Chief Executive Officer

10.1 AGENDA ITEMS

- 10.1.1 Proposed Residence
- 10.1.2 Reserve Purchase Enquiry
- 10.1.3 Agistment Lease Enquiry
- 10.1.4 Proposed Subdivision, Howatharra

10.1.1 Proposed Residence

PROPONENT:	McAullay Builders for T. Goddard
SITE:	28 (Lot 259) Cargeeg Bend, White Peak
FILE REFERENCE:	A1634
PREVIOUS REFERENCE:	03/16-2
DATE:	8 February 2021
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 28 (Lot 259) Cargeeg Bend, White Peak. The application has been advertised for comment and an objection was received. This report recommends approval of the application.

Figure 10.1.1(a) – Location Plan of 28 (Lot 259) Cargeeg Bend, White Peak



COMMENT

Lot 259 is a 3.7257ha property, in the south-western corner of the Parkfalls Estate, with a 75.2m long battleaxe access leg onto Cargeeg Bend.

The property slopes downward from the 65m contour at its north-eastern frontage onto Cargeeg Bend, to the 60m contour in the south-western corner.

Figure 10.1.1(b) – Aerial photograph of 28 (Lot 259) Cargeeg Bend, White Peak



The development history for Lot 259 is as follows:

23 February 1999	Council adopted Scheme Amendment No.20 to Shire of Chapman Valley Local Planning Scheme No.1 (that rezoned the Parkfalls Estate area) and also the accompanying Parkfalls Estate Subdivision Guide Plan that established the subdivisional layout and assigned building envelopes to certain lots within the Estate (including Lot 259).
8 September 1999	Western Australian Planning Commission ('WAPC') approved Scheme Amendment No.20, inclusive of the Subdivision Guide Plan.
9 January 2007	Lot 97 created from DP52558 as part of Stage 6 of the Parkfalls Estate;
5 February 2007	Parkfalls Estate developer sold Lot 97;
3 November 2013	Applicant purchased Lot 259;
16 March 2016	Council refuses application to relocate building envelope;
10 November 2016	Planning approval issued for outbuilding;
21 June 2017	Planning approval issued for 1 bedroom residence (designed to meet ancillary accommodation requirements to allow for later classification as 'granny flat');
19 July 2019	Planning approval issued for swimming pool;
14 January 2021	Planning application received for residence.

The applicant is seeking to construct a single storey 4 bedroom, 2 bathroom rammed earth walled, colorbond roofed (411.94m²) residence. A copy of the application has been provided as **separate Attachment 10.1.1(a)** for Council's information.

The application was deemed to exceed the delegated authority of Shire staff and advertised for comment to surrounding landowners, as the residence could be interpreted as being behind the outbuilding and ancillary accommodation as viewed from the road. An objection was received which is discussed in the Consultation section of this report. The application is now presented to Council for its deliberation.

Shire staff recommend approval of the application based upon the following:

- the 10m frontage for Lot 259 is onto the north-south section of Cargeeg Bend and the front setback line when taken on a parallel north-south alignment to this frontage demonstrates that the residence would be sited forward of the outbuilding and ancillary accommodation (as has been marked upon the site plan provided in **separate Attachment 10.1.1(a)**);

-
- whilst, if an alternate interpretation were taken (that the front setback line should be deemed to run parallel to the east-west section of Cargeeg Bend) and the outbuilding and ancillary dwelling would then be deemed to be forward of the residence, it is noted that the buildings upon Lot 259 would not present significant impact as viewed from Cargeeg Bend, given the closest of them would be 125m from the roadway and at the end of a battleaxe access leg;
 - the buildings upon Lot 259 will appear clustered together in the context of the overall lot;
 - the landowner has undertaken significant landscaping upon Lot 259 that will, along with landscaping undertaken upon surrounding properties, screen the buildings as the landscaping becomes more established;
 - the existing and proposed buildings upon Lot 259 are partially obscured from the road by existing buildings upon neighbouring Lot 258;
 - all existing and proposed buildings upon Lot 259 (as has been marked upon the site plan provided in **separate Attachment 10.1.1(a)**) are located within the building envelope for this property that was assigned at time of initial rezoning in 1999 and has been unchanged since this time, and has been displayed upon the real estate agent's promotional sales material;
 - all existing and proposed buildings upon the property would meet with the minimum boundary setbacks for this zone;
 - the proposed residence is considered to be of good design and utilises materials that integrate with the natural landscape and being single storey with skillion roof design of 5m height is not an overly obtrusive structure;
 - given there are no windows on the eastern elevation the proposed residence would not present any privacy issue for the immediate neighbours;
 - whilst the proposed residence will impact upon the neighbour to the east's views to some degree, it should be noted that the proposed residence is located within the assigned building envelope and impact upon views will occur as surrounding properties become developed, it is also noted that whilst the view directly west from the neighbouring property will be impacted the proposed residence would not be sited in a location that obscures the views to the south-west over the Geraldton CBD area;
 - the applicant could have located their proposed residence approximately 35m further south from their chosen location, and still be located within the building envelope, thereby impacting the neighbour's views to a greater extent but is instead proposing to site their residence atop an existing levelled/retained area that is clustered with their existing buildings.

Figure 10.1.1(c) – View looking south along Cargeeg Bend (illustrating the north-south alignment deemed as the front setback line) noting the darker outbuilding and ancillary accommodation to its left are located upon Lot 259 and the obscuring, lighter outbuilding is located upon the neighbouring Lot 258



Figure 10.1.1(d) – View looking south at Lot 259 from neighbouring bridle path



STATUTORY ENVIRONMENT

28 (Lot 259) Cargeeg Bend, White Peak is zoned 'Rural Residential 1' 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.

It is considered that the application meets the following requirements of Section 37 of the Scheme:

“37 Appearance of Land and Buildings

- (1) Unless otherwise approved by the local government, no person shall erect any building or other structure which by reason of colour or type of materials, architectural style, height or bulk, ornament or general appearance, has an exterior appearance which is out of harmony with existing buildings or the landscape character of the area.”*

For the purposes of Section 38 of the Scheme, Shire staff have assessed the front setback line as being the eastern property boundary (i.e. in parallel alignment to the lot’s frontage onto Cargeeg Bend).

“38 Boundary setbacks

- Except on land to which a Residential Density Coding applies on the Scheme Maps and where the provisions of the Residential Design Codes shall prevail, all corner lots, lots with more than one street frontage, or irregularly-shaped lots, the local government shall determine for the purposes of determining setback requirements which boundaries shall be considered front, side and rear boundaries.”*

The application meets the requirements of the Scheme pertaining to building envelopes as provided in Section 40 and Schedule 5 of the Scheme:

“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.”*

“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.”*

Whilst the application proposes to site the residence at a distance of 28m from the existing outbuilding (rather than the more common 22m maximum separation distance for the ‘Rural Residential 1’ zone) it is noted that this is allowed for under Schedule 6 of the Scheme, given Lot 259 has an assigned building envelope.

“Schedule 6 – Additional site and development requirements relating to Rural Residential zone

Rural Residential 1

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

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 Parkfalls Estate Subdivision Guide Plan was adopted by Council at its 23 February 1999 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 1.4 – Outbuildings includes the following objectives:

- “3.4 To limit the visual impact of Outbuildings.”
- “3.6 To ensure that the Outbuilding remains an ancillary use to the main dwelling or the principle land use on the property.”

Policy notes the following within its Policy Statement:

- “6.7.c For lots zoned ‘Rural-Residential’, ‘Rural Smallholding’ and ‘Rural’ the Outbuildings are to be setback in accordance with the Local Planning Scheme, or if applicable located within a defined building envelope.”

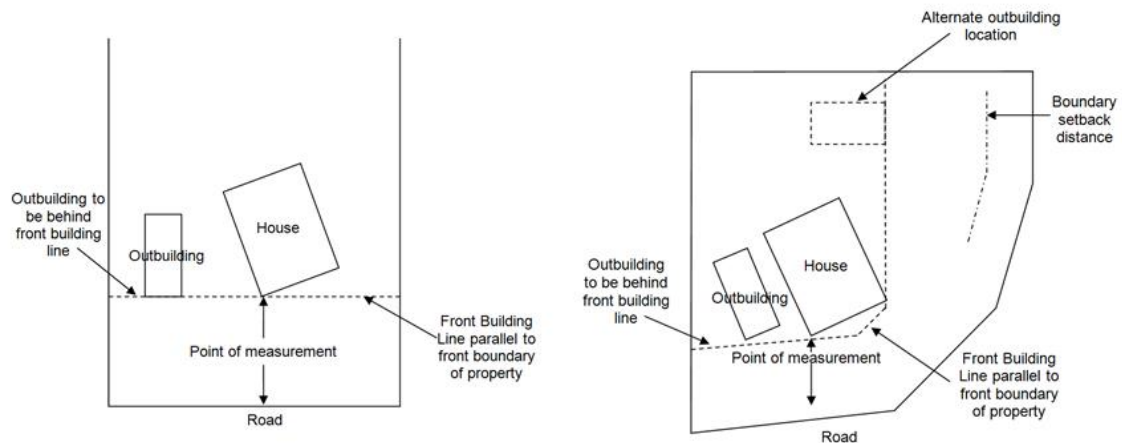
Section 6.5 of the policy also states that:

- “6.5 An Outbuilding is required to be sited behind the ‘front building line’ of a dwelling on lots less than 4ha in area in all zones, unless sufficient justification has been provided by the applicant and the building is consistent in design and materials with the existing dwelling.

Note: For the purpose of this statement the ‘front building line’ shall be measured from the closest point of the house to the front boundary drawn parallel to the boundary as illustrated in Figures 1 and 2.

Figure 1

Figure 2



Lot 259 being a 3.7257ha property is marginally under the 4ha threshold and therefore requires the assigning of a 'front building line'. In the case of Lot 259 Shire staff have interpreted this to be the eastern boundary and the application is therefore deemed compliant with the requirements of Section 6.5 of the policy. However, in the event that Council considered that the front setback line should be parallel to the northern boundary the application would be requesting policy variation.

FINANCIAL IMPLICATIONS

On determination of this application (refusal/approval) should the applicant be aggrieved by the determination or conditions of approval they have a right of appeal to the State Administrative Tribunal with a cost likely to be incurred by the Shire through its involvement in the appeal process.

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

The Parkfalls Estate Structure Plan assigns a building envelope to Lot 259.

The purpose for establishing building envelopes upon the Parkfalls Estate Structure Plan was to setback buildings from the proposed Primary Distributor Road alignment (that would run along the former Geraldton-Northampton railway alignment which is under the management of Main Roads WA) and also setback development from the Wokatherra Nature Reserve.

