

ORDINARY COUNCIL MEETING

CONFIRMED MINUTES

9:00am Wednesday
15/09/2021

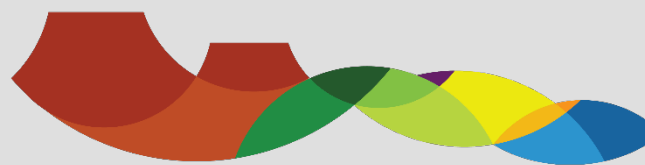
Nabawa Council Chambers

SEPTEMBER 2021

SHIRE OF CHAPMAN VALLEY

Maurice Battilana

CHIEF EXECUTIVE OFFICER



SHIRE OF

Chapman Valley

Love the rural life!

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

DISCLAIMER



SHIRE OF
Chapman Valley
love the rural life!

No responsibility whatsoever is implied or accepted by the Shire of Chapman Valley for any act, omission or statement or intimation occurring during Council Meeting. The Shire of Chapman Valley disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

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

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

Maurice Battilana
CHIEF EXECUTIVE OFFICER

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ORDER OF BUSINESS

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The President, Cr Farrell welcomed Elected Members and Staff and declared the meeting open at 9:00am.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil

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

3.1 Attendees

Elected Members	In	Out
Cr Anthony Farrell (President)	9:00am	1:57pm
Cr Kirrilee Warr	9:00am	1:57pm
Cr Peter Humphrey	9:00am	1:57pm
Cr Darrell Forth	9:00am	1:57pm
Cr Beverley Davidson	9:00am	1:57pm
Cr Nicole Batten	9:00am	1:57pm

Officers	In	Out
Maurice Battilana, Chief Executive Officer	9:00am	1:57pm
Simon Lancaster, Deputy Chief Executive Officer	9:00am	1:57pm
Dianne Raymond, Manager Finance & Corporate Services	9:00am	1:57pm
Beau Raymond (Minute Taker)	9:00am	1:57pm

Visitors	In	Out
John Royce	9:00am	9:12am
Luke Puglia	9:00am	9:09am
Tony Puglia	9:00am	9:09am
Pip Brown (Western Power)	9:25am	10:16am
Beth Winter (Western Power)	9:25am	10:16am
Marg Hemsley (Risk ID)	10:44am	12:13pm

3.2 Apologies

Elected Members
Cr Trevor Royce

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

Elected Members

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)

MOVED: Cr Forth

SECONDED: Cr Batten

Cr Davidson be approved leave of absence from the October 2021 OCM.

Voting F6/A0

CARRIED

Minute Reference: 09/21-01

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
Nil			

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

Western Power 9.30am – 10am

Marg Hemsley 10.45 – 12.15pm

7.3 Deputations

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

MOVED: Cr Forth

SECONDED: Cr Davidson

8.1 Ordinary Meeting of Council held on Wednesday 18th August 2021

The Minutes of the Ordinary Meeting of Council held Wednesday 18th August 2021 be confirmed as true and accurate with the following amendment to Minute Reference 08/21-18:

- Change Voting from “F0/A0” to “F6/A0”

Voting F6/A0

CARRIED

Minute Reference: 09/21-02

9.0 ITEMS TO BE DEALT WITH EN BLOC

Nil

10.0 OFFICERS REPORTS

10.1

Deputy Chief Executive Officer

10.1 AGENDA ITEMS

- 10.1.1 Proposed Relocation Residence & Outbuilding (Building Envelope Alteration)**
- 10.1.2 Proposed Poultry Processing Unit**
- 10.1.3 Proposed Outbuilding**
- 10.1.4 Shire of Chapman Valley Local Planning Strategy**

10.1.1 Proposed Relocated Residence & Outbuilding (Building Envelope Alteration)

PROPONENT:	R. Stent for L. Puglia
SITE:	60 (Lot 82) Murphy-Norris Road, Narra Tarra
FILE REFERENCE:	A2104
PREVIOUS REFERENCE:	Nil
DATE:	7 September 2021
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.1(a)	Application & Carney Hill Estate Structure Plan		✓
10.1.1(b)	Received Submission		✓
10.1.1(c)	Applicant's correspondence & amended Site Plan		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application for a second-hand dwelling and outbuilding upon 60 (Lot 82) Murphy-Norris Road, Narra Tarra outside of the building envelope shown upon the Carney Hill Estate Structure Plan.

The application has been advertised for comment and an objection was received.

The applicant has submitted an amended site plan following the advertising period relocating the proposed site of the outbuilding.

This report recommends approval of the dwelling as per the originally submitted site plan and the approval of the outbuilding as per the amended site plan.

COMMENT

Lot 82 is a 24.7561ha property located on the southern side of Murphy-Norris Road, and located 500m east of the Chapman Valley Road intersection. The property is largely cleared excepting some vegetation upon the more steeply sloping areas of the property and a strip of trees running parallel to Murphy-Norris Road.

Lot 82 has a 243.087m frontage to Murphy-Norris Road, and the property slopes gradually upwards for the initial 300m horizontal distance from the 145m contour at the north/road end of the property to the 160m contour. The residence is generally around the 155m contour height. The property then rises steeply across the next 150m horizontal distance from the 160m contour to the 190m contour, and the south-east/rear of Lot 302 is contained in a flat topped mesa area.

At time of subdivision, the developer of the Carney Hill Estate nominated a 100m x 100m building envelope generally between the 145m and 150m contours.

Figure 10.1.1(a) – Location Plan for 60 (Lot 82) Murphy-Norris Road, Narra Tarra



Figure 10.1.1(b) – Aerial photograph of 60 (Lot 82) Murphy-Norris Road, Narra Tarra



The development history for the property is as follows:

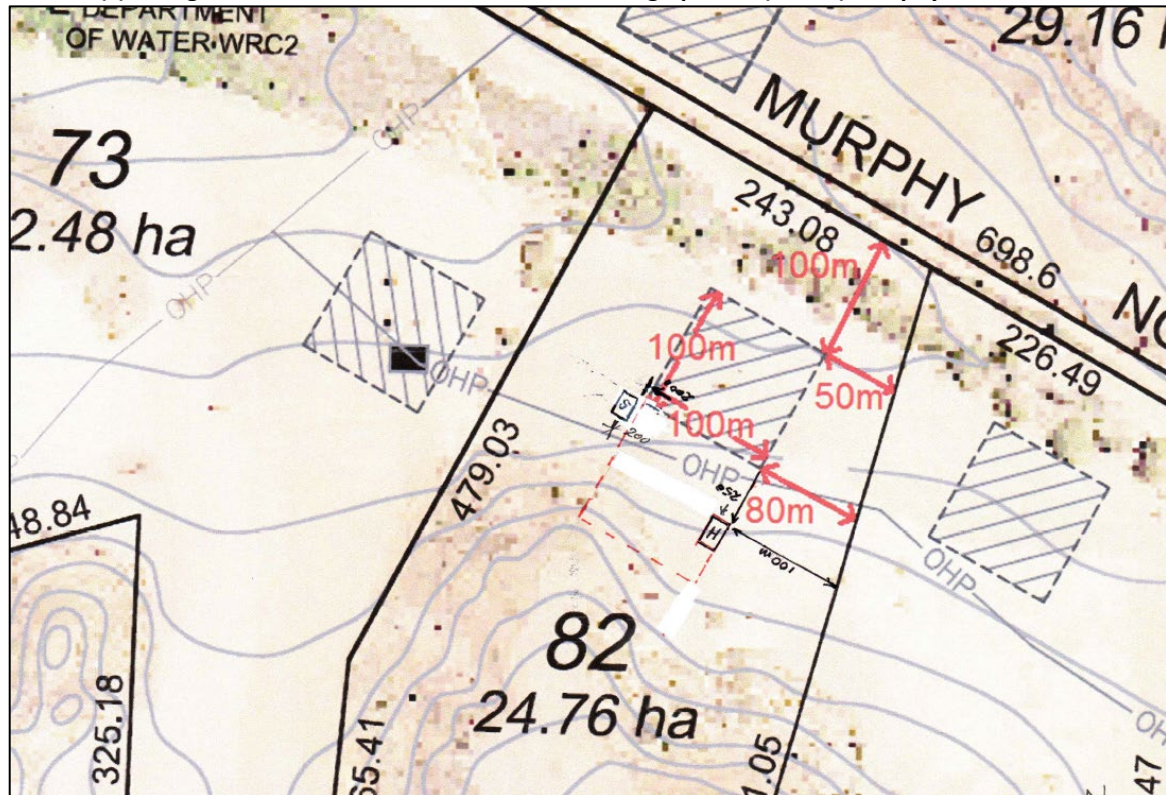
13 November 2009	Gazettal of Scheme Amendment No.37 that rezoned the Carney Hill Estate.
16 December 2009	Council adopted the Carney Hill Estate Subdivision Guide Plan that designated a 1ha building envelope for each proposed lot, including Lot 82;
7 April 2010	WAPC approved Carney Hill Estate subdivision application and initial 2 stages subsequently created;
7 July 2014	WAPC approved renewal of Carney Hill Estate subdivision application;
21 September 2016	WAPC approved DP406905 that created Lot 82 as part of Carney Hill Estate Stage 3;
17 August 2020	Applicant purchased Lot 82 from subdivider;
23 April 2021	Shire responded to applicant's enquiry and provides copy of building envelope plan, building envelope policy, second-hand buildings policy, and planning, building and septic application forms;
18 June 2021	Applicant met with Shire staff to discuss application;
23 June 2021	Shire responded to applicant's enquiry and provides copy of building envelope plan, building envelope policy and planning application form;
20 July 2021	Applicant's private building certifier lodged septic application;
22 June 2021	Applicant commenced siteworks, second-hand residence subsequently placed on-site;
28 July 2021	Shire advised the applicant's private building certifier that the septic application is unable to be determined at this time as the proposed location for the associated building is outside of the building envelope. Shire provides copy of building envelope plan, building envelope policy, second-hand buildings policy and planning application form. Shire also advises of the penalties for commencement of development without approval and requests lodgement of planning application to avoid need for issuing of Directions Notice;
30 July 2021	Application for residence and shed outside of building envelope received;
2 August 2021	Applicant advised that application will be advertised for comment;
3 August 2021	Advertising commenced;
27 August 2021	Advertising concluded and 1 objection received;
30 August 2021	Shire advised applicant and respondent that application would be presented to 15/9/21 Council meeting. Applicant provided with opportunity to respond to received submission;
7 September 2021	Applicant submitted revised site plan and supporting correspondence.