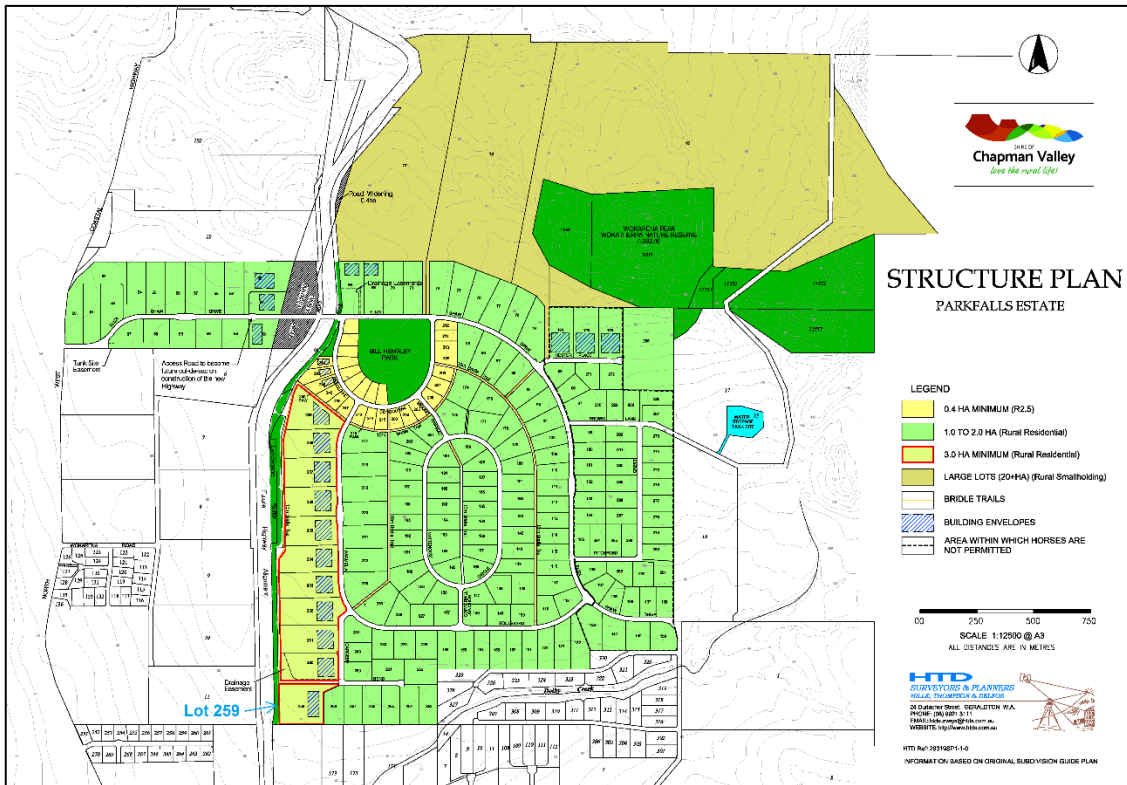
Section 4.6 of the original Parkfalls Estate rezoning report (Scheme Amendment No.20 to Scheme No.1 that was gazetted on 17 September 1999) further noted that:

"As an alternative to building envelopes (which have little relevance in untreed estates with uniform high land capability), is proposed to generally adopt the standard setbacks already in the Scheme for the Special Rural Zone, with an additional requirement that any other structures including sheds, outbuildings, garages, storage areas and effluent disposal systems cannot be sited more than 22 metres from the closest wall of the dwelling. This in effect creates a Building Envelope at approximately 2,500m² on most of the lots.

The only exception where Building Envelopes are shown on the Subdivision Guide Plan are:

- (i) For the three lots on the west side of the Tourist Site, which partially contain some lower capability landform (refer Section 3.2);*
- (ii) For those lots abutting the proposed new Highway to ensure maximum separation distances are achieved."*

Figure 10.1.1(e) - Parkfalls Estate Structure Plan



Strategic Community Plan/Corporate Business Plan:

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

CONSULTATION

Section 7.0 of Shire of Chapman Valley Local Planning Policy 1.4 – Outbuildings states that:

- “7.1 Should the application be considered to meet the requirements of this policy the application may be dealt with under delegated authority by Shire staff. However should the application not be considered to meet the requirements of the policy or in the opinion of Shire staff require further consideration, the matter may be advertised in accordance with the Local Planning Scheme before being placed before a meeting of Council for determination.

- 7.2 Applications that propose variation to any part of the Policy (other than the variation pursuant to Section 7.3 and 7.4 of this policy) will require consultation with surrounding landowners, by means of the Shire writing directly to the surrounding landowners inviting comment, and placement of an advisory sign on-site for a period of not less than 21 days, prior to the application and any received submissions being placed before a meeting of Council for consideration.”

- “7.5 The advertising of a received application that proposes variation to any part of the policy is undertaken to make the proposal available for inspection in order to provide opportunity for public comment and it should not be construed that final approval will be granted. The local government in determining the application will take into account the submissions received but is not obliged to support those views.”

Given the proposed residence might, under one interpretation of the ‘front setback line’, render the outbuilding at odds with the policy, the Shire wrote to the 3 surrounding landowners on 19 January 2021 providing details of the application and inviting comment upon the proposal prior to 3 September 2021.

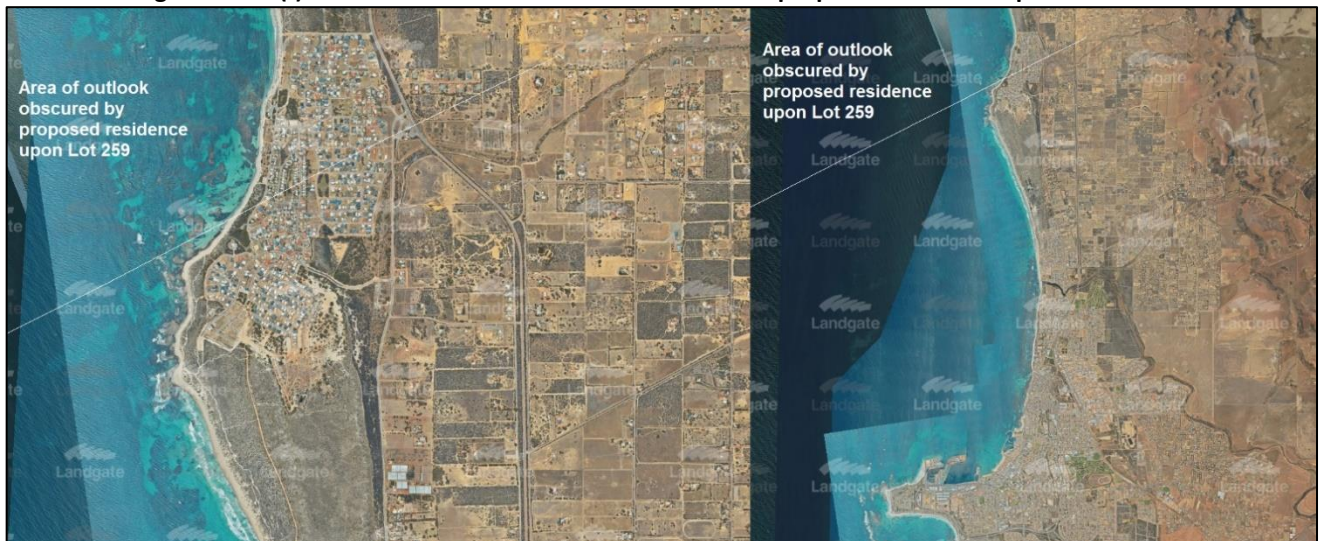
At the conclusion of the advertising period 1 submission had been received, objecting to the application, a copy of which has been included as **separate Attachment 10.1.1(b)**.

The received objection was from the landowner to the east of Lot 259 and concerned the impact of the proposed residence upon their views.

The role of town planning in the protection of views is a long-debated matter with the general consensus being that one does not 'own their view'. Whilst it is recognised that much of the attraction for residents in the Parkfalls Estate are the ocean views to the west, town views to the south-west, Buller Rivermouth views to the north-west and Moresby Range views to the east, it should be understood that surrounding development will impact upon this. However, it is also accepted that town planning can have a role in attempting to mediate to achieve an outcome that might satisfy all parties.

It is noted that the applicant could locate their proposed residence approximately 35m further south, and still be located within the building envelope, thereby impacting the neighbour's views to a greater extent but is instead proposing to site the residence atop an existing levelled/retained area that is clustered with their existing buildings. Whilst the proposed residence will impact upon the neighbour's views directly west to some degree it would not be sited in a location that obscures the views to the south-west over the Geraldton CBD area.

Figure 10.1.1(f) – Illustration of ocean outlook relevant to proposed residence upon Lot 259



The applicant was provided with the opportunity to respond to the issues raised in the received submission and submitted the following maps, the first illustrating that the neighbour's view to the south-west (i.e. towards Geraldton) would not be obscured by the siting of their proposed residence. The second illustrating the residence setback as measured from the pool gazebo structure alongside the outbuilding (i.e. that the separation distance would be 24.5m rather than 28m if taken from this point).

Figure 10.1.1(g) – Applicant’s submitted plan illustrating neighbouring residence outlook



Figure 10.1.1(h) – Applicant’s submitted plan illustrating outbuilding-residence separation distance



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. Warr

SECONDED: Cr. Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant formal planning approval for the proposed residence upon 28 (Lot 259) Cargeeg Bend, White Peak subject to the following conditions:

- 1 Development shall be in accordance with the attached approved plans dated 17 February 2021 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The walls and roof of the residence are to be of materials, finish and colours that are complementary to the natural landscape features and the existing buildings upon Lot 259 to the approval of the local government.
- 4 All stormwater must be contained and disposed of on-site to the approval of the local government.
- 5 Any soils disturbed or deposited on site shall be stabilised to the approval of the local government.
- 6 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination, the approval shall lapse and be of no further effect.

Notes:

- (a) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.
- (b) If an applicant is aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

**Voting F5/A1
CARRIED
Minute Reference: 02/21-03**

10.1.2**Reserve Purchase Enquiry**

PROPONENT:	D. Byrne & T. & S. Jeffery
SITE:	Reserve 13085 (Lot 39) Lauder Street, Nanson
FILE REFERENCE:	A1921 & A1958
PREVIOUS REFERENCE:	02/05-11, 16/10-8, 07/15-2, 6/20-2 & 12/20-02
DATE:	5 February 2021
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

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

DISCLOSURE OF INTEREST

The lessee of Reserve 13085 (also being one of the parties interested in purchasing the land) is an employee of the Shire of Chapman Valley.

BACKGROUND

Council resolved at its 16 December 2020 meeting to invite comment on an enquiry into the purchase of Reserve 13085 (Lot 39) Lauder Street, Nanson. During the advertising period a submission was received from the current lessee, also expressing an interest in purchasing the land. This report recommends that Council advise the Department of Planning, Lands & Heritage ('DPLH') that it has no requirement for the land and no objection to the sale of the property to either interested party.

Figure 10.1.2(a) – Location Map of Reserve 13085 Lauder Street, Nanson**COMMENT**

A copy of the correspondence received from D. Byrne enquiring about the potential purchase of Reserve 13085 that was presented to the 16 December 2020 Council meeting has been included as **separate Attachment 10.1.2(a)**.

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



Reserve 13085 has a grazing licence issued by the Shire to the adjoining landowners of Lots 40, 41 & 42 Lauder Street to the north (T & S Jeffery).

Council previously resolved at its 15 February 2005, 23 June 2010 and 15 July 2015 meetings to issue a formal licence to T & S 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 licence agreement has been included as **separate Attachment 10.1.2(b)** for Council’s consideration.

Given that the Shire has no plans to develop Reserve 13085 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 10.1.2(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, and at what price, 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 10.1.2(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 is limited to the 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

Given there is a current lease on the land, Council considered it appropriate at its 16 December 2020 meeting to 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 13085 themselves in 2017 but did not proceed to purchase.

Council also considered it appropriate that the neighbouring landowners to the south and west of Reserve 13085 should also be advised of the matter in the event that they also may have had an interest in acquiring the land. Council also sought the comment of various service agencies to ensure that the disposal of the land would no impact upon their existing or proposed utility infrastructure.

The Shire advertised this matter for comment from 17 December 2020 until 29 January 2021 (44 days) to provide all parties with reasonable opportunity for comment, and this included 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 (Gas, Telstra, Water Corporation and Western Power); &
- placement of a sign detailing the proposal onsite.

At the conclusion of the advertising period 3 submissions had been received, 2 from service agencies advising that they had no objection, and 1 from the lessee advising that they also wished to purchase Reserve 13085. A copy of the received submissions have been included as **separate Attachment 10.1.2(c)**.

Given that Council is not the party that determines whether the land will be sold, and who it will be sold to, or the price it will be sold for (this being the decision of the DPLH) it is recommended that Council limit its advice to the DPLH that it has no interest in Reserve 13085, or objection to its disposal into private ownership.

The lessee in their submission has raised that there are 3 other lots that are Crown Reserves in the Nanson townsite that could be sold to the other enquirer (these being Lots 27, 28 & 101). However, there are issues with these 3 lots as follows:

Lot 27 East Terrace is a 1,012m² lot, that along with adjoining Lot 28 to the north comprises Reserve 20223. Reserve 20223 has a management order dating back to 1929 issued to the Shire of Chapman Valley for the purpose of 'Parks & Drainage'. Lot 27 is not considered suitable for disposal into private ownership (and subsequent building upon) as it contains a drainage channel linking East Terrace with the Chapman River.

Figure 10.1.2(d) – Reserve 20223 (Lots 27 & 28) East Terrace, Nanson



Figure 10.1.2(e) – View of Lot 27 (Reserve 20223) looking west along drainage channel from East Terrace



Lot 28 East Terrace is a 1,012m² lot, that along with adjoining Lot 27 to the south comprises Reserve 20223. Whilst Lot 28 might be considered suitable for disposal into private ownership it is suggested that this should not be to a third party but instead only to the adjoining landowner to the north for amalgamation into their property. This is suggested as the built form upon 41 (Lot 1) East Terrace, which is the property to the north of Lot 28, has a carport area whose means of vehicle access onto East Terrace is via Lot 28 and to sell Lot 28 to a third party would cause issue in this regard.

Figure 10.1.2(f) – View of Lot 28 (Reserve 20223) looking north at vehicle parking upon neighbouring Lot 1



Lot 101 (Reserve 43117) East Terrace is a 1,083m² property that Council has previously received a purchase enquiry about, from the adjoining landowner to its rear/west. Council resolved at its 21 October 2020 meeting, following an advertising period (in which no objections were received), to “Advise the Minister for Planning, Lands & Heritage that

Council considers Reserve 43117 East Terrace, Nanson surplus to its requirements and supports its disposal by the Department of Planning, Lands & Heritage.” Whilst this October resolution did not specify which party the land should be sold to, Council might consider that it was generally understood that it would be to that original adjoining enquirer. Alternatively Council might again consider that it is not the party that determines whether the land will be sold, and who it will be sold to, or the price it will be sold for (this being the decision of the DPLH) and therefore consider it appropriate that Council limit its advice to the DPLH to stating that it has no interest in Reserve 43117, or objection to its disposal into private ownership.

Figure 10.1.2(g) – Lot 101 (Reserve 43117) East Terrace, Nanson



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:

- 1 Advise the Minister for Planning, Lands & Heritage that Council considers Reserve 13085 (Lot 39) Lauder Street, Nanson surplus to its requirements and supports its disposal by the Department of Planning, Lands & Heritage, and advise the Department of the 2 parties who have expressed interest in Lot 39’s purchase.
- 2 Issue the lessee of Reserve 13085 with 3 months notice of the termination of the agreement pursuant to Section 1 of the grazing licence to remove encumbrance from the land and enable its sale.

-
- 3 Advise the enquirer that in the event that the Department of Planning, Lands & Heritage determine that Reserve 13085 (Lot 39) Lauder Street, Nanson should be sold to the adjoining landowner to the north (the previous lessee) that Council previously resolved at its 21 October 2020 meeting to *“Advise the Minister for Planning, Lands & Heritage that Council considers Reserve 43117 (Lot 101) East Terrace, Nanson surplus to its requirements and supports its disposal by the Department of Planning, Lands & Heritage”* and they may wish to enquire with the Department upon the availability of this property.

Council En Bloc Resolution
Voting F6/A0
CARRIED
Minute Reference: 02/21-02

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 & 12/20-02
DATE:	7 February 2021
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		✓
10.1.3(c)	Received submissions		✓
10.1.3(d)	Applicant response to submissions		✓
10.1.3(e)	Draft Licence		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council resolved at its 16 December 2020 meeting to advertise for comment a proposal to lease portion of Reserve 28055 (Lot 109) Eastough Street, Nanson for macropod rehabilitation. The advertising period has concluded, without objection being received, and this report recommends that Council approve the application and issue a grazing licence.

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



COMMENT

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.

The applicant's correspondence that was presented to the 16 December 2020 Council meeting has been included as **separate Attachment 10.1.3(a)**.

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 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.

In the 16 December 2020 Council Agenda report Shire staff raised no objection to the leasing of a portion of Reserve 28055, however, considered 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)**).

Shire staff instead recommended that the lease should be confined to within the area bordered by (i.e. not include) the Chapman River Walk Trail. This was 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)**, is supported 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 (approx.. 24ha) 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 such 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

The application was advertised for comment from 17 December 2020 until 29 January 2021 (44 days) and consultation included the following actions:

- letters being sent to all 26 Nanson townsite landowners inviting comment;
- letter being sent to the Department of Water & Environment Regulation ('DWER') inviting comment;
- a sign detailing the proposed matter being erected onsite; &

- display of the application upon the Shire website.

At the conclusion of the advertising period 6 submissions had been received, 5 of these being from Nanson residents, all in support of the application, and 1 from DWER providing technical comment, particularly in relation to clearing regulations and flood management. Copies of the received submissions have been provided as provided as **separate Attachment 10.1.3(c)**.

The applicant was provided with the opportunity to respond to the issues raised in the received submissions, and a copy of their additional correspondence, that addresses the issues raised in the DWER submission, has been provided as **separate Attachment 10.1.3(d)**.

Shire staff have prepared, and provided as **separate Attachment 10.1.3(e)** a draft licence for Council's consideration that addresses the issues raised during the submission period. In the event of Council supporting this application the draft would form the basis for discussions between the Shire CEO and the applicant.

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 pursuant to Section 3.54 of the *Local Government Act 1995* issue a formal licence to Clare Fenwick & Anthony Rosin for the use of portion (this being the area identified in yellow within Figure 10.1.3(c) and Annexure A of Attachment 10.1.3(e)) of Reserve 28055 (Lot 109) Eastough Street, Nanson for the expressed purpose of grazing (macropod rehabilitation). This licence will be valid for a period of five (5) years at an annual fee of \$1.00 on demand.

Council En Bloc Resolution
Voting F6 /A0
CARRIED
Minute Reference: 02/21-02

Cr T Royce declared a Proximity Interest in the matter and left the meeting at 9:20am

10.1.4 Proposed Subdivision, Howatharra

PROPONENT:	HTD Surveyors for E. Murray
SITE:	70 (Lot 73) Oakajee Road, Howatharra
FILE REFERENCE:	A1781
PREVIOUS REFERENCE:	Nil
DATE:	5 February 2021
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.4	Application		✓

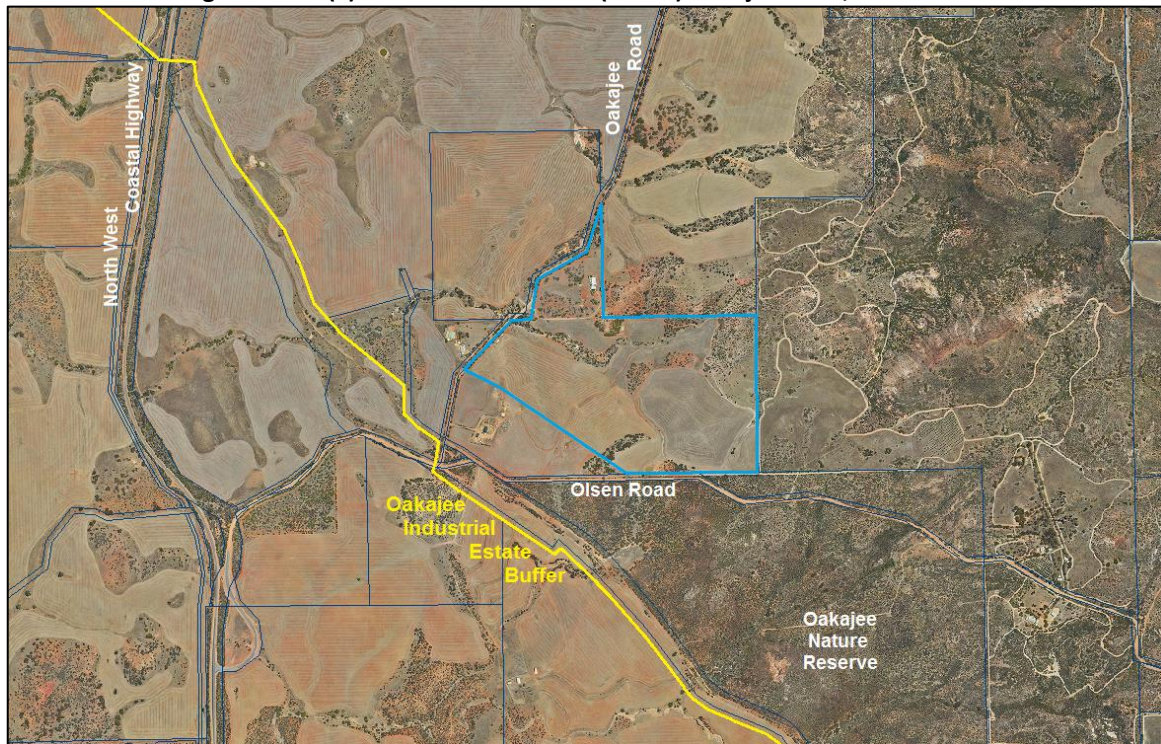
DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of correspondence from the Western Australian Planning Commission ('WAPC') seeking comment on an application to subdivide Lot 73 Oakajee Road, Howatharra into 2 lots. This report recommends that Council conditionally support the application.

Figure 10.1.4(a) – Location Plan of 70 (Lot 73) Oakajee Road, Howatharra



COMMENT

Lot 73 is a 50.3829ha property with an 841m frontage along its western boundary to Oakajee Road and a 255m frontage onto Olsen Road along its southern boundary. The property slopes downward from the 130m contour at its eastern boundary to the 100m contour on its western boundary and is largely cleared for cropping purposes but does contain some pockets of remnant vegetation along a tributary line and on outcrops. Lot 73 contains a residence and outbuilding in its northern corner.

Lot 73 is located east of/outside the Oakajee Industrial Estate buffer area and abuts the 247.8798ha Oakajee Nature Reserve to the south-east, and Lot 2 Olsen Road to the east which was rezoned to 'Rural Smallholdings' in 2012.