The application is for a second-hand, single storey, timber framed, 4 bedroom, 2 bathroom residence with a floor area of 181.755m² that has already been placed on-site. The originally submitted site plan indicated that the residence would be 250m from the front property boundary and 100m from the nearest (eastern) side boundary, this would place it 50m to the rear of/outside the building envelope.

The application is also for a second-hand 10m x 20 (200m²) outbuilding with a wall height of 4.5m, a total height of 6m and galvanised custom orb cladding. The application as originally lodged sought to site the outbuilding 200m from the front property boundary and 200m from the eastern side property boundary, this would result in the outbuilding being 50m forward/north of the residence, and marginally outside of/south-west of the building envelope.

A copy of the originally received application has been provided as **separate Attachment 10.1.1(a)**.

Figure 10.1.1(c) – Original Site Plan for Residence & Outbuilding upon 60 (Lot 82) Murphy-Norris Road, Narra Tarra



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

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

4.2 LOCATION OF BUILDINGS AND STRUCTURES

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

In this regard areas of exclusion has been identified in order to protect existing vegetation and encourage the maintenance and enhancement of rural landscape amenity along Chapman Valley Road, which is an important tourist road and part of the Shire's heritage trail. Furthermore, it is unlikely the Council will support the placement of buildings on hill tops where there is a perceived detrimental effect the broader amenity and scenic qualities of the Flat Top Moresby Ranges." (Amdt 37, page 14)

Whilst the residence is sited in a location where it is visible to passing vehicles along the Chapman Valley Road, which is identified as a Primary Distributor Road in the Main Roads WA network and is also a tourism drive with a high level of scenic appeal, the location is not set against the skyline and the visual impact can be reduced through screening landscaping.

Figure 10.1.1(d) – View looking south-east from Chapman Valley Road towards Lot 82 Murphy-Norris Road



Figure 10.1.1(e) – View looking south-east from Murphy-Norris Road towards residence upon Lot 82



Figure 10.1.1(f) – View looking south-west from Murphy-Norris Road with residence upon Lot 82 to the right and neighbouring residence to the left



STATUTORY ENVIRONMENT

60 (Lot 82) Murphy-Norris Road, Narra Tarra is zoned 'Rural Smallholding 2' under the Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme') the objectives for which are listed in Table 1 as being:

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

The proposed development would meet with the definition of 'Second Hand Dwelling' which is listed by the Scheme as an 'A' (i.e. advertised) use in the 'Rural Smallholding' zone, which “means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions.”

Lot 82 also falls within the 'Special Control Area 2 – Moresby Range Landscape Protection Area' for which the Scheme notes:

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

Area 2, the local government shall give consideration to the purpose of the Special Control Area.	<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> <ul style="list-style-type: none"> (a) The siting of the proposed development; (b) The design and layout of the proposed development; (c) The materials and finishes to be used in the proposed development; (d) The protection of remnant native vegetation or re-vegetation located on the site; (e) The installation and maintenance of vegetation to provide for the visual screening of proposed development; and/or (f) The installation and maintenance of vegetation, retaining walls or other works to prevent erosion.
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The Scheme also notes the following relevant to this application:

“37 Appearance of land and buildings

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

“40 Building envelopes

- (1) *Where a building envelope is identified on a structure or fire management plan, all development shall be contained within the designated envelope area.*
- (2) *No development of any structures shall occur within any area/s identified as ‘Development Exclusion Area’, ‘Re-vegetation Area’, ‘Remnant Vegetation’ or similar on the structure or fire management plan;*
- (3) *Notwithstanding the requirements of Clause 62 of the deemed provisions, where a building envelope exists on a particular lot an application for development approval to change or relocate the building envelope shall be accompanied by relevant building plans and information addressing visual amenity, privacy and screening, vegetation loss, access, and proximity to natural features.*
- (4) *In considering an application to relax the requirements of subclause (2) and (3), the local government shall, in addition to the general matters set out in Clause 67 of the deemed provisions, give particular consideration to:*
 - (a) *unacceptable visual clutter, especially in elevated areas of high landscape quality or visually exposed locations; and*
 - (b) *unnecessary clearing of remnant native vegetation; and*
 - (c) *visual obtrusiveness and/or impact on an adjoining property by way of privacy, noise, odour or light spill; and*
 - (d) *suitability for landscape screening using effective screening vegetation; and*
 - (e) *compliance with the land-use, setback, building height, development exclusion, vegetation protection, bushfire requirements and other pertinent provisions of the Scheme and relevant local planning policy.”*

“Schedule 5 - Rural Smallholding

(1) Structure Plan

-
- (a) *Subdivision, development and land use shall generally be in accordance with a structure plan as adopted by the local government and the Western Australian Planning Commission in accordance with Part 4 of the deemed provisions;*
 - (b) *Subdivision, development and land-use shall generally be in accordance with any other matters outlined on the structure plan; and*
 - (c) *In addition to such other provisions of the Scheme as may affect it, any land that is included in a Rural Residential zone or Rural Smallholding zone shall be subject to those provisions as may be specifically set out against it in Schedules 6 or 7.*
- (2) *Buildings*
- (a) *All buildings shall be sited in accordance with the setback requirements specified in the Scheme except where building envelopes are shown on a structure plan or local development plan. Where building envelopes are shown, all buildings and effluent disposal systems shall be located within that envelope.*
 - (b) *All buildings constructed on the land shall be sympathetic to existing landscape features, predominantly landform, vegetation and amenity in terms of their design, height, location, material and cladding colours.”*

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;*
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;...*
- ...(w) the history of the site where the development is to be located;*
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) any submissions received on the application...*
- ...(zb) any other planning consideration the local government considers appropriate.”*

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

POLICY/PROCEDURE IMPLICATIONS

Schedule 2 Part 2 Division 2 Clauses 3-6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides for Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area.

The Shire of Chapman Valley Local Planning Policy 5.1 – Building Envelopes contains the following objectives:

- “3.1 To provide guidance with respect to the amendment of a building envelope (relocation, expansion) that will not lead to unacceptable impacts on surrounding properties.*
- 3.2 To provide criteria by which the amendment of a building envelope should be considered to assist in protecting the integrity of the application of building envelopes.*

-
- 3.3 *To provide guidance in relation to the information required to be submitted as part of an application for the amendment of a building envelope.”*

Policy 5.1 also sets the following Policy Statement:

- “6.1 In considering an application to relax the development standards pursuant to Section 40 of its Local Planning Scheme, the Local Government will give particular consideration to:*
- 6.1.a justification for the proposed amendment.*
 - 6.1.b the secondary nature of the development should the application be to site a building/s outside of the envelope (e.g. horse stables, bore sheds).*
 - 6.1.c unacceptable visual clutter, especially in elevated areas of high landscape quality or visually exposed locations, such as the edge of hill or mesa tops within prominent parts of the Moresby Range.*
 - 6.1.d unnecessary clearing of remnant native vegetation.*
 - 6.1.e visual obtrusiveness and/or impact on an adjoining property by way overlooking, noise, odour or light spill.*
 - 6.1.f suitability for landscape screening using effective screening vegetation and the availability of a proven water supply for this purpose.*
 - 6.1.g use of materials and colours to assist in softening any perceived visual impact.*
 - 6.1.h compliance with the land-use, setback, building height, development exclusion, vegetation protection, bushfire requirements and other pertinent provisions of the Local Planning Scheme and associated Planning Policies.*
- 6.2 Building envelopes are generally imposed at the time of rezoning or subdivision to provide an area in which buildings upon a property will be clustered and provides an understanding for surrounding landowners of the potential location of future built form. Whilst this Policy provides guidelines for an application to be submitted to amend a building envelope it should not be construed that approval will be granted with each application assessed on its individual merits.”*

The Shire of Chapman Valley Local Planning Policy 1.5 – Second-hand and Repurposed Buildings contains the following objectives:

- “3.1 To ensure that any development proposing to use a second hand building or repurposed building or second hand cladding material meets acceptable aesthetic and amenity requirements in the locality for which it is proposed.*
- 3.2 To ensure that any second hand building or repurposed building or second hand cladding does not detract from an existing (or reasonably desired) streetscape.*
- 3.3 To enable the local government to retain such monies (bonds) to ensure the desired standard of development is achieved.*
- 3.4 To address the issue of exposure risks from asbestos cement cladding.”*

Policy 1.5 also sets the following Policy Statement:

- “6.1 Buildings (and materials) that are second hand or repurposed are, in some instances, of poor condition and as such the Local Government may impose conditions to ensure the building presentation is of an acceptable standard to enhance the streetscape appearance. Such conditions may include (but are not limited to) the following:*
- 6.1.a Need for additional setbacks over and above the prescribed minimum and the need for screening/landscaping.*
 - 6.1.b A bond and agreement to ensure the external appearance of the development has been completed to the approval of the Local Government.*
 - 6.1.c The space between the ground level and the floor level being suitably enclosed.*
 - 6.1.d The roof and/or walls being re-clad in materials and colours, and/or re-painted in colours, that are consistent or complementary in colour with the surrounding natural landscape features or desired streetscape.*
 - 6.1.e The required works are to be completed within a specified time frame to ensure the building presentation is of an acceptable standard.*

-
- 6.2 *Unless specific approval is given, all external asbestos cement cladding must be removed and replaced with new material prior to the relocation of a transported building to its new site.*
 - 6.3 *Prior to the issue of any building permit for a second hand or repurposed building the Local Government shall require the lodging of:*
 - 6.3.a *a bond, of at least 5% of the estimated value of an equivalent new building, to a maximum of \$5,000 and minimum of \$1,000.*
 - 6.3.b *agreement, signed by the applicant(s) that the bond will be forfeited to the Local Government if the approved works are not carried out within the approved timeframe indicated.*
 - 6.3.c *bond moneys will only be refunded (if not forfeited) after works required to prevent forfeiture have been carried out to the satisfaction of the Local Government."*