Figure 10.1.4(b) – Aerial photograph of 70 (Lot 73) Oakajee Road, Howatharra



The landowner is seeking to subdivide Lot 73 into 2 lots as follows:

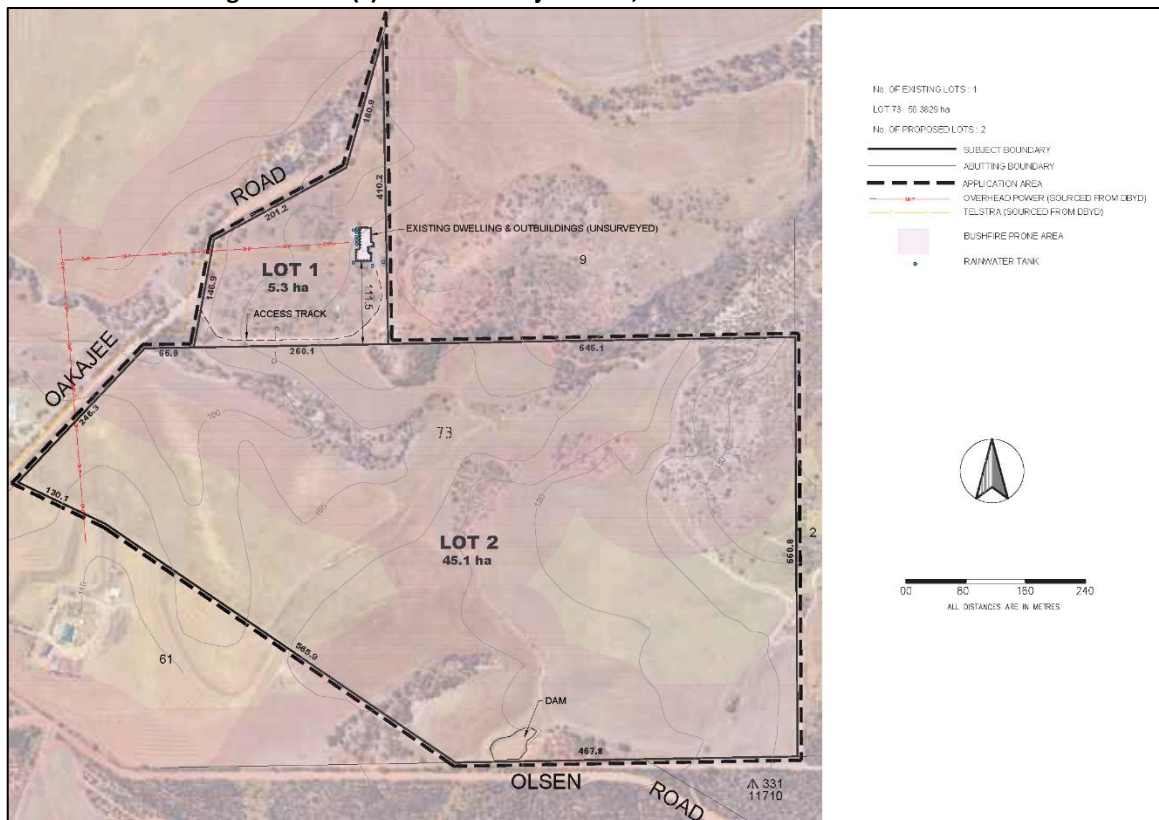
- 5.3ha lot in the northern corner of Lot 73 that would contain the existing residence and outbuilding; &
- balance 45.1ha lot.

The proposed subdivision plan is provided in **Figure 10.1.4(c)** and also within **separate Attachment 10.1.4** along with the applicant's supporting correspondence.

Shire staff raise no objection to the subdivision application based upon the following:

- the subdivision presents no environmental impacts.
- the proposed boundary for the homestead lot is based upon on-ground development and land uses and would not require the removal of remnant vegetation.
- the subdivision presents no heritage impacts.
- the creation of 1 additional lot is not anticipated to create significant additional vehicle movements upon the local road network.
- the subdivision is consistent with the requirements for a Homestead Lot as contained in the WAPC Development Control Policy 3.4 – Subdivision of Rural Land.
- the subdivision, subject to ongoing adherence to standard bushfire requirements, presents no additional bushfire hazard risk, with a future additional residence (the potential for which would be introduced through the creation of the vacant balance lot) able to be sited in a location that has regard for areas identified as having potential to be bushfire prone.

Figure 10.1.4(c) – Lot 73 Oakajee Road, Howatharra Subdivision Plan



STATUTORY ENVIRONMENT

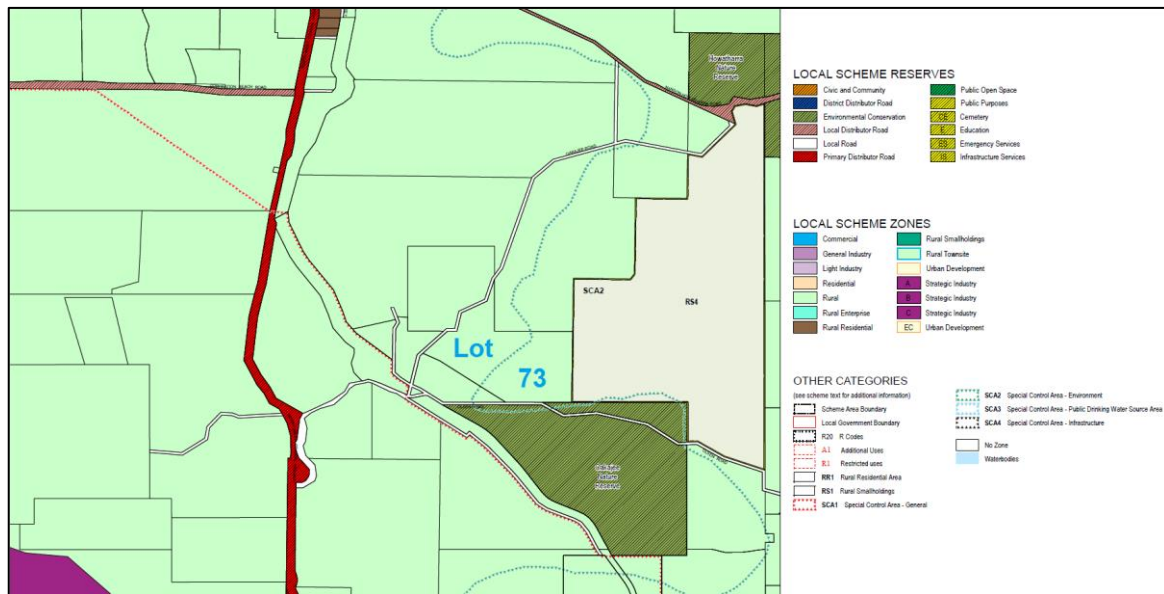
70 (Lot 73) Oakajee Road, Howatharra is zoned 'Rural' under Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme') the objectives for which are listed in Table 1 as being:

- *To provide for the maintenance or enhancement of specific local rural character.*
- *To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.*
- *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.*
- *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses to the Rural zone.*
- *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses."*

Section 1.6 'Aims of the Scheme' lists the following considered to be of relevance to this application:

- (a) *Provide for a variety of lifestyle opportunities;*
- (b) *Provide for a appropriate diversification of agricultural and other economic activities;*
- (c) *Preserve agriculturally productive land and protect such land from ad hoc fragmentation or incompatible development;*
- (d) *Protect, preserve and enhance the environment, natural and cultural heritage, and landscape and streetscape values."*

Figure 10.1.4(d) – extract from Shire of Chapman Valley Local Planning Scheme No.3 Map



The Scheme Maps illustrates that the eastern portion of Lot 73 is also within the overlying ‘Special Control Area 2 - Moresby Range Landscape Protection’ zone, for which Table 6 of the Scheme notes the following:

Purpose and Objective	Additional Provisions
<p>The purpose of Special Control Area 2 is the protection of the Moresby Range and associated valleys from development and/or subdivision that will detrimentally affect the landscape values of the area, including preventing development that may lead to problems of erosion. In determining any application for development approval on land within Special Control Area 2, the local government shall give consideration to the purpose of the Special Control Area.</p>	<p>(1) Within SCA 2, no clearing or destruction of any remnant native vegetation or re-vegetation shall be permitted except for:</p> <ol style="list-style-type: none"> Clearing to comply with the requirements of the Bush Fires Act 1954 (as amended), the local government’s Bush Fire Notice and/or any fire management plan endorsed by the local government; Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the local government; and/or Clearing as may be allowed under the Department of Water and Environmental Regulation and Conservation Land Clearing Regulations; Trees that are diseased or dangerous. <p>(2) In the determination of any application for development approval within SCA 2, the local government may, having regard to the purpose of the Special Control Area set out in Part 5 and the assessment criteria detailed in the Moresby Range Management Strategy, require modification of development proposals, or impose conditions of approval regarding:</p> <ol style="list-style-type: none"> The siting of the proposed development; The design and layout of the proposed development; The materials and finishes to be used in the proposed development; The protection of remnant native vegetation or re-vegetation located on the site; The installation and maintenance of vegetation to provide for the visual screening of proposed development; and/or The installation and maintenance of vegetation, retaining walls or other works to prevent erosion.

POLICY/PROCEDURE IMPLICATIONS

The WAPC have the following policies relevant to this application:

- Statement of Planning Policy 2.5 - Rural Planning (‘SPP2.5’);
- Statement of Planning Policy 3.7 - Planning in Bushfire Prone Areas (‘SPP3.7’); &
- Development Control Policy 3.4 - Subdivision of Rural Land (‘DCP 3.4’).

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

Statement of Planning Policy 2.5 has the following objectives

- “(a) support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food;*
- (b) provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses;*
- (c) outside of the Perth and Peel planning regions, secure significant basic raw material resources and provide for their extraction;*
- (d) provide a planning framework that comprehensively considers rural land and land uses, and facilitates consistent and timely decision-making;*
- (e) avoid and minimise land use conflicts;*
- (f) promote sustainable settlement in, and adjacent to, existing urban areas; and*
- (g) protect and sustainably manage environmental, landscape and water resource assets.”*

The WAPC’s Development Control Policies sit within a structure which is established under the State Planning Strategy and Statement of Planning Policy No.1 State Planning Framework. Development Control Policy 3.4 is used by the WAPC as the basis for determining applications for the subdivision of rural land.

WAPC Policy No.3.4 has a general presumption against the subdivision of rural land, however, the application is considered to meet the requirements of the following WAPC Policy provisions:

“5 General policy provisions

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

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

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

6 Circumstances under which rural subdivision may be considered

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

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

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

“6.6 Homestead lots

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

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

- (a) the land is in the DC 3.4 Homestead lot policy area;*
- (b) the homestead lot has an area between one and four hectares, or up to 20 hectares to respond to the landform and include features such as existing outbuildings, services or water sources;*
- (c) there is an adequate water supply for domestic, land management and fire management purposes;*
- (d) the dwelling is connected to a reticulated electricity supply or an acceptable alternative is demonstrated;*
- (e) the homestead lot has access to a constructed public road;*
- (f) the homestead lot contains an existing residence that can achieve an appropriate buffer from adjoining rural land uses;*
- (g) a homestead lot has not been excised from the farm in the past;*
- (h) the balance lot is suitable for the continuation of the rural land use, and generally consistent with prevailing lot sizes, where it can be shown that this is consistent with the current farming practices at the property; and*
- (i) the dwelling on a homestead lot must be of a habitable standard and may be required to be certified as habitable by the local government.*

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

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

Lot 73 Oakajee Road, Howatharra is located within Precinct No.5 – Howatharra West of the Shire of Chapman Valley Local Planning Strategy (2008) the vision for which is:

“Low to medium-key tourist development and activities coexist with agricultural practices undertaken in the Precinct in accordance with rural, landscape and conservation functions.”

Figure 9 of the Local Planning Strategy identifies Lot 73 as ‘Proposed Future (Long Term) Rural Smallholdings (20-40ha)’.

The Geraldton Region Plan was released in 1999 by the WAPC to provide a framework for the future management, protection and coordination of regional planning. The Region Plan incorporates the Greater Geraldton Structure Plan that was updated in 2011 by the WAPC to account for a number of strategic planning directions. Lot 73 is identified as 'Future Rural Living' upon the Greater Geraldton Structure Plan.

Lot 73 is located within the study area for the WAPC's Moresby Range Management Strategy (2009). The Strategy identifies that the eastern portion of Lot 73 forms part of the Moresby Range footslopes, and as being within a visually sensitive area. It may be considered that the proposed subdivision will not lead to significant change in the use of the land, and relatively minor additional development/built form and this can be managed in terms of visual impact through standard planning conditions relevant to building materials, colours, siting and landscaping.

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

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

RISK ASSESSMENT

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

VOTING REQUIREMENTS

Simple majority required.

MOVED: Cr. Batten

SECONDED: Cr. Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council advise the Western Australian Planning Commission that it supports the subdivision of Lot 73 Oakajee Road, Howatharra (WAPC 160378) as shown upon Drawing No.50020AS1-1-1 (WAPC date stamped 21/1/21) subject to the following conditions:

- 1 A notification, pursuant to Section 165 of the *Planning and Development Act 2005*, is to be placed on the certificates of title of the proposed lots advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows: *"This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner. Additional planning and building requirements may apply to development on this land."*
- 2 The subdivider installing suitable rural fencing along the boundary between proposed Lots 1 and 2.

**Voting F5/A0
CARRIED**

Minute Reference: 02/21-04

Councillor Royce returned to meeting 9.21am

10.2

Manager of Finance & Corporate Services

- 10.2 **AGENDA ITEMS**
- 10.2.1 **Financial Management Report for December 2020 & January 2021**
- 10.2.2 **Finance, Audit and Risk Management Committee Minutes**

10.2.1 Financial Management Reports

PROPONENT:	Shire of Chapman Valley
SITE:	Shire of Chapman Valley
FILE REFERENCE:	307.00
PREVIOUS REFERENCE:	Nil
DATE:	17 th February 2021
AUTHOR:	Dianne Raymond, Manager Finance & Corporate Services

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.1(a)	Financial Management Reports for December 2020 & January 2021		✓
10.2.1(b)	Confidential List of Accounts (December 2020 & January 2021)		✓

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 December 2020 & January 2021 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 December 2020 & January 2021

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. Batten

SECONDED: Cr. Davidson

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council receives the financial management report supplied under separate cover for the months of December 2020 & January 2021 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 F6/A0
CARRIED
Minute Reference: 02/21-05**

10.2.2

Finance, Audit and Risk Management Committee Minutes

PROPONENT:	Shire of Chapman Valley
SITE:	Shire of Chapman Valley
FILE REFERENCE:	403.05
PREVIOUS REFERENCE:	Nil
DATE:	17 th February 2021
AUTHOR:	Dianne Raymond, Manager of Finance & Corporate Services

SUPPORTING DOCUMENTS:

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

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Shire of Chapman Valley Finance, Audit & Risk Committee met on the 4 February 2021 in the Council Chambers Nabawa. The Minutes of the meeting have been supplied under separate attachment.

COMMENT

The Minutes and recommendations from the Finance, Audit & Risk Committee meeting dated 4 February 2021 are presented for Council consideration.

In relation to the annual audit the concluding audit exit interview attended by the Shire President, Chief executive Officer and Manager of Finance & Corporate Services via teleconference with the Office of Auditor General and Moore Australia reported audit satisfaction across all audit areas. The audit did not identify any significant deficiencies in internal controls or key risk related areas.

The only item highlighted as a matter of significance is the adverse trends in the financial ratios for the Operating Surplus Ratio. This ratio has been below the Department of Local Government, Sport and Cultural Industries standard benchmark for the past three years.

Financial ratios are included in the notes of the Annual Financial Report to provide users with key indicators on the financial performance of a local government. Under Regulation 50 of the Local Government (Financial Management) Regulation several ratios are to be reported with comparisons to previous years and used as a monitoring tool for trends. However if the information is to be meaningful it should be prepared accurately and consistently with consideration to local government anomalies outside of normal corporate reporting and accounting standards adjusted.

There is currently a review of ratios being undertaken within the industry with most local governments considering the formula to calculate the Operating Surplus Ratio as flawed. The formula does not allow for inclusion of Financial Assistance Grant funding, yet does include the non-cash depreciation expense. The current working group is likely to have some recommendations to the Department mid-year for review.

The insert below provides details of how the Operating Surplus Ratio is calculated. A negative ratio indicates the percentage increase in total own revenue (namely rates) which would be required to achieve a 'break-even' operating result.

Operating Surplus Ratio	
Operating Surplus Ratio =	$\frac{(\text{Operating Revenue MINUS Operating Expense})}{\text{Own Source Operating Revenue}}$
Purpose:	This ratio is a measure of a local government's ability to cover its operational costs and have revenues available for capital funding or other purposes.
Standards:	Basic Standard between 1% and 15% (0.01 and 0.15) Advanced Standard > 15% (>0.15).
Definitions:	
'Operating Revenue'	Means the revenue that is operating revenue for the purposes of the AAS, excluding grants and contributions for the development or acquisition of assets.
'Operating Expense'	Means the expense that is operating expense for the purposes of the AAS.
'Own Source Operating Revenue'	Means revenue from rates and service charges, fees and user charges, reimbursements and recoveries *, interest income and profit on disposal of assets.

The financial ratios reported for the 2019/2020 period indicate the Operating Surplus Ratio as the only ratio not meeting the current Department of Local Government basic benchmark target.

FINANCIAL RATIOS	2020 Actual	2019 Actual	2018 Actual	DLG Benchmark Basic Standard Target
Current ratio	3.38	3.35	3.61	≥1
Asset consumption ratio	0.98	0.84	0.84	≥0.50
Asset renewal funding ratio	1.00	1.00	1.07	≥0.75
Asset sustainability ratio	0.94	1.00	0.96	≥0.9
Debt service cover ratio	21.10	11.18	110.89	≥2
Operating surplus ratio	(0.14)	(0.22)	(0.33)	≥0.01 to ≥0.15
Own source revenue coverage ratio	0.62	0.58	0.52	≥0.4 to ≥0.6

In relation to matters raised as a significant item, Section 7.12A(4)(a) of the Local Government Act 1995 states:

- (4) A local government must —
 - (a) prepare a report addressing any matters identified as significant by the auditor in the audit report, and stating what action the local government has taken or intends to take with respect to each of those matters; and
 - (b) give a copy of that report to the Minister within 3 months after the audit report is received by the local government.
- (5) Within 14 days after a local government gives a report to the Minister under subsection (4)(b), the CEO must publish a copy of the report on the local government's official website.

The content of the report to the Minister will include the following Council position:

- a) The Operating Surplus Ratio will continue to be monitored in conjunction with all other Ratios.
- b) The formula to calculate the Operating Surplus Ratio is considered flawed as it currently does not incorporate Financial Assistant Grants, which Council believe must be considered as Own Source Revenue to provide services.

- c) The Operating Surplus Ratio has been trending downward towards a break-even position over the past three years.
- d) This is the only matter of significance raised throughout the audit with all other audit areas performed to audit satisfaction.

STATUTORY ENVIRONMENT

Local Government Act 1995 & Local Government Audit Regulations 1996.

POLICY/PROCEDURE IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Long Term Financial Plan (LTFP):

No effect on the 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

Elected Members and staff discussed the matters at committee with the outcome of several independent audits indicating the Shire is in a sound financial position and management procedures are sound.

RISK ASSESSMENT

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

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

VOTING REQUIREMENTS

Simple Majority

MOVED: Cr. Farrell

SECONDED: Cr. Davidson

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council receives and endorse the Finance, Audit and Risk Management Committee Minutes with following actions required:

-
1. All compliance matters be attended to in accordance with legislation.
 2. The Operating Surplus Ratio being reported as a significant adverse trend report to the Minister include the following Council position:
 - a) The Operating Surplus Ratio will continue to be monitored in conjunction with all other Ratios.
 - b) The formula to calculate the Operating Surplus Ratio is considered flawed as it currently does not incorporate Financial Assistant Grants, which Council believe must be considered as Own Source Revenue to provide services.
 - c) The Operating Surplus Ratio has been trending downward towards a break-even position over the past three years.
 - d) This is the only matter of significance raised throughout the audit with all other audit areas performed to audit satisfaction.

Voting F6/A0
CARRIED
Minute Reference: 02/21-06

10.3

Chief Executive Officer

- 10.3** **AGENDA ITEMS**
- 10.3.1** **2019/2020 Annual Report and Annual General Meeting of Electors**
- 10.3.2** **Regional Drought Resilience Planning Program**
- 10.3.3** **Code of Conduct for Council Members, Committee Members & Candidates**
- 10.3.4** **Employee & Contractor Code of Conduct**

10.3.1 2019/2020 Annual Report and Annual General Meeting Of Electors

PROPONENT:	Chief Executive Officer
SITE:	Shire of Chapman Valley
FILE REFERENCE:	413.01
PREVIOUS REFERENCE:	NA
DATE:	17 th February 2021
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.1(a)	2019/2020 Draft Annual Report		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The purpose of this item is to accept the Shire of Chapman Valley 2019/2020 Annual Report, receive the Auditors Report and Management Letter and set a date/time for the Annual General Meeting of Electors (Note: The Annual Report is provided under separate cover at **Attachment 10.3.1(a)**).

When considering setting a date for the Annual General Meeting of Electors it is a requirement of s5.27 'Electors General Meeting' of the Local Government Act 1995 this meeting can be no later than 56 days after accepting the Annual Report (this will be the 14th April 2021).

The Shire of Chapman Valley last held the Annual General Meeting of Electors for 2018/2019 financial year on the 6th February 2020 at the Council Chambers, Nabawa commencing at 6.00pm

COMMENT

The Staff Recommendation is suggesting the date, time and location to hold the next Annual General Meeting of Electors as being:

- ~ **Thursday 11th March 2021**
- ~ **Commencing at 6.00pm**
- ~ **Council Chambers, Nabawa**

As mentioned, the Act stipulates the Annual General Meeting of Electors must be held not more than 56 days after the local government accepts the annual report for the previous financial year. Therefore, as mentioned, the latest date the meeting could be held is the 14th April 2021.

It is important to maximise attendances at the Annual General Meeting of Electors by constituents, hence the Staff Recommendation has suggested a date and time, which is in the evening.

STATUTORY ENVIRONMENT

Local Government Act 1995

The Local Government Act 1995 states the following:

“5.27. Electors’ general meetings

- (1) A general meeting of the electors of a district is to be held once every financial year.
- (2) A general meeting is to be held on a day selected by the local government but **not more than 56 days after the local government accepts the annual report** for the previous financial year.
- (3) The matters to be discussed at general electors’ meetings are to be those prescribed.”

5.29. Convening electors’ meetings

- (1) The CEO is to convene an electors’ meeting by giving —
 - (a) at least 14 days’ local public notice; and
 - (b) each council member at least 14 days’ notice, of the date, time, place and purpose of the meeting.
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

5.32. Minutes of electors’ meetings

The CEO is to —

- (a) cause minutes of the proceedings at an electors’ meeting to be kept and preserved; and
- (b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors’ meeting are first considered.