Shire of Chapman Valley Local Planning Policy 1.4 – Outbuildings has the following objectives:

- 3.1 *To alter the deemed to comply provisions of the R-Codes for Outbuildings.*
- 3.2 *To provide a clear definition of what constitutes an 'Outbuilding'.*
- 3.3 *To ensure that Outbuildings are not used for habitation, commercial or industrial purposes by controlling building size and location.*
- 3.4 *To limit the visual impact of Outbuildings.*
- 3.5 *To encourage the use of outbuilding materials and colours that complement the landscape and amenity of the surrounding area.*
- 3.6 *To ensure that the Outbuilding remains an ancillary use to the main dwelling or the principle land use on the property."*

The Outbuildings Policy does not set a maximum height or floor area for outbuildings in the 'Rural Smallholdings' zone where lots are greater than 4ha. Policy 1.4 does not require that an outbuilding be setback behind the front building line of the residence upon lots greater than 4ha, instead requiring that:

- 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."*

Policy 1.4 also notes that:

- 6.8.a *The use of uncoated metal sheeting (i.e. zincalume or corrugated iron) is only supported upon land zoned 'Rural Smallholdings' or 'Rural'."*

FINANCIAL IMPLICATIONS

Nil

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Local Planning Strategy identifies Lot 82 as being located within Precinct No.3-Chapman Valley the vision for which is "A diverse range of rural pursuits and incidental tourist developments that complement the sustainable use of agricultural resources".

The Strategy lists the following precinct objectives of relevance in the assessment of this application:

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

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 Scheme Zoning table requires that applications for second-hand dwellings in the 'Rural Smallholdings' zone shall be advertised for comment.

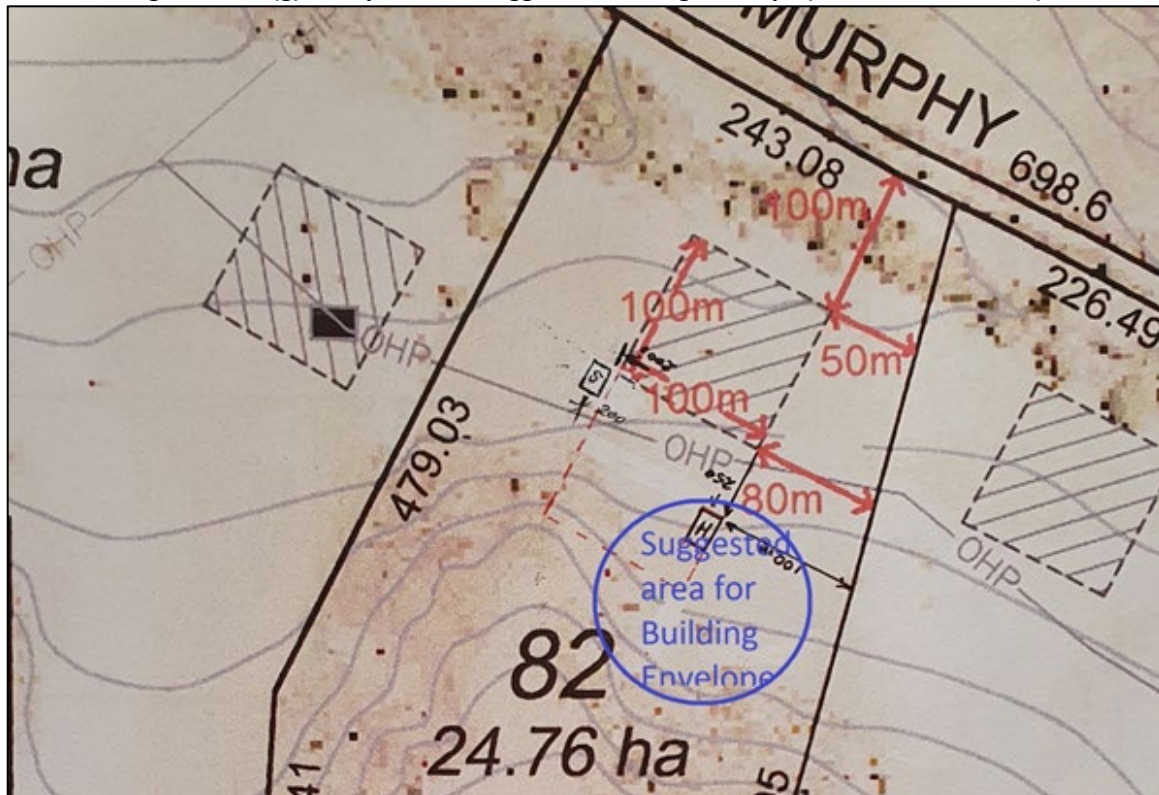
Section 7.0 of the Shire's 'Building Envelopes' Local Planning Policy notes that an application seeking to relocate, remove or expand a building envelope may be advertised to surrounding landowners prior to being placed before a meeting of Council for consideration.

Section 7.0 of the Shire's 'Second-Hand & Repurposed Buildings' Local Planning Policy also notes that an application for a second-hand or repurposed building shall be advertised to surrounding landowners.

The Shire wrote to the 6 surrounding landowners on 3 August 2021 providing details of the application and inviting comment upon the proposal prior to 27 August 2021.

At the conclusion of the advertising period 1 submission had been received, objecting to the application, and this has been provided as **separate Attachment 10.1.1(b)**. The submission, amongst other issues, objected to the proposed location of the outbuilding and provided a suggested alternate building envelope that would require the outbuilding to be sited behind the residence.

Figure 10.1.1(g) – Respondent's suggested building envelope (shown as blue circle)



The applicant was provided with a redacted copy of the submission and the opportunity to respond to the issues raised. The applicant has submitted correspondence, provided as **separate Attachment 10.1.1(c)** that includes a revised site plan seeking to now locate the outbuilding to the rear/south of the residence and an alternate building envelope.

Figure 10.1.1(h) – Applicant's amended site plan and suggested building envelope (shown in red outline)



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:

- 1 Grant formal planning approval for the siting of the second-hand dwelling upon 60 (Lot 82) Murphy-Norris Road, Narra Tarra subject to compliance with the following conditions:
 - 1a The dwelling shall be in accordance with the approved plans as contained in **Attachment 10.1.1(a)** and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
 - 1b 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.

-
- 1c The addition of a verandah to the front (northern) elevation of the dwelling and the installation of skirting between the floor level and ground level, that are consistent or complementary in colour with the dwelling and the surrounding natural landscape features, and to a finish, to the approval of the local government.
 - 1d The installation and maintenance of landscaping between the dwelling and the eastern property boundary for the purposes of screening the dwelling to the approval of the local government.
 - 1e The laying of all water pipes under ground to a minimum depth of 300mm to better withstand the effects of a bush fire.
 - 1f The required works (inclusive of verandah, skirting and landscaping) are to be completed to the approval of the local government within 12 months of the Council determination (i.e. prior to 15 September 2022).
 - 1g A bond of \$1,000 must be lodged by the applicant with the Shire that will be returned upon completion of the requirements pertaining to the abovementioned conditions within a period of 12 months, and in the event that the works described in the application are not carried out within the 12 month timeframe the bond shall be forfeited to the Shire.

Note: In regards to condition 1g should the bond be forfeited then Shire staff will present a report to Council for its consideration outlining how the forfeited bond monies should be expended to address the outstanding works/conditions.

- 1h The dwelling must be in accordance with Australian Standard 3959 – Construction of Buildings in Bush Fire Prone Areas, and landscaping and vegetation upon the property must be maintained in accordance with the Asset Protection Zone requirements as contained in the Department for Planning, Lands and Heritage’s *Guidelines for Planning in Bushfire Prone Areas*.
- 2 Grant formal planning approval for the siting of the outbuilding upon 60 (Lot 82) Murphy-Norris Road, Narra Tarra subject to compliance with the following conditions:
- 2a The outbuilding shall be in accordance with the location upon the property as contained in the applicant’s revised site plan provided as **Attachment 10.1.1(c)** (i.e. located to the rear/south of the residence as viewed from Murphy-Norris Road) and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
 - 2b 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.
 - 2c The installation and maintenance of landscaping between the outbuilding and the eastern property boundary for the purposes of screening the outbuilding to the approval of the local government.
- 3 Refuse the application for an amended building envelope as contained in the applicant’s revised site plan provided as **Attachment 10.1.1(c)** as it is a significant increase to the current building envelope area.

Note: Council advise that it would give further consideration to a new application for a revised building envelope that was reduced in area and provided further information in relation to the type and scale of buildings being sought. The application would need to be accompanied by a plan that had due regard for the requirements of Shire of Chapman Valley Local Planning Policy 5.1 Building Envelopes and Part 8 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the applicant may wish to engage the services of a professional draftsman to assist with this.

- 4 The applicant is advised that if they are 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.

AMENDMENT

MOVED: Cr Humphrey

SECONDED: N/A

Change Item 1g be amended as follows:

- 1g A bond of \$5,000 must be lodged by the applicant with the Shire that will be returned upon completion of the requirements pertaining to the abovementioned conditions within a period of 12 months, and in the event that the works described in the application are not carried out within the 12 month timeframe the bond shall be forfeited to the Shire.

Amendment lapsed due to lack of a seconder

Substantive motion was then discussed and put to the vote.

Voting F6/A0

CARRIED

Minute Reference: 09/21-03

L Puglia & T Puglia left the meeting at 9:09am.