5.33. Decisions made at electors’ meetings

- (1) All decisions made at an electors’ meeting are to be considered at the next ordinary council meeting or, if that is not practicable —
 - (a) at the first ordinary council meeting after that meeting; or
 - (b) at a special meeting called for that purpose, whichever happens first.
- (2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors’ meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

5.54. Acceptance of annual reports

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government **no later than 31 December after that financial year.**

* Absolute majority required.

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

POLICY/PROCEDURE IMPLICATIONS

No existing Policy/Procedure affected.

FINANCIAL IMPLICATIONS

Nil affect for current financial year.

Long Term Financial Plan (LTFP):

Nil affect.

STRATEGIC IMPLICATIONS

It is considered appropriate (by the legislators at least) to conduct the Annual General Meeting of Electors to retain open and accountable governance and communication with the Shire's constituents.

Strategic Community Plan/Corporate Business Plan:

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

CONSULTATION

The Shire President, relevant staff and the Shire's Auditors have been consulted and had input into the development of the 2019/2020 Annual Report.

RISK ASSESSMENT

Insignificant risk of non-compliance with legislation to complete this activity in accordance with the Local Government Act and associated Regulations.

Insignificant risk of not conducting the Annual General Meeting of Electors at an appropriate time/date to provide constituents to opportunity to attend.

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

Staff Recommendation 1 - Absolute Majority

Staff Recommendation 2 – Simple Majority

STAFF RECOMMENDATION 1 (Absolute Majority Vote Required)

Council accepts the Annual Report for the 2019/2020 Financial Year as required by s5.54 of the *Local Government Act 1995* as presented

STAFF RECOMMENDATION 2 (Simple Majority Vote Required)

Council:

-
- 1 Receives and accepts the Auditors Financial Report for 2019/2020;
 - 2 Receives and accept the Auditors Management Report 2019/2020;
 - 3 Set the date for the Annual General Meeting of Electors for the 11th March 2021, commencing 6.00pm at the Nabawa Council Chamber and advertise this meeting accordingly.
 - 4 Request the CEO give local public notice of the availability of the Annual Report as required by s5.55 the Act:
 - 5 Publish the Report on the Shire Website within 14 days of Council acceptance in accordance with s5.55A of the Act;
 - 6 Provides a copy of the Shire of Chapman Valley 2019/2020 Annual Report to the Director General of the Department of Local Government

MOVED: Cr. Warr

SECONDED: Cr. Batten

COUNCIL RESOLUTION/ALTERNATE STAFF RECOMMENDATION 1
(Absolute Majority Vote Required)

Council accepts the Annual Report for the 2019/2020 Financial Year as required by s5.54 of the Local Government Act 1995 as presented under the condition the additional information now required by legislation be included in the Annual Report be added e.g.

- The amount of money the local government has paid in Standard Panel costs for hearing a complaint regarding one of its council members and any amount the Standards Panel orders to be reimbursed to the local government by the council member;
- The remuneration paid or provided to the CEO;
- The number of council and committee meetings attended by each council member;
- Diversity data, including age ranges for council members

Voting F6 /A0
CARRIED

Minute Reference: 02/21-07

MOVED: Cr. Warr

SECONDED: Cr. Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION 2
(Simple Majority Vote Required)

Council:

1. Receives and accepts the Auditors Financial Report for 2019/2020;
2. Receives and accept the Auditors Management Report 2019/2020;
3. Set the date for the Annual General Meeting of Electors for the 11th March 2021, commencing 6.00pm at the Nabawa Council Chamber and advertise this meeting accordingly.
4. Request the CEO give local public notice of the availability of the Annual Report as required by s5.55 the Act:
5. Publish the Report on the Shire Website within 14 days of Council acceptance in accordance with s5.55A of the Act;
6. Provides a copy of the Shire of Chapman Valley 2019/2020 Annual Report to the Director General of the Department of Local Government

Voting
F6/A0
CARRIED
Minute Reference: 02/21-08

10.3.2 Regional Drought Resilience Planning Program

PROPONENT:	Mid West Development Commission & Northern Agricultural Catchment Council
SITE:	Local Government areas of Chapman Valley, Greater Geraldton & Northampton
FILE REFERENCE:	204.15.01
PREVIOUS REFERENCE:	Nil
DATE:	17 th February 2021
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.2(a)	CONFIDENTIAL – MWDC/NACC Regional Drought Resilience Planning Draft Overview		✓
10.3.2(b)	Commonwealth - Future Drought Fund (Drought Resilience Funding Plan 2020 to 2024) Determination 2020		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

An approach has been made from the Mid West Development Commission (MWDC) and Northern Agricultural Catchment Council (NACC) seeking support for a joint funding application to the Regional Drought Resilience Funding Program to develop a Regional Drought Resilience Plan for the shire's Chapman Valley and Northampton, and City of Greater Geraldton areas.

Below is a media Statement from Minister for Agriculture, Drought and Emergency Management, David Littleproud on 1 July 2020 regarding the various programs, one being the Regional Drought Resilience Planning Program:

"Building a drought resilient Australia

1 July 2020

- \$3.9 billion (growing to \$5 billion) investment in the Future Drought Fund
- \$100 million will be available annually for drought resilience projects
- Programs will start to roll out from July 2020

Regional Australia is set to benefit today as the Australian Government gets on with the job of building national wide drought resilience.

The Australian Government has invested \$3.9 billion, which will grow to \$5 billion, in the forward-thinking Future Drought Fund (the Fund).

Minister for Agriculture, Drought and Emergency Management, David Littleproud, said this long-term, sustainable investment will make \$100 million available each year to help our farmers and communities become more prepared for, and resilient to, the impacts of drought.

"Drought is an enduring feature of the Australian landscape. It has economic, environmental and social impacts on our farmers, communities and landscape,"

Minister Littleproud said.

“I’m excited to announce the Future Drought Fund’s programs are starting to roll out from July 2020.

“These programs will give farmers and communities the tools they need to prepare for, manage and sustain their livelihoods during droughts.

“The programs have been developed based on expert advice from the independent Consultative Committee, led by Mr Brent Finlay, a fourth generation farmer, as well as valuable input from communities and industry during last year’s national public consultation tour on the Drought Resilience Funding Plan.

“The programs will help farmers to build resilience and prepare for future droughts.”

“We are funding farm business planning, greater access to information for decision-making, adoption of research and technologies, and building the drought resilience of natural resources such as soil and vegetation in agricultural landscapes.

“Communities will also benefit through improved regional planning, strengthening networks, leadership and community capabilities and small-scale infrastructure projects.

“This is the first suite of programs to be delivered under this initiative initially for one year. We will continue to monitor and adapt programs to make sure they are building resilience and delivering for farmers and the community.

“I expect to make a further announcement on the allocation of the remaining funds after the roll out of these initial programs”.

The Future Drought Fund is an important part of the Government’s Drought Response, Resilience and Preparedness Plan to deliver the support Australian farmers and communities need to be sustainable and productive.

Further details on each program will be available as implementation arrangements are finalised at <http://www.agriculture.gov.au/aq-farm-food/drought/future-drought-fund>

The eight programs, totalling \$89.5 million, are:

*The \$20m **Farm Business Resilience program** will provide farm businesses with training to strengthen their strategic business management skills and develop a farm business plan to build risk management capacity and drought resilience.*

*The \$10m **Climate Services for Agriculture program** will fund the development and delivery of interactive digital ‘climate information services’ for the agriculture sector to assist farmers to make real-time decisions.*

*The \$3m **Drought Resilience Self-Assessment Tool** will provide an online self-assessment tool for farmers to self-identify drought risks based on a range of social, economic and environmental indicators, and take action to build the drought resilience of their farm business.”*

*The \$20.3m **Drought Resilience Research and Adoption program** will establish two regionally located Drought Resilience Adoption and Innovation Hubs, and Innovation Grants will become available to research organisations, private sector, industry, not-for-profit organisations and community groups.*

*The \$15m **Natural Resource Management (NRM) Drought Resilience program** will fund regional NRM bodies to undertake projects to build drought resilience of natural resources on agricultural landscapes, and there will also be grants available to organisations, farmer groups and individuals to undertake NRM projects to build the drought resilience of natural resources on small scales.*

*The \$3.75m **Networks for Building Drought Resilience program** will support community-driven projects that enhance drought resilience and strengthen networks, including small-scale infrastructure projects to make community facilities drought resilient.*

*The \$7.45m **Drought Resilience Leaders program** will develop leadership capability in communities and include a mentoring component to foster uptake of innovative practices to build drought resilience of farmers and their businesses.*

*The \$10m **Regional Drought Resilience Planning** will provide funding to consortia of local councils or equivalent entities to develop Regional Drought Resilience Plans for agriculture and allied industries.*

COMMENT

A majority of the background for this matter is provided in **Attachments 10.3.2(a) & (b)** which outlines the overall program.

On 21 January 2021 the CEO attended a meeting with the Mid West Development Commission CEO (Mike Bowley) and Northern Agricultural Catchment Council CEO (Katherine Allen) to determine if the three local authorities would become partners in submitting, in association with MWDC and NACC, a funding application under the Regional Drought Resilience Program as an overall application for the shires and city areas. It is a condition of the grant for local government authorities to be involved in the program.

The following information was provided by MWDC/NACC for the meeting on the 21 January 2021 regarding the Project:

Proposed key elements of approach to developing a Regional Drought Resilience Plan

- 1. Establish a Technical Working Group (TWG) with Subject Matter Experts (SMEs) to support the process.*
- 2. Conduct a Drought Vulnerability Assessment, which could include development of an agreed regional definition of Drought and Drought Resilience for the 'region'. This process would identify and map out historical incidence, severity and impacts of drought in the region and likely physical, economic and social impacts of drought in the future under climate change scenarios. The vulnerability assessment could be delivered at a level commensurate with available resources. The process would use some combination of desktop review, expert input, community consultation and new research; and should build on other previous and current strategies in related areas (e.g. NEAR Strategy, climate change, water, economic development). The vulnerability assessment then forms the basis of the planning process. This process will also work with other regional development areas to align approaches through the planning process.*
- 3. Develop a Communications and Engagement Plan to ensure a broad cross-section of individuals and stakeholder organisations are engaged and empowered in developing the Plan.*
 - a. A component of the Communications and Engagement Plan will be a robust online presence for the Plan. Initiated in the development phase and ongoing through implementation. This may be incorporated into a "WA Drought" site to be discussed further with MWDC and MWDC and others working in the Future Drought Fund space.*
 - b. Plans should include state and federal aligned metrics to monitor status. May identify pilot projects/demonstrations and an investment framework to use to seek further funding for drought resilience activities.*
- 4. Develop a Drought Resilience Plan. Using expert area consults to identify locally-applicable solutions/responses. These responses would ideally be innovative and transformational, but may also build on existing practices proven to work. Again, this uses some review of existing plans and strategies, expert input, community consultation and new research. Some of the solutions will likely focus on improved natural resource management, but there will a range of*

proposed activities to address triple bottom line outcomes. Specialists will be engaged where required to provide subject matter expertise across Social, Environmental and Economic disciplines.