10.1.2 Proposed Poultry Processing Unit

PROPONENT:	D. Havelberg
SITE:	266 (Lot 61) Murphy-Norris Road, Narra Tarra
FILE REFERENCE:	A1279
PREVIOUS REFERENCE:	07/08-9 & 03/12-6
DATE:	6 September 2021
AUTHOR:	Simon Lancaster, Deputy CEO

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.2(a)	Application		✓
10.1.2(b)	Red Hill Homestead Heritage Inventory entry		✓
10.1.2(c)	Received submissions		✓

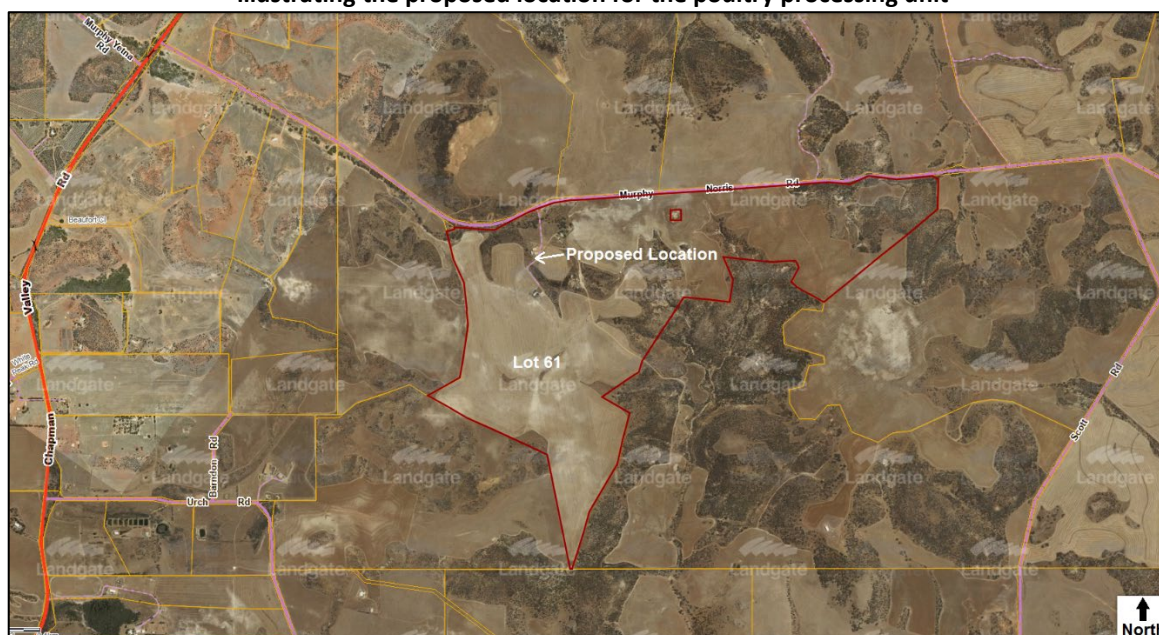
DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application to site a mobile poultry processing unit upon 266 (Lot 61) Murphy-Norris Road, Narra Tarra. The application has been advertised for comment and 3 submissions from state government agencies offering technical comment were received. This report recommends approval of the application.

Figure 10.1.2(a) – Location Map of 266 (Lot 61) Murphy-Norris Road, Narra Tarra illustrating the proposed location for the poultry processing unit



COMMENT

Lot 61 is a 264.2871ha property located 2km east of the Murphy-Norris Road and Chapman Valley Road intersection. The property is largely cleared and used for cropping purposes with pockets of remnant vegetation upon the more steeply sloping areas of the property.

The poultry processing activities would be contained within a refitted refrigerated truck trailer that would be located 275m south of the Murphy-Norris Road behind existing farm sheds. The unit would be sited 200m north of the main farmhouse and 200m south-west of the Red Hill Homestead.

Figure 10.1.2(b) – Proposed location for poultry processing unit upon 266 (Lot 61) Murphy-Norris Road, Narra Tarra



A copy of the application has been provided as **separate Attachment 10.1.2(a)** which includes site and floor plans, photographs of the trailer and processing information.

A copy of the entry for Red Hill Homestead from the Shire of Chapman Valley Heritage Inventory has been provided as **separate Attachment 10.1.2(b)**.

The applicant seeks approval to operate the poultry farm with mobile outdoor pens, producing organic fed poultry that would be processed, packed and refrigerated on-site, then transported to retailers and markets, there would not be any on-farm sales.

The processing unit would initially operate 1-2 days a month between 7:00am-7:00pm, expanding ultimately should the development prove successful to operate 1-2 days a fortnight and processing up to 10,000 birds per year.

Processing waste would initially be contained in enclosed containers and then composted on-farm through layering plant material (e.g. wood chips, chaff, straw, grass clipping, garden waste) with the processing waste centred in the pile to prevent vermin accessing it, along with a perimeter fence. Following a decomposition process of 4-8 weeks the compost would be spread onto the farm paddocks.

Figure 10.1.2(c) – Proposed Poultry Processing Unit

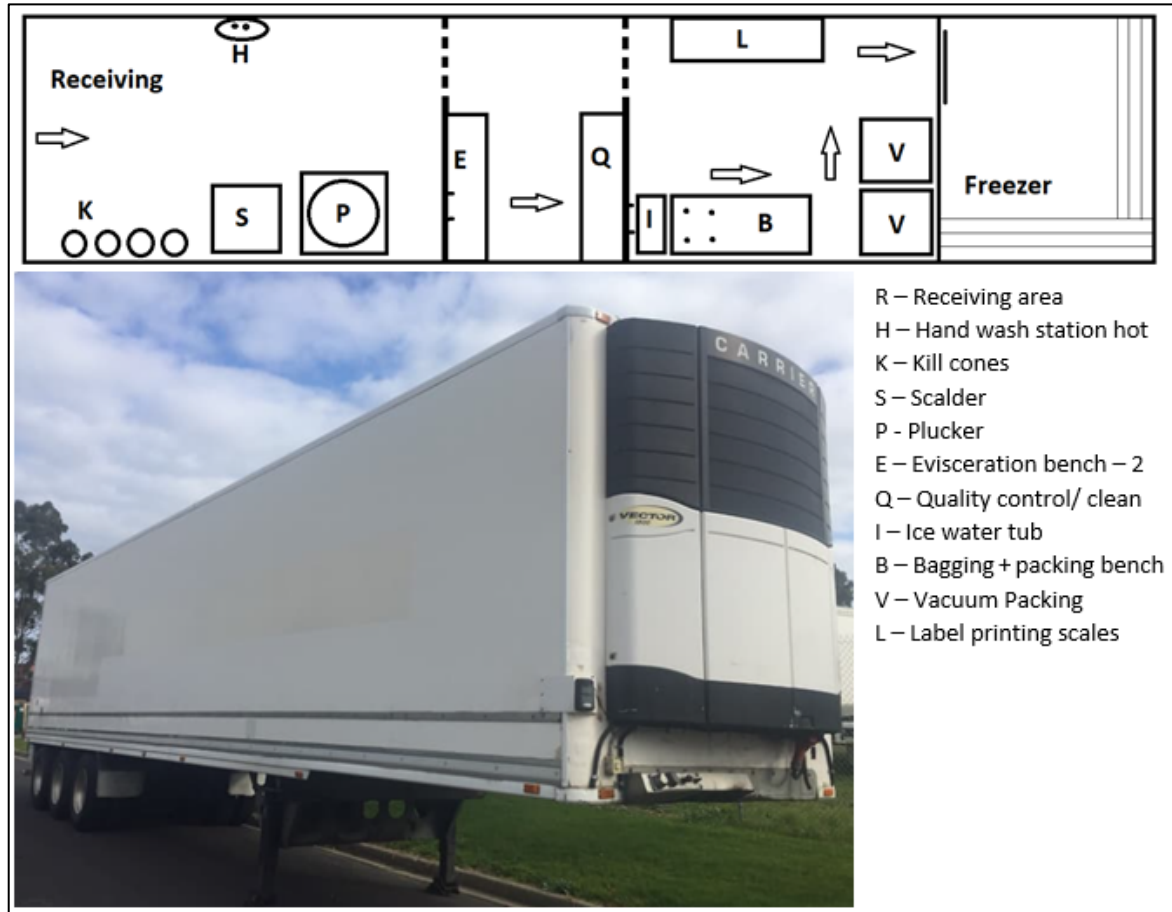


Figure 10.1.2(d) – View looking south from Murphy-Norris Road towards farm outbuildings (behind which the processing unit will be sited)



Figure 10.1.2(e) – View of some of the rotational pens on Lot 61 with the farm outbuildings in the distance where the poultry processing unit trailer would be parked



It is considered that the application can be supported on the following basis:

- the development would create a value-adding operation to a farming practice;
- the development would be setback 275m from Murphy-Norris Road and behind existing farm outbuildings;
- the development would be 1km east of the nearest third-party residence and not in a direct line-of-sight due to obscuring vegetation and topography, and would be 1.3km from the nearest line-of-sight third party residence;
- there would be limited scope for further residences to be developed closer than the nearest existing third party residence given existing cadastre and zoning, and in the event that a third-party residence was constructed in closer proximity, the mobile nature of the development, and the 265ha area of Lot 61 means that the processing unit could be relocated further away from the encroachment should it be required;
- the visual appearance of the processing unit is that of a truck trailer and this is not an uncommon sight upon farms, further in the event that the development was considered to have some visual (or other) negative impact the trailer could be housed within a shed constructed upon the property if deemed to be required;
- the closest 2 residences to the development are upon Lot 61 and this will introduce a level of self-policing in regards to management of its operations and emissions;
- the applicant has provided information detailing their proposed process and the associated management measures pertaining to noise, odour, waste and other emissions;
- there is the ability for Council to impose conditions in relation to management of the operations that will assist in addressing any concerns that may be raised;
- the development would not be visible from the scenic tourism route of Chapman Valley Road;
- the development would not create significant additional traffic along Murphy-Norris Road and Council can require of the applicant that they contribute towards any maintenance works required as a result of the development's associated traffic movements;
- the development is considered to align with Shire's Local Planning Scheme objectives for the 'Rural' zone;
- the development is considered to align with the Shire's Local Planning Strategy objectives for the 'East Chapman,' precinct;
- it is not considered that the development will have a negative impact upon the heritage attributes of the Red Hill Homestead building.

STATUTORY ENVIRONMENT

266 (Lot 61) Murphy-Norris Road, Narra Tarra 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.”