DRAFT – Steps in the Plan Development Process

- 1. Establish Technical Working Group*
- 2. Communications and Engagement Plan Developed*
- 3. Partners workshop to agree Governance Framework and approach*
- 4. Vulnerability assessment including stakeholder consultation*
- 5. Draft Framework developed*
- 6. Framework Consultation – Partners, Stakeholder and ?broader community*
- 7. Draft Plan released for public comment*
- 8. Public feedback incorporated*
- 9. Final Plan submitted for Federal Endorsement*

For Information – Proposed Partner Organisations

- *MWDC*
- *Shire of Northampton*
- *Shire of Chapman Valley*
- *City of Greater Geraldton*
- *MWDC*
- *NACC NRM*

Initial - Stakeholder organisations – please add to this list

- *Yuna FIG*
- *Northern Agri Group*
- *Mullewa Dryland Farming Group*
- *DWER*
- *DBCA*
- *YMAC – plus any Aboriginal organisations not affiliated with YMAC in the project area*

NACC and MWDC will be seeking funding to develop a regional drought resilience plan in conjunction with the three local government authorities by securing funding from the Regional Drought Resilience Program and utilising WA Government funds already committed to the region via the Chapman Regeneration Project. There are eight (8) farmer demonstration sites within the three (3) local government areas, which are already involved in the Chapman Regeneration Project, which can be leverage as research and development knowledge to inform the drought resilience planning.

Other partners will include agriculture groups, (e.g. Yuna Farm Improvement Group (YFIG), Northern Ag Group (NAG)) being invited as key stakeholders if the funding application is successful.

The meeting outlined the Regional Drought Resilience Program and the first step is simply for the three local government authorities to confirm they will be an involved partner in the application. The application itself will be undertaken by the MWDC and NACC and if the grant is successful they will manage the project (not the LGAs).

The funding available through the Regional Drought Resilience Program is \$1.33million for the whole of the State of Western Australia and if there is more than one project successful then the available projects funds will be apportioned across these projects.

From the information received at the meeting with MWDC & NACC the main role for this Shire is to be a partner to the application only, with the work to be undertaken by MWDC & NACC and the Stakeholder Groups.

The Chief Executive Officer asked the question on the option of looking into the validity of introducing an affordable Multi-Peril Crop Insurance to assist in the future drought proofing of the Agricultural Regions. However; this was considered as not being part of the (or within the scope of) the Regional Drought Resilience Planning Program.

The question was also asked what the future plan is to implement recommendations and outcomes of the Regional Drought Resilience Plan for the three LGAs areas involved. The response was there will be funding available in the future to consider the implementation stage(s) of the Plan; however, this is yet to be determined and will obviously be guided by outcomes of the all Plans across the nation.

As the closure date for expressions of interest in the Program required by was the end of January 2021 the Chief Executive Officer has agreed to partner the MWDC, NACC and other two LGAs in the application and project, subject to Council endorsement at the February 2021 OCM.

STATUTORY ENVIRONMENT

Not applicable

POLICY/PROCEDURE IMPLICATIONS

No existing Shire Policy or Procedure affected.

FINANCIAL IMPLICATIONS

The Commonwealth has allocated \$1.33m to the State of Western Australia for Regional Drought Resilience Planning, with a maximum of \$600,000 allocated to any one single project across a minimum of two local government authority areas.

No cash commitment is required of the LGAs. However, some in-kind contributions may be required (e.g. distribution/communication of the program to our community [i.e. Social Media] waiver of venue hire fees & charges, data sharing, etc.).

Long Term Financial Plan (LTFP):

No effect on LTFP.

STRATEGIC IMPLICATIONS

Ref	Objective	Strategy	Action
1.1	Nurture the sense of community	Development of plans relevant to population needs	Review existing plans and develop new plans as required
		Determine a whole of Shire community integration approach	Advocate a sense of community when opportunity arises.

1.2	Strengthen our advocacy role and regional partnerships to support the provision of local services and facilities	Maintain close relationships with neighbouring shires and regional bodies	Participate in and advocate for regional resource sharing and cross-boundary cooperation.
		Be present in conversations and gatherings related to the provision of essential and desired services for Chapman Valley residents and visitors	Participate in and advocate for regional resource sharing and cross-boundary cooperation.

CONSULTATION

MWDC & NACC have convened meetings with the three local government authorities to discuss the proposed Regional Drought Resilience Program application.

RISK ASSESSMENT

Risk in this instance is considered *Insignificant*.

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

VOTING REQUIREMENTS

Simple Majority.

MOVED: Cr. Royce

SECONDED: Cr. Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council endorse the actions of the Chief Executive Officer in nominating the Shire of Chapman Valley to be a partner in the Regional Drought Resilience Funding Program application submitted by the Mid-West Development Commission and Northern Agricultural Catchment Council.

Voting F6/A0

CARRIED

Minute Reference: 02/21-09

10.3.3 Code of Conduct for Council Members, Committee Members and Candidates

PROPONENT:	State Government of Western Australia
SITE:	Whole of Local Government
FILE REFERENCE:	411.01
PREVIOUS REFERENCE:	Minute Reference: 11/19-9
DATE:	17 th February 2021
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.3(a)	Draft New Code of Conduct for Council Members, Committee Members and Candidates		✓
10.3.3(b)	Existing Code of Conduct - Elected Members		✓
10.3.3(c)	Draft Complaint Lodgement Form (Based on DLGSCI Model)		✓
10.3.3(d)	Local Government (Model Code of Conduct) Regulation, 2021		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Advice has been received from the Department of Local Government, Sport & Cultural Industries (DLGSCI) (on the 3rd February 2021) regarding recently introduced legislation, effective from the same date, 3rd February 2021 i.e.

His Excellency the Governor, in Executive Council, has approved regulations that bring into effect the remaining parts of the Local Government Legislation Amendment Act 2019 (Amendment Act).

On Tuesday, 2 February 2021 the following regulations were gazetted to take effect on Wednesday, 3 February 2021:

- *Local Government (Administration) Amendment Regulations 2021*
- *Local Government (Model Code of Conduct) Regulations 2021*
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021.*

Further information on the new regulations, including explanatory notes and guidelines, are on the department's website.

The DLGSCI states the following on their Website regarding the new legislation dealing with the Local Government (Model Code of Conduct) Regulation, 2021:

The following regulation took effect on 3 February 2021, implementing the remaining parts of the Amendment Act.

- *Local Government (Model Code of Conduct) Regulations 2021 (PDF 607 KB)*
The department acknowledges that there will be an implementation phase of up to three months where local governments must undertake a series of actions to operationalise these regulatory amendments.

Local governments are required to take specific initial actions within three weeks of the regulations taking effect (by 24 February 2021).

It is further expected that local governments adopt the new regulations and any other procedures and processes required for implementation within three months from the regulations taking effect (by 3 May 2021).

The Local Government (Model Code of Conduct) Regulations 2021 (Model Code Regulations) bring into effect sections 48-51 of the Amendment Act by introducing a mandatory code of conduct for council members, committee members and candidates.

The Model Code Regulations provide for:

- *overarching principles to guide behaviour*
- *behaviours which are managed by local governments*
- *rules of conduct breaches which are considered by the Standards Panel.*

The purpose of the Model Code is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for council members, committee members and candidates to clearly reflect community expectations of behaviour and ensure consistency between local governments.

Each local government was previously required to develop their own code of conduct and manage behaviour in accordance with that code. These regulations replace these individual codes by introducing a Model Code that applies to all members and candidates. It also provides for a high-level process to deal with complaints to ensure a more consistent approach between local governments and across the sector. The intent of the Model Code is to address behaviour through education rather than sanctions.

If a council member does not comply with any action required by the local government following a breach of the Model Code, the local government may refer the matter to the Standards Panel as an alleged contravention of a rule of conduct. The Standards Panel has the authority to make binding decisions to resolve minor breaches.

Local governments will be required to prepare and adopt the Model Code within three months of these regulations coming into effect (by 3 May 2021). In adopting the Model Code, local governments can include additional behaviours under Division 3 provided these are consistent with the Model Code.

*Until such time as a local government adopts the Code, the Model Code applies. To begin implementation of the Model Code, as soon as practical (**by 24 February 2021**), local governments must:*

- *appoint a person to receive complaints by either affirming the current complaint officers or appoint a new or additional officer(s), and*
- *approve a form for complaints to be lodged (a template is available for download below).*

COMMENT

Attached are:

- **Attachment 10.3.1(a)** - Draft New Code of Conduct for Council Members, Committee Members and Candidates
- **Attachment 10.3.3(b)** - Existing Code of Conduct - Elected Members
- **Attachment 10.3.3(c)** - Draft Complaint Lodgement Form (Based on DLGSCI Model)
- **Attachment 10.3.3(d)** - Local Government (Model Code of Conduct) Regulation, 2021

The *Local Government (Model Code of Conduct) Regulations 2021* repeals and replaces the *Local Government (Rules of Conduct) Regulations 2007*. In addition to redrafted versions of the previous Rules of Conduct, the Model Code of Conduct includes general principles and behaviours. Complaints of alleged breaches of behavioural requirements must be dealt with by the Local Government.

Local Governments will be required to adopt a Code of Conduct for Council Members, Committee Members and Candidates which incorporates the Model Code of Conduct within three months, in accordance with the new s.5.104

of the Act. Until this time, the Model Code of Conduct will be taken to be the Local Government's adopted Code of Conduct from the 3rd February 2021.

Though the Shire has three months to introduce a Code of Conduct (see **Attachment 10.3.1(a)**) based on the template listed in the new *Local Government (Model Code of Conduct) Regulations 2021*, I have produced a draft, which includes everything stated in the Regulation and adding the existing Shire of Chapman Valley Team Values & Behaviours as Additional Explanatory Notes to the new Code. This is considered acceptable by the DLGSCI as it does not contradict or diminish the requirement of the Regulations.

Under the previous legislation the CEO was appointed as the complaints officer and this is again recommended, however with an additional reference to the Deputy CEO should the CEO not be available, i.e. due to leave etc.

Therefore, the Staff Recommendation is based upon the requirements set under the regulations with the following being required to be adopted by the Council before the 24th February 2021:

- *appoint a person to receive complaints by either affirming the current complaint officers or appoint a new or additional officer(s), and*
- *approve a form for complaints to be lodged (a template is available for download below).*

The Staff Recommendations also includes the adoption of the new Shire of Chapman Valley Code of Conduct for Council Members, Committee Members and Candidates, which is based upon the template provided within the Regulations.

STATUTORY ENVIRONMENT

Local Government (Model Code of Conduct) Regulation, 2021

POLICY/PROCEDURE IMPLICATIONS

Council has an existing Code of Conduct (Elected Members) CP-005 (see **Attachment 10.3.3(c)**) which is no longer relevant from the date the new *Local Government (Model Code of Conduct) Regulation, 2021*, came into effect (i.e. 3rd February 2021).

The Staff Recommendation provides a Draft New Code of Conduct for Council Members, Committee Members and Candidates (see **Attachment 10.3.3(a)**). The new Code will be allocated Policy Number CP-005 to ensure the history of the past & current Codes of Conduct can be recorded.

FINANCIAL IMPLICATIONS

There does not appear to be any significant financial imposition on the organisation for the introduction of the new Code of Conduct for Council Members, Committee Members and Candidates.

Long Term Financial Plan (LTFP):

Nil effect on the LTFP.

STRATEGIC IMPLICATIONS

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

CONSULTATION

The Western Australian Local Government Association (WALGA) and DLGSCI have both undertaken consultation processes seeking feedback for the local government industry on all proposed legislative changes, with the Shire of Chapman Valley making several submission on the plethora of proposed and suggested amendments. The review of the Elected Member Code of Conduct was included in the review and comment processes, with the Shire supporting improvements to the past legislation.

RISK ASSESSMENT

I believe the risk associated with the new legislation is insignificant i.e.

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

VOTING REQUIREMENTS

Simple majority

MOVED: Cr Humphrey

SECONDED: Cr Royce

Suspend standing orders at 9:39am.