The siting of a mobile poultry processing unit would meet with the definition of an ‘abattoir’ under the *Planning & Development (Local Planning Schemes) Regulations 2015*:

“abattoir means premises used commercially for the slaughtering of animals for the purposes of consumption as food products”

‘Abattoir’ is listed as an ‘A’ use in the ‘Rural’ zone that is a use that must be advertised for comment prior to determination

Lot 61 also falls within the ‘Special Control Area 2-Moresby Range Landscape Protection Area’ zone for which the Scheme notes:

Purpose and Objective	Additional Provisions
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>(2) Within SCA 2, no clearing or destruction of any remnant native vegetation or re-vegetation shall be permitted except for:</p> <p>(a) Clearing to comply with the requirements of the <i>Bush Fires Act 1954</i> (as amended), the local government’s Bush Fire Notice and/or any fire management plan endorsed by the local government;</p> <p>(b) Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the local government; and/or</p> <p>(c) Clearing as may be allowed under the Department of Water and Environmental Regulation and Conservation Land Clearing Regulations;</p> <p>(d) Trees that are diseased or dangerous.</p> <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> <p>(a) The siting of the proposed development;</p> <p>(b) The design and layout of the proposed development;</p> <p>(c) The materials and finishes to be used in the proposed development;</p> <p>(d) The protection of remnant native vegetation or re-vegetation located on the site;</p> <p>(e) The installation and maintenance of vegetation to provide for the visual screening of proposed development; and/or</p> <p>(f) The installation and maintenance of vegetation, retaining walls or other works to prevent erosion.</p>

Schedule 2 Part 9 Clause 67(2) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters in considering this development application:

“(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...”

- ...(fa) any local planning strategy policy for this Scheme endorsed by the Commission;
- ...(m) the compatibility of the development with its setting including:
- (i) the compatibility of the development with the desired future character of its setting; and
 - (ii) relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (n) the amenity of the locality including the following —
- (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;...
- ...(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;
- (s) the adequacy of —
- (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...
- ...(w) the history of the site where the development is to be located;
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (z) the comments or submissions received from any authority consulted under clause 66;
- (zb) any other planning consideration the local government considers appropriate."

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.

Whilst an abattoir is not specifically addressed under Shire of Chapman Valley Local Planning Policy 2.2 – Rural Industry this policy does provide some relevant guidance in the assessment of this application:

"5.2 Applications for Rural Industry are expected to demonstrate due regard for the following criteria and minimum development standards:

Criteria	Minimum Standard
General Location	Buildings are to be sited in a clustered format well away from hills, mesa tops, and ridge-lines
Setbacks *	40m from all boundaries; 200m from neighbouring residences; 100m from any water course or water body.
Effluent & Waste Disposal	As determined by Local Government Environmental Health Officer.
Building Materials & Colours	Non reflective building materials and colours complementary to the surrounding landscape to be used in areas of high visual amenity such as the Moresby Range and Chapman Valley area.
Property Access	Property access is to be via a 12m form/8m gravel paved road.
On-site Carparking and Service Areas **	Carparking and service areas to be constructed to a delineated, drained and compacted gravel standard. The number of parking bays to be calculated at 1 bay for every 50m ² gross area.

Landscaping	Landscaping is to be provided around all associated buildings, parking, storage and loading areas.
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Policy 2.3 also sets the following Policy Statement:

“6.0 Policy Statement

- 6.1 *Applications for Rural Industry will only be supported where the Local Government is satisfied that the proposal will not result in unacceptable environmental or amenity impacts as a result of noise, dust, light spill, odour, vibration, traffic movement, visual intrusion or contamination on the nearby residents or environment.*
- 6.2 *Depending on the nature of the proposed Rural Industry, local wind, topography and vegetation conditions, setback distances from site boundaries and existing watercourse or bodies may need to be increased. When determining such setbacks the Local Government shall consider existing and potential land-uses on adjoining and nearby properties.*
- 6.3 *The Local Government may require the preservation and/or planting of a vegetated buffer strip ensuring that the Rural Industry activities are adequately screened from the road and adjoining properties.*
- 6.4 *Where Rural Industry has direct access to a sealed road and the projected number of vehicle movements from the site would justify such a requirement (as determined by the Local Government), the Local Government may require crossover and vehicle access areas within 50m of the road to be constructed with a stable, impervious surface, with stormwater runoff being controlled. In this regard the construction of a crossover shall be in accordance with the Local Government’s existing Crossover Policy.*
- 6.5 *Where Rural Industry is being developed with or without direct access to a sealed road, the Local Government may require assistance to upgrade and maintain the road/s that will be affected by heavy vehicle movements associated with the extractive industry. Such upgrading contributions may be financial or in-kind and shall be calculated on a case-by-case basis.”*

FINANCIAL IMPLICATIONS

Nil

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Local Planning Strategy identifies Lot 61 Murphy-Norris Road as being located within Precinct No.2-East Chapman which has the following vision:

“Utilising opportunities for agricultural diversification whilst ensuring the continued sustainable production from broadacre agriculture.”

The Local Planning Strategy lists the following relevant objectives for Planning Precinct No.2:

“2.1 Community Objectives

- 2.1.1 *Discourage the fragmentation of rural landholdings through the provision of subdivision policy and the introduction of minimum lot sizes...*
- ...2.1.3 *Encourage the protection and restoration of places and buildings of heritage/historical significance.*

2.2 Economic Objectives

- 2.2.1 *Protect the capacity of the land for agricultural production and promote continued sustainable agricultural production.*
- 2.2.2 *Facilitate agricultural diversification in appropriate areas where there will be no detrimental impact to the surrounding land.*
- 2.2.3 *Encourage the experimentation and growth of newer crops and animal varieties through farm diversification and support value adding to this diversified farm produce. This could include links to tourism.*

- 2.2.4 *Promote opportunities for processing and value adding to agricultural produce...*
- 2.3 *Environmental Objectives...*
- 2.3.3 *Ensure that development does not adversely impact on river systems and groundwater resources through the appropriate planning and management controls.*
- 2.3.4 *Ensure that land use conflicts (i.e. noise, dust, odour, spray drift, vermin etc) are avoided through appropriate environmental and planning controls.*
- 2.3.5 *Protect the rural amenity and character of the area from incompatible land use/development, again through the implementation of appropriate environmental and planning controls.*
- 2.3.6 *Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements as a minimum.*
- 2.3.7 *Encourage conservation of biodiversity and farm sustainability through the promotion of 'best practice' farming techniques.*
- 2.4 *Infrastructure Objectives*
- 2.4.1 *Ensure adequate levels of servicing and infrastructure, as determined by Council, exist or will be provided when supporting proposals for a change in land use/development or subdivision, to avoid burden (financial or otherwise) on the Council's resources.*
- 2.4.2 *Identify, support and facilitate the efficient and coordinated use of existing road linkages."*

The Environmental Protection Authority's publication 'Guidance for the Assessment of Environmental Factors' recommends a separation/buffer distance of 500m-1km between sensitive land uses (i.e. dwellings) and abattoirs depending on the size of the operation. It is considered that a mobile poultry processing unit would be towards the lesser 500m end of this abattoir buffer requirement, with activities involving cattle and sheep being the types of operation requiring the larger 1km buffer area.

The guidelines also recommend a separation/buffer distance of 300m-1km between sensitive land uses and poultry industry, again dependent upon the size of the operation. It is considered that a larger scale 'battery hen' type facility would be the form of operation requiring the upper end 1km buffer area and a free range, mobile pen development that would be rotated throughout the farm such as this would be towards the lesser end of the buffer spectrum.

The guidelines recommend a separation/buffer distance of 1km between sensitive land uses and composting facilities that involve uncovered windrows with putrescible material. This would be generally more applicable to a commercial operation that involves transportation of off-site materials to the facility, rather than in this case a facility that is only handling on-site material.

These distances are general recommendations and may be varied (either increased or decreased) dependent upon factors such as prevailing wind directions and intervening landscaping, buildings and topography, and cumulative emissions impacts if located in proximity to other emitting land uses.

It is noted that the nearest third-party owned residence is 1km from the proposed location for the poultry processing unit.

Council may wish to impose a condition requiring the applicant to prepare, submit and adhere to a Management Plan that can be updated to modify operating procedures in the event that any complaints are received relating to the development.

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 15 November 2017 meeting and it is considered that the development accords with the following:

Ref	Objective	Strategy	Action
Economic Development and Business Attraction			
2.1	Build population and business activity through targeted strategies	Support business development	Ensure Planning is in place to encourage business development
2.2	Provide support for business development and local employment	Research mixed land use opportunities	Investigate possible planning improvements

Ref	Objective	Strategy	Action
		Consider business start- up incentives	Investigate possible planning improvements
2.4	Ensure town planning complements economic development activities	Town Planning Review/Initiatives	Ensure Planning is in place to encourage economic development activities
Environment Protection and Sustainability			
3.1	Preserve the Natural Environment and address environmental risks as they arise.	Manage the impact of waste, water, weed and vermin control on the environment.	

CONSULTATION

The Shire wrote to the 14 landowners within 2km of the proposed poultry processing unit location, along with the Department of Fire & Emergency Services, the Department of Health, the Department of Primary Industries & Regional Development, and the Department of Water & Environmental Regulation on 9 August 2021 providing details of the application and inviting comment upon the proposal prior to 3 September 2021.

At the conclusion of the advertising period 3 submissions had been received, all from government agencies offering technical comment upon the application. No objections were received. Copies of the received submissions have been provided as **separate Attachment 10.1.2(c)**.