**Voting F4/A2
CARRIED
Minute Reference: 02/21-10**

Discussion was undertaken on the item.

MOVED: Cr Davidson

SECONDED: Cr Humphrey

Reinstate standing orders at 9:42am.

**Voting F6/A0
CARRIED
Minute Reference: 02/21-11**

MOVED: Cr. Humphrey

SECONDED: Cr. Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council:

-
1. Adopt the *Shire of Chapman Valley Code of Conduct for Council Members, Committee Members and Candidates* as provided at **Attachment 10.3.3(a)**, replacing the existing Code of Conduct (Elected Members) CP-005.
 2. Appoint the Chief Executive Office to receive complaints as per the provisions of the *Local Government (Model Code of Conduct) Regulations 2021* and should the Chief Executive Officer not be available to receive the complaint then the Deputy Chief Executive Officer be authorised to receive the complaint.
 3. Adopt the *Complaint About Alleged Breach Form* as provided at **Attachment 10.3.3(c)**.

Voting F6/A0

CARRIED

Minute Reference: 02/21-12

M Battilana (Chief Executive Officer) declared a financial interest in Item 10.3.3 and remained in the meeting.

10.3.4 Employee & Contractor Code of Conduct

PROPONENT:	State Government of Western Australia
SITE:	Whole Local Government
FILE REFERENCE:	411.04
PREVIOUS REFERENCE:	Not Applicable
DATE:	17 th February 2021
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.4(a)	Current Employee Code of Conduct		✓
10.3.4(b)	Draft Revised Employee & Contractor Code of Conduct		✓
10.3.4(c)	DLGSCI - LG Employee Code of Conduct Explanatory Notes		✓

DISCLOSURE OF INTEREST

Maurice Battilana – Chief Executive Officer – Financial Interest in relation to Gifts section of Draft Revised Employee & Contractor Code of Conduct.

BACKGROUND

Advice has been received from the Department of Local Government, Sport & Cultural Industries (DLGSCI) (dated the 3rd February 2021) regarding recently introduced legislation, effective from the same date i.e.

His Excellency the Governor, in Executive Council, has approved regulations that bring into effect the remaining parts of the Local Government Legislation Amendment Act 2019 (Amendment Act).

On Tuesday, 2 February 2021 the following regulations were gazetted to take effect on Wednesday, 3 February 2021:

- *Local Government (Administration) Amendment Regulations 2021*
- *Local Government (Model Code of Conduct) Regulations 2021*
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021.*

Further information on the new regulations, including explanatory notes and guidelines, are on the department's website.

COMMENT

Though the DLGSCI is yet to provide a template for the Employee & Contractor Code of Conduct the CEO has been working with the CEO at the Shire of Northampton to develop a Draft Code to cover requirements of the new legislation. A copy of the proposed new Employee & Contractor Code of Conduct is provided at **Attachment 10.3.4(b)** for Council consideration.

A copy of the existing Employee Code of Conduct is also provided at **Attachment 10.3.4(a)** for Council information.

Also provided under separate cover (see **Attachment 10.3.4(c)**) is a copy of the DLGSCI *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021– LG Employee Code of Conduct Explanatory Notes*.

It is stated in the Regulations and the DLGSCI's Explanatory Notes as the CEO being the head of power to establish and amend the Employee & Contractor Code of Conduct i.e.

"5.51A provides the head of power for a CEO to amend the code of conduct. Regulations may prescribe the content of, and other matters in relation to, codes of conduct under this section."

5.51A – Code of Conduct for employees

- (1) *The CEO must prepare and implement a code of conduct to be observed by employees of the local government.*
- (2) *The CEO may amend the code of conduct.*

This has been confirmed by the DLGSCI with the following response to an enquiry made by the CEO i.e.

From: DLGSC Act Review <actreview@dlqsc.wa.gov.au>

Sent: Monday, 8 February 2021 10:51 AM

To: Maurice Battilana <ceo@chapmanvalley.wa.gov.au>; DLGSC Act Review <actreview@dlqsc.wa.gov.au>

Cc: Tony Brown (<tbrown@walga.asn.au>) <tbrown@walga.asn.au>

Subject: RE: Staff Code of Conduct

Good morning Maurice,

5.51A (1) of the Local Government Legislation Amendment Act 2019 requires the CEO to prepare and implement a code of conduct to be observed by employees of the local government.

There is no legislative requirement for the CEO to present an Employee Code of Conduct to council for endorsement, it is an administrative task of the CEO.

While there is no legislative requirement for the CEO to present the Employee Code to council for endorsement, you may still choose to present it to council.

Kind regards

Cameron Taylor

Senior Legislation and Strategy Officer – Local Government
Department of Local Government, Sport and Cultural Industries
246 Vincent Street, Leederville WA 6007
PO Box 329, Leederville WA 6903

Telephone 8 9492 9762

Email Cameron.Taylor@dlqsc.wa.gov.au

Web www.dlqsc.wa.gov.au



Department of
Local Government, Sport
and Cultural Industries

As the current Employee Code of Conduct forms part to the Shire's Policy & Procedures Manual I have decided to present the new draft Employee & Contractor Code of Conduct for Council to receive and acknowledge (not endorse) the establishment and introduction of the new Code.

STATUTORY ENVIRONMENT

POLICY/PROCEDURE IMPLICATIONS

Existing Corporate Management Procedure CMP-026 will be amended to include the new draft Employee & Contractor Code of Conduct as shown at **Attachment 10.3.4(b)**.

FINANCIAL IMPLICATIONS

There does not appear to be any significant financial imposition on the organisation for the introduction of the new Employee & Contractor Code of Conduct.

Long Term Financial Plan (LTFP):

Nil effect on the LTFP.

STRATEGIC IMPLICATIONS

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

CONSULTATION

The Western Australian Local Government Association (WALGA) and DLGSCI have both undertaken consultation processes seeking feedback for the local government industry on all proposed legislative changes, with the Shire of Chapman Valley making several submission on the plethora of proposed and suggested amendments, including Codes of Conduct.

RISK ASSESSMENT

I believe the risk associated with the new legislation is insignificant i.e.

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

VOTING REQUIREMENTS

Simple majority.

MOVED: Cr. Batten

SECONDED: Cr. Warr

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council receive and acknowledge the introduction of a new Employee & Contractor Code of Conduct established by the Chief Executive Officer as required by the newly introduced *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*, which will replace the content of the existing Employee Code of Conduct (i.e. CMP-026).

Council En Bloc Resolution
Voting F6/A0
CARRIED
Minute Reference: 02/21-02

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

MOVED: Cr Batten

SECONDED: Cr Humphrey

Council deal with late item regarding establishment of free a public Wi-Fi service to the Coronation Beach Nature Based Camping Ground.

Voting F6/A0

CARRIED

Minute Reference:02/21-13

Councillor Trevor Royce declared a Proximity Interest in the matter and left the meeting at 9.44am

12.1 FREE WI-FI CORONATION BEACH

Cr Batten presented a Late Agenda Item regarding the establishment of free public Wi-Fi to the Coronation Beach Nature Based Camping Ground.

MOVED: Cr. Batten

SECONDED: Cr. Warr

COUNCIL RESOLUTION

1. Council to support public access to free Wi-Fi at Coronation Beach, with Caretaker and Emergency Services having priority access to the internet & Wi-Fi service (i.e. segregating the Shire Plan to ensure the Caretaker and Shire operational needs have priority over all public free Wi-Fi use).

The Coronation Beach free Wi-Fi proposal will initially be at no extra cost to a Shire's established Plan with an Internet Service Provider for the Coronation Beach internet & Wi-Fi operational needs, yet this may need to be reviewed periodically as part to operational budget for this area.

2. Council to work on an agreed pathway forward by adopting a strategic approach to telecommunication infrastructure within our Shire

Voting F5 /A0

CARRIED

Minute Reference: 02/21-14

Councillor Trevor Royce returned to the meeting at 9.58am

13.0 DELEGATES REPORTS

COUNCILLOR	ITEM
Cr Farrell	Minister MacTiernan Oakajee Hydrogen Projects update; Australia Day Breakfast, Pauline Forrester Freeman Event, CEO Performance Appraisal.
Cr Batten	Australia Day Breakfast
Cr Royce	Met with DFES to seek clarification on Total Fire Bans
Cr Warr	For A Better Chapman Valley committee meeting

14.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

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

MOVED: Cr. Warr

SECONDED: Cr. Humphrey

Council close the meeting to the public for the following Agenda Items in accordance with Section 5.23(2)(a) the Local Government Act, 1995, as it is considered these are matters affect an employee:

15.1 – Chief Executive Officer’s Performance Appraisal

15.2 – Deputy Chief Executive Officer – Renewal of Employment Contract

Voting F6 /A0

CARRIED

Minute Reference: 02/21-15

Meeting closed to the public 10:14am

M Battilana, S Lancaster, D Raymond, B Raymond left chambers at 10.14am

15.1 CHIEF EXECUTIVE OFFICER’S ANNUAL PERFORMANCE APPRAISAL & REMUNERATION REVIEW

MOVED: Cr Batten

SECONDED: Cr Farrell

COUNCIL RESOLUTION/PANEL RECOMMENDATION

Council endorse the Chief Executive Officer's performance over the past twelve months in accordance with the following Review Panel’s comments and recommendations:

1. Maurice continues to carry out his job with a high standard of professionalism. He keeps the councilors informed of their duties and obligations whilst keeping up to date with the local government act and welcomes feedback from OAG so as to continually improve ever changing compliance. He keeps himself across the staff and things that occur with the staff to keep a smooth functioning operation. COVID 19 has certainly been trying to the shire and staff as well as Maurice having some personal matters to contend with, he continues to do his job well. Some areas for Maurice to work on have been discussed with him as part of the review process and only considered minor.
2. Offer Maurice a further 5-year contract effective from the 26th August 2021 if this is legally possible under newly introduced legislation, otherwise the existing employment contract run until its expiry date (26th August 2023) at which time a recruitment process be undertaken for the position of Chief Executive Officer.
3. Remuneration be maximum allowable rate as per previous contract arrangements.

Voting F6/A0

CARRIED

Maurice Battilana returned to chambers at 10.25am

15.2 DEPUTY CHIEF EXECUTIVE OFFICER'S RENEWAL OF EMPLOYMENT CONTRACT

MOVED: Cr Warr

SECONDED: Cr Farrell

COUNCIL/STAFF RESOLUTION

Council endorse the contract for the extension of employment of Simon Lancaster to the position of Deputy Chief Executive Officer for the Shire of Chapman Valley for the period of five years commencing on the 16th November 2021 in accordance with section 5.37 and 5.39 of the *Local Government Act 1995*.

Voting F6/A0

CARRIED

Minute Reference: 02/21-17

MOVED: Cr. Batten

SECONDED: Cr. Warr

Council re-open the meeting to the public 10.39am

Voting F6/A0

CARRIED

Minute Reference: 02/21-18

Meeting was adjourned at 10.41am

Meeting reconvened at 10.47am

Beau Raymond, Simon Lancaster, Geoff Vivian (Media) returned to chambers at the time meeting was reconvened.

PRESENTATION

Rebecca Davidson Mid West Development Commission (MWDC) gave a presentation to Council on the proposed Oakajee Renewable Hydrogen Project

Dianne Raymond returned to chambers 11.02am

Rebecca Davidson MWDC left chambers 11.22am.

16.0 CLOSURE

The President thanked Elected Members and Staff for their attendance and closed the meeting at 11.22am