The technical issues raised relate to the following:

- proposal is required to comply with Australia Standard for Construction of Premises and Hygienic Production of Poultry Meat for Human Consumption AS4465:2006;
- composting operation will need to be consistent with the separation distances for sensitive receptors such as residential premises and environmental considerations such as watercourses and native vegetation;
- as composting underpins the mobile poultry processing unit a management plan for the site should be developed to the satisfaction of the Shire in conjunction with the relevant state departments to support best practice composting management;
- a water source will be needed to moisten the compost pile to allow the composting process to occur;
- the Department of Water and Environmental Regulation's (DWER) draft guideline *Better Practice Composting* provides standards relating to separation distance, which for groundwater is a minimum vertical distance of 3m and for surface water at least 500m from watercourses;
- the application indicates that a fence will protect the compost pile from vermin, with the poultry processing waste concealed in the centre of the compost pile. It is unlikely that a standard fence would be sufficient to prevent vermin, including feral pigs from accessing the processing waste. Additionally a fence is unlikely to stop access to the compost pile by wild birds. Interactions between wild birds and the poultry waste (and indeed the free-range poultry on the farm) risks the transmission of diseases such as bird flu;
- The proponent is strongly encouraged to secure a fit for purpose water supply for the project as failing to do this may impact the success of the proposal.
- the site is in the Gascoyne Groundwater Area proclaimed under the *Rights in Water and Irrigation Act 1914*, and the taking of water for intensive agriculture and for commercial activities, such as food processing, is subject to water licencing even when taking from an existing bore. There is currently no water licence recorded for the property. The applicant should contact DWER for further advice and needs to demonstrate that they hold water licences for the processing of the poultry, the composting, and the rearing of the poultry on the property, as well as for any other ancillary uses;
- the rearing of poultry will result in chicken litter and manure and potentially bedding (straw) being produced onsite. Poultry manure, litter and spent birds are not addressed in this application and should be considered as the proposal indicates that the site will be producing the birds onsite and form an essential part of the proposal. The proponent need to develop and implement a management plan to support the rearing of birds for the meat market, as without being able to supply the birds the processing unit would not be required; &
- suitable management practices will be required to meet the Code of Practice for Poultry Farming and the National Environmental Management system for the meat chicken industry.

Council may wish to impose a condition requiring the applicant to prepare, submit and adhere to a Management Plan that has regard for the issues raised in the submissions.

RISK ASSESSMENT

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

VOTING REQUIREMENTS

Simple majority required

MOVED: Cr. Forth

SECONDED: Cr Humphrey

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant planning approval for a poultry processing unit upon 266 (Lot 61) Murphy-Norris Road, Narra Tarra subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plans as contained in Attachment 10.1.2(a) and subject to any modifications required as a consequence of any conditions of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the buildings or land (not the subject of this consent/approval) considered by the Shire Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
- 3 The applicant is to prepare, submit and adhere to a Management Plan to the approval of the local government.
- 4 The applicant is to implement and maintain reporting mechanisms for complaints concerning the operation of the development. In the event of a substantiated complaint being received the applicant is required to demonstrate mitigation response(s) to the approval of the local government. Such response(s) will be treated as conditions of approval/required modifications to the Management Plan.
- 5 The activities upon Lot 61 shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of noise, dust, odour, noise, vibration, waste product or otherwise.
- 6 The applicant is to ensure that the location, design and construction of the access point from the development site onto Murphy-Yetna Road is appropriate for the approved development to the approval of the local government.
- 7 The applicant shall make payment to the local government for the repair, reinstatement or replacement of any road infrastructure that is damaged, becomes unsafe or fails to meet appropriate engineering standards where the damage to the road network is caused by reason of use of the road in connection with the approved development.
- 8 The applicant is responsible to ensure that no parking of vehicles associated with the development occurs within the Murphy-Norris Road reserve, including the road verge.
- 9 The internal road network and vehicle manoeuvring and parking areas shall be constructed and maintained to an all-weather compacted gravel standard to the approval of the local government.
- 10 The installation and subsequent maintenance of any signage shall be to the approval of the local government.

Advice Note:

-
- (a) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation. It is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully commences.
 - (b) The applicant is required to contact the Shire's Environmental Health Officer to ensure compliance with the registration process for an offensive trade under section 187 of the *Health (Miscellaneous Provisions) Act 1911*, and is further advised that the premises may be inspected periodically by the Shire's Environmental Health Officer/Department of Health staff for compliance with Australian Standard for Construction of Premises and Hygienic Production of Poultry Meat for Human Consumption (AS4465:2006) and compliance with the *Food Act 2008* and *Food Regulations 2009*.
 - (c) In relation to condition 3 the Management Plan is to include sections relating to Food Safety and Public Health Requirements, Waste Management and Composting Practices, Water Supply, Poultry Rearing/Farming Code of Practice, Fire Management and Complaint Response to the approval of the local government.
 - (d) In relation to condition 3 and advice note (c) the applicant is to be provided with a copy of the submissions received by the local government from the Department of Health, Department of Primary Industries & Regional Development, and the Department of Water & Environmental Regulation and the Management Plan is to be prepared with regard for the issues raised therein.
 - (e) The subject property is located in the Gascoyne Groundwater Area proclaimed under the *Rights in Water and Irrigation Act 1914* and the taking of water for intensive agriculture and for commercial activities, such as food processing, is subject to water licencing, even when taking from an existing bore. The Department of Water & Environmental Regulation (DWER) have advised there is currently no water licence recorded for the property and the applicant should contact DWER's licensing section for further advice regarding the obtaining of a water licence (where required) for the processing of the poultry, the composting, the rearing of the poultry and for any other ancillary uses.
 - (f) If an applicant is aggrieved by this determination there is a right pursuant to the *Planning and Development Act 2005* to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

Voting F6/A0

CARRIED

Minute Reference: 09/21-04

J Royce left the meeting at 9:12am.

10.1.3 Proposed Outbuilding

PROPONENT:	Carimor Sheds for T & J Daly
SITE:	579 (Lot 306) Chapman Valley Road, Waggrakine
FILE REFERENCE:	A14
PREVIOUS REFERENCE:	12/12-6, 06/13-2 & 02/16-3
DATE:	6 September 2021
AUTHOR:	Simon Lancaster, Deputy CEO

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.3	Application		√

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application for an outbuilding upon 579 (Lot 306) Chapman Valley Road, Waggrakine. This report recommends approval of the application.

Figure 10.1.3(a) – Map of 579 (Lot 306) Chapman Valley Road illustrating proposed location of outbuilding



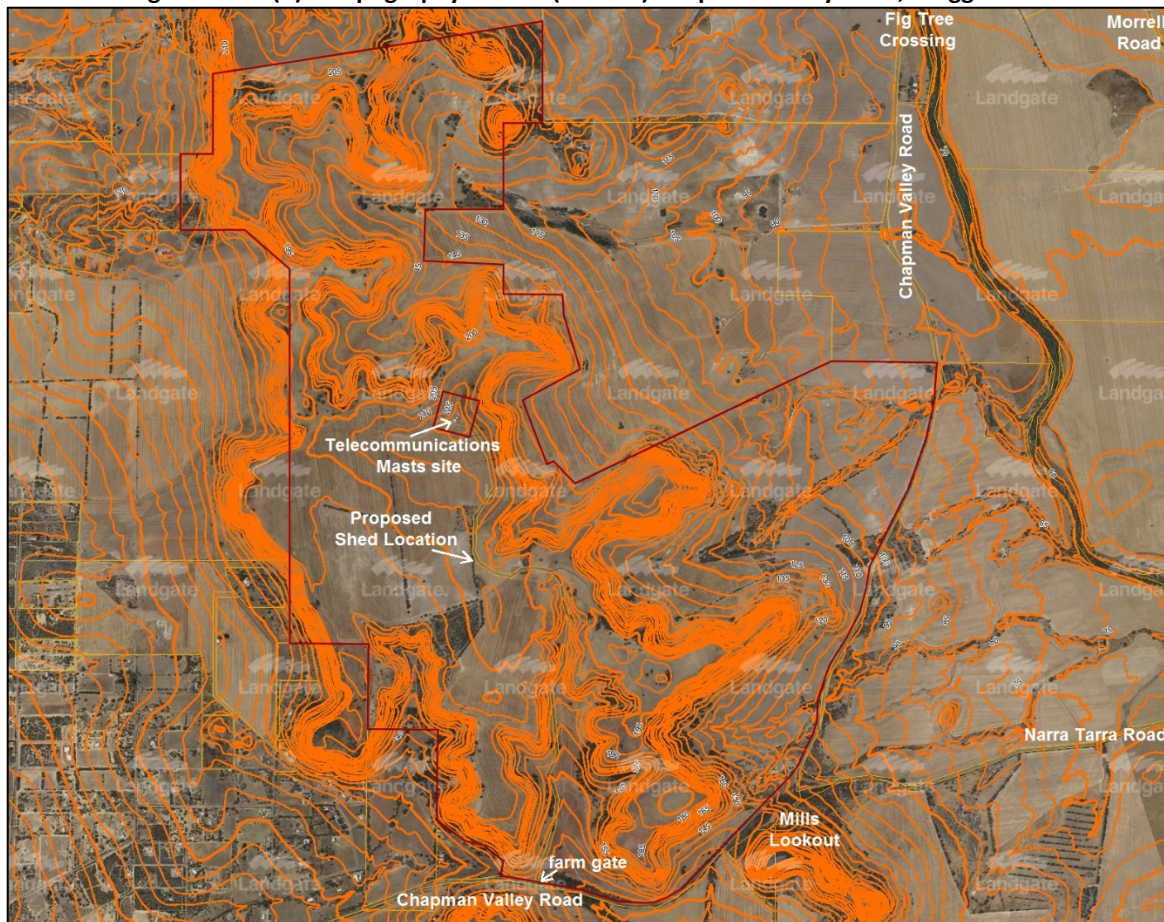
COMMENT

Lot 306 is a 1,049.2953ha property located on the northern side of Chapman Valley Road. The property is largely cleared and used for cropping and grazing purposes with pockets of remnant vegetation upon the more steeply sloping areas and tributary lines upon the property.

The western boundary of Lot 306 generally aligns with the steeply sloping western face of the Moresby Range. The central portion of the property contains the flat topped area of the Moresby Range that extends eastwards for approximately 1½km before reaching the steeply sloping eastern face and lower foothills area that slopes downwards towards the north-south section of Chapman Valley Road as it commences its approach to the Chapman River/Fig Tree Crossing. The contours as shown on **Figure 10.1.3(b)** help to illustrate that the majority of Lot 306 is contained in the mesa area.

The access point for Lot 306 is a farm gate on the northern side of the east-west section of Chapman Valley Road as it travels through the Waggrakine Cutting. The gravel farm track that heads northwards from this point provides the access into the property and onto the top of the Moresby Range, this is also the alignment for the access easement across Lot 306 for the 4 telecommunications masts atop the Moresby Range.

Figure 10.1.3(b) – Topography for 579 (Lot 306) Chapman Valley Road, Waggrakine



Lot 306 is a working farm and the landowner is seeking to construct a 24.3m x 40.4m (981.72m²) outbuilding with a 6.5m wall height and a 8.645m total height to house their farm equipment and machinery. The outbuilding would be clad in trimdeck with Dune colouring for both the walls and roof.

A copy of the application has been provided as **separate Attachment 10.1.3** along with site photographs taken from various points about the proposed shed location.

The outbuilding would be setback 930m at its closest point from the top edge of the Moresby Range western face, and setback 450m at its closest point from the top edge of the south-western face of the Moresby Range (behind the Coffee Pot heritage building) which would assist in reducing its visual impact.

The outbuilding would be more visible from the east as it would be setback 150m at its closest point from the top edge of the Moresby Range eastern face, where a gully cuts into the steep slope. This would mean that the outbuilding would be able to be seen by vehicles travelling towards Geraldton along the section of Chapman Valley Road between the Morrell Road intersection and a point past the Pet Cemetery, and by vehicles travelling southwards along Morrell Road from the Chapman Valley Road intersection to a point near the East Chapman Road intersection.

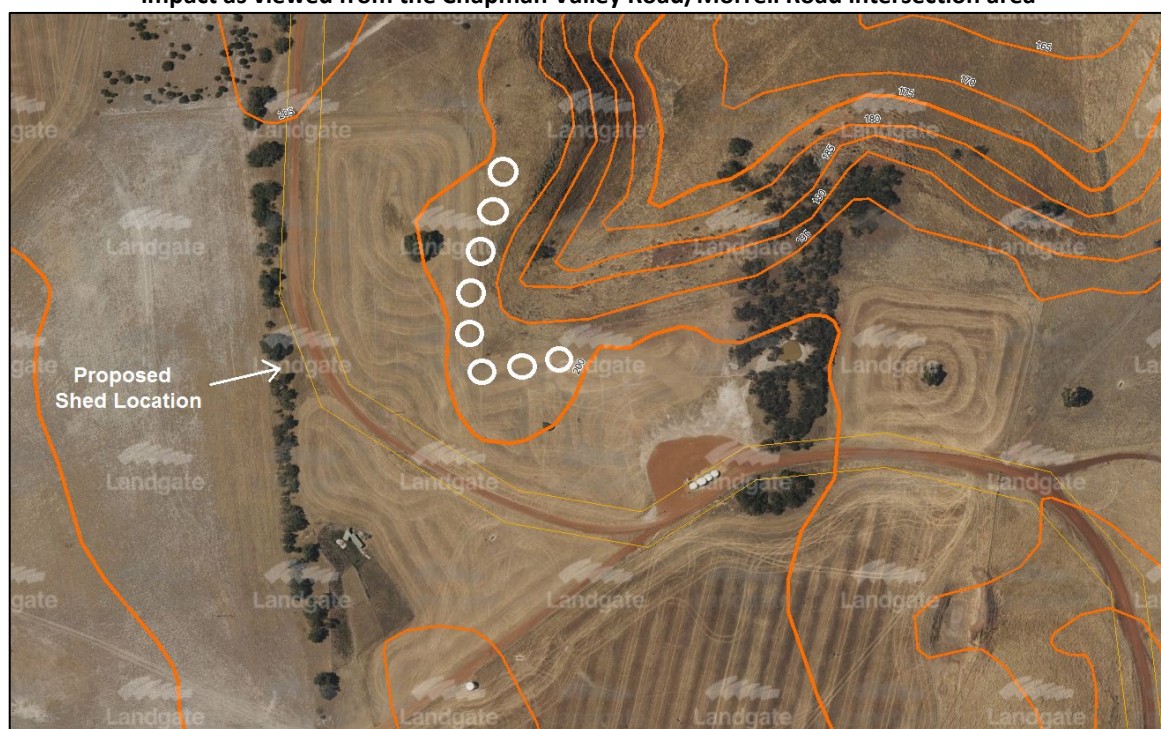
Figure 10.1.3(c) – Proposed outbuilding location relative to existing structures upon Lot 306 Chapman Valley Road



It is considered that the application can be supported on the following basis:

- the outbuilding is required for the running of the farm that is the primary land use for this property;
- the outbuilding would be sited 90m north-west of an existing open sided outbuilding;
- the outbuilding would be 540m from the closest of the 4 telecommunications masts and would appear to be in general proximity to existing built structures when considered in the overall scale of the property;
- the applicant is seeking to locate the outbuilding in a position where it would be setback 930m from the top edge of the western face of the Moresby Range to reduce the visual impact of the outbuilding as viewed from the more populated Geraldton-side of the Moresby Range, and also setback 450m from the top edge of the south-western face to reduce its impact as drivers travel through the Waggrakine Cutting section of the Chapman Valley Road scenic drive;
- the outbuilding would be clad in wall and roof cladding of a Dune colour to assist in reducing its visual impact;
- there is ability for Council to impose a condition of approval requiring the landowner to undertake landscaping, with a suggested location being at the head of the gully where the steep slope of the Moresby Range eastern face is at its closest point to the outbuilding as shown on **Figure 10.1.3(d)**. Whilst this tree planting would not screen the outbuilding entirely it would soften its appearance as viewed from the general area about the Morrell Road/Chapman Valley intersection and Pet Cemetery;
- the outbuilding would provide a secure storage area out of the weather for the farm's equipment and machinery and it might be considered that it would be preferable to have these items stored in one building rather than spread more haphazardly along the skyline;
- the Moresby Range Management Strategy does make some allowance for permitting development on the flat tops where it can be demonstrated that such development is consistent with the objectives of this strategy, and it might also be considered that sensitively sited development upon the flat top might be less visually intrusive in certain circumstances than on the side slopes.

Figure 10.1.3(d) – Potential revegetation area that would assist in softening the proposed outbuilding’s visual impact as viewed from the Chapman Valley Road/Morrell Road intersection area



STATUTORY ENVIRONMENT

579 (Lot 306) Chapman Valley Road, Waggrakine 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.”*

The construction of a farm shed upon Lot 306 would meet with the definition of ‘agriculture-extensive’ under the *Planning & Development (Local Planning Schemes) Regulations 2015*:

“agriculture — extensive means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture — intensive or animal husbandry — intensive;

‘Agriculture-extensive’ is listed as an ‘P’ use in the ‘Rural’ zone under the Scheme, that is a use that is permitted if it complies with all relevant development standards and requirements of the Scheme.

Lot 306 is within the ‘Special Control Area 2-Moresby Range Landscape Protection Area’ zone for which the Scheme notes:

Purpose and Objective	Additional Provisions
The purpose of Special Control Area 2 is the protection of the Moresby Range and associated	(3) Within SCA 2, no clearing or destruction of any remnant native vegetation or re-vegetation shall be permitted except for:

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>(a) Clearing to comply with the requirements of the <i>Bush Fires Act 1954</i> (as amended), the local government's Bush Fire Notice and/or any fire management plan endorsed by the local government;</p> <p>(b) Clearing as may reasonably be required to accommodate an approved building and curtilage, or vehicular access to an approved building or other land use approved by the local government; and/or</p> <p>(c) Clearing as may be allowed under the Department of Water and Environmental Regulation and Conservation Land Clearing Regulations;</p> <p>(d) Trees that are diseased or dangerous.</p> <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> <p>(a) The siting of the proposed development;</p> <p>(b) The design and layout of the proposed development;</p> <p>(c) The materials and finishes to be used in the proposed development;</p> <p>(d) The protection of remnant native vegetation or re-vegetation located on the site;</p> <p>(e) The installation and maintenance of vegetation to provide for the visual screening of proposed development; and/or</p> <p>(f) The installation and maintenance of vegetation, retaining walls or other works to prevent erosion.</p>
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The Scheme also notes the following relevant to this application:

"37 Appearance of land and buildings

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

Schedule 2 Part 9 Clause 67(2) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters in considering this development application:

- "(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(fa) any local planning strategy for this Scheme endorsed by the Commission;*
- (g) any local planning policy for the Scheme area;...*
- ...(m) the compatibility of the development with its setting including:*
 - (i) the compatibility of the development with the desired future character of its setting; and*
 - (ii) relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following —*
 - (i) environmental impacts of the development;*
 - (ii) the character of the locality;*
 - (iii) social impacts of the development;*

-
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
 - (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
 - (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;...*
 - ...(s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
 - (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
 - ...(w) *the history of the site where the development is to be located;*
 - (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;...*
 - ...(zb) *any other planning consideration the local government considers appropriate.”*

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.

Shire of Chapman Valley Local Planning Policy 1.4 – Outbuildings has the following objectives:

- “3.1 *To alter the deemed to comply provisions of the R-Codes for Outbuildings.*
- 3.2 *To provide a clear definition of what constitutes an ‘Outbuilding’.*
- 3.3 *To ensure that Outbuildings are not used for habitation, commercial or industrial purposes by controlling building size and location.*
- 3.4 *To limit the visual impact of Outbuildings.*
- 3.5 *To encourage the use of outbuilding materials and colours that complement the landscape and amenity of the surrounding area.*
- 3.6 *To ensure that the Outbuilding remains an ancillary use to the main dwelling or the principle land use on the property.”*

The Outbuildings Policy does not set a maximum height or floor area for ‘Rural’ zoned lots greater than 4ha.

FINANCIAL IMPLICATIONS

Nil

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

The Shire of Chapman Valley Local Planning Strategy identifies the proposed outbuilding location upon Lot 306 as being within Precinct No.4-Moresby Range which has the following vision:

“The Moresby Ranges are visually and environmentally preserved as a landscape feature, natural resource and a recreational and tourist resource for the general population, whilst recognising the rights of existing landowners.”

The Strategy makes the following comment:

“Land uses are commonly lifestyle and small farming activities with some broadacre cereal/sheep rotation on larger holdings which can be sustained. Limited farm diversification is occurring and this has the potential for low-key tourism linked to local industries, farm stays and landscape values in close proximity to established tourist routes. The most limiting factor is that the area has limited accessibility. The local

road network consists of gravel formed and paved roads with the exception of Chapman Valley Road constructed to bitumen seal standard.

The Moresby Ranges have been identified in numerous planning studies as having high conservation value in addition some areas have agricultural, landscape, tourism and recreational values. The Precinct is subject to current planning associated with the Moresby Range Management Strategy.

Areas and sites of significance for fauna, flora or habitat conservation, located on private lands are not intended for acquisition by Council. Rather the general aim is in every way possible to encourage and make it easier for landowners to protect and manage the conservation values present. The value of the Moresby Ranges lies in its landscape qualities and remnant vegetation. The protection of these resources should override any pressure for development, however it is considered that the objectives of protection/management for conservation, and those of development do not necessarily have to be in conflict."

The Local Planning Strategy lists the following relevant objectives for Planning Precinct No.4:

"4.2 Economic Objectives

- 4.2.1 Promote sustainable agricultural production in suitable areas with due regard of the high conservation values and visual amenity of the Moresby Ranges.*
- 4.2.2 Encourage agricultural diversification in appropriate areas where there will be no detrimental impact to the surrounding land.*
- 4.2.3 Promote low-key tourist related land use/development associated with the conservation values and scenic qualities of the Moresby Ranges. To be assessed in conjunction with related strategies and policies.*

4.3 Environmental Objectives

- 4.3.1 Protect the scenic values and visual amenity of the Moresby Ranges while encouraging suitable tourist development.*
- 4.3.2 Encourage revegetation and retention of existing vegetation in order to minimise soil erosion.*
- 4.3.3 Protect and enhance existing catchments, botanical linkages and vegetation/wildlife corridors.*
- 4.3.4 Promote sound land management practices in consideration of the high conservation values of the area.*
- 4.3.5 Ensure that land use conflicts (i.e. noise, dust, odour, spray drift, vermin etc) are avoided through appropriate environmental and planning controls.*
- 4.3.6 Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements as a minimum.*
- 4.3.8 Encourage conservation of biodiversity and farm sustainability.*
- 4.3.8 Promote a detailed planning exercise be undertaken in partnership with all relevant stakeholders for Area A of the Moresby Ranges, depicted on the Precinct Maps as 'Special Investigation Area – Conservation and Development', to identify a range opportunities in consideration of current environmental values and constraints."*

Lot 306 falls within the study boundary of the Moresby Range Management Strategy (WAPC, 2009) which generally identifies visually sensitive areas on the foot slopes and steep side slope of the Moresby Range although Sections 4.5.1 and 4.5.2 of the Strategy do make the following recommendations of relevance in the assessment of this application:

"Recommendations: land use and development planning

- 43 Ensure that land uses and infrastructure are sited and designed to complement the landscape qualities of the range and reduce their overall impact. The key elements of effective landscape planning and design to be considered are:*
 - describing the landscape values that need to be protected;*
 - defining areas that can accommodate more intensive land use or development;*
 - selecting suitable land uses and development, including consideration of noise, dust and other potential impacts;*
 - providing for a density compatible with retaining landscape values;*

- sensitive siting; and
 - designing buildings and structures to blend into their setting.
- 44 *Ensure that buildings, structures and public or private roads are sited and designed to have minimal impact on views of the range and reflect surrounding character, with reference to the manual, Visual Landscape Planning in Western Australia (DPI, 2007), so that they:*
- *Do not dominate the landscape but are compatible in form, scale, bulk, and mass to their setting.*
 - *Give thought to visually concealing all buildings and associated services, such as delivery and storage areas and necessary infrastructure. Where possible, buildings are to be constructed behind or among trees.*
 - *Reflect the rural nature of the range and cater for expected level of use, particularly any public or private road, and vehicle manoeuvre areas associated with lookouts;*
 - *Blend into the surroundings through use of appropriate colour schemes.*
 - *Take advantage of views to the range through appropriate orientation of roads in new subdivisions."*

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

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

The Moresby Range Management Strategy recognised that there were particular issues relating to the southern section of the Moresby Range that were of particular importance to the regional community, and recommended that a Management Plan be prepared for this area.

The resulting Moresby Range Management Plan (2010) was prepared jointly by the Shire of Chapman Valley and City of Greater Geraldton to address the section of the Moresby Range immediately south of White Peak Road and east of Geraldton. It is this section that is under the most immediate pressure from a range of demands including urban and rural-residential development from the west, infrastructure corridor alignments to the east and north, recreational demands from the community, economic interest from renewable venture proponents and tourism possibilities.

The consultation that informed the Plan had a general consensus that the community considered the Moresby Range to be an iconic resource that should be accessible for recreation and tourism and that they should not have urban development or significant buildings on the side slopes, along the skyline or on top of the Range.

Figure 4.4 of the Plan provides a map of visually important areas synthesised from information developed by the DPLH between 1998 and 2009, ranking areas as 'features of visual significance', 'visually sensitive areas' and 'broad landscape

features that should be preserved and enhanced'. The proposed outbuilding location is outside of these identified areas.

Section 1.5 of the Plan makes the following comment on Visual Landscape Assessment for the Moresby Range and its surrounding landform.

"The WAPC's publication, Visual Landscape Planning in Western Australia – a manual for evaluation, assessment, siting and design, provides concepts and processes for developing guidelines for managing changes to be made in the Range and surrounding landscape. The manual spells out three broad visual management objectives:

- protection and maintenance of valued landscape character;*
- restoration and enhancement of degraded visual landscape character, or opportunities for enhancement;*
- best practice siting and design, where either a combination of the first two objectives may be appropriate, and for all other areas.*

In working to achieve these broad level objectives, the following more specific objectives are relevant:

- "not evident", where development may be hidden, screened or not visible from specified viewing locations;*
- "blending" where development may be evident, but generally not "prominent" in the landscape;*
- "prominent" where development may intentionally be a dominant feature in the landscape.*

The fundamental visual management concept for the Range and its surrounds is that they should have their own identity in the landscape and not be an extension of the city or farmland.

The overall visual management objectives for the Range, subject to the comments below about large structures, would be to "protect and maintain" the existing valued character and to "restore and enhance" degraded bush land areas while, in response to community desires, also preserving some of the agricultural character of certain parts of the Range. Figure 11.5 and 11.6 shows areas that have been identified for restoration and revegetation and includes faces of the Range particularly those that are seen from the City, ridges and edges of elevated areas, linking and enhancing blocks of remnant vegetation and water courses. There are no major developments planned for the Range Precinct except for the Central Facility that will serve as a hub for activities in the rest of the Range Precinct. The visual landscape objective for the majority of the Range Precinct is that developments should be "not evident" and for the Central Facility that it should generally be "blending" with occasional "prominent" structures where their prominence can be used to promote the existence and identity of the Range Precinct. This is reflected in the intention not to create any new roads into the Range Precinct other than using existing tracks or cleared areas, and design structures in an architectural character that interprets the landscape and the history of human activity in the Range.

The areas of land around the Range Precinct can be broadly divided into two categories - the urban areas west of the Range, see Section 4, and the other, non-urban, areas that surround the Range Precinct to the north, east and south. The visual landscape objectives for the lands around the Range Precinct are broadly determined from the MRMS Map 3 - Landscape Classes and Map 510 as it highlights visually sensitive areas located adjacent to the Range."

"01.5.3 Visual Management Objective east and south of the Range Precinct

The objective for these areas are that they should retain their agricultural uses but stabilise the landscape and be revegetated to produce better visual integration between the agricultural areas and the Range Precinct. In this context the visual management objective is to 'restore and enhance' the lower side slopes of the Range, the cleared watercourses and road verges. While it is anticipated that there will be no urban development and minimal new built structures in this area the visual management objective for these areas should be "blending". "

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

The 'Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design' (WAPC, 2007) generally recommends that vegetation should be retained and development avoided on skylines as seen from important viewing locations and sensitive roads.

The manual notes that development should be sited with care to ensure that individual components that have the potential to draw attention, such as reflective roofs and windows, are not visible. The manual also notes that the forms, colours and textures of a development do not need to be identical to those found in nature, but they need to appear compatible to the extent that any contrasts do not draw attention.

In the event that Council consider that the application does not meet its requirements and that it should be REFUSED then it may find the following wording appropriate:

"That Council refuse the application for an outbuilding upon 579 (Lot 306) Chapman Valley Road, Waggrakine for the following reasons:

- 1 The development is considered contrary to Sections 9, 16, 37 and 49-Table 6 of the Shire of Chapman Valley Local Planning Scheme No.3.*
- 2 The development is considered contrary to Clause 67 of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 3 The development is not considered to meet the requirements of the Shire of Chapman Valley Local Planning Strategy and the recommendations as contained within Precinct No.4-Moresby Range.*
- 4 The development is considered contrary to the recommendation as contained in Sections 4.5.1 and 4.5.2 of the Moresby Range Management Strategy.*
- 5 The development is not considered to meet the principles outlined within the 'Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design'.*
- 6 The development is considered contrary to the visual landscape objectives of the Moresby Range Management Plan.*
- 7 The development is considered contrary to the objectives of the Shire of Chapman Valley Local Planning Policy 1.4 – Outbuildings.*
- 8 Approval of this application may well set an undesirable precedent for future variation to the Shire's statutory and strategic planning requirements, which in time could prove to be detrimental to the visual amenity and natural landscape character of the Moresby Range and Chapman Valley Road scenic drive and surrounding locality.*

Advice Note:

- (a) 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.*
- (b) Council would give further consideration to a new application that proposed the outbuilding were to be located in the gully area approximately 1km further south-east along the access track easement that would thereby be unable to be seen from the east or west directions; or alternatively a location on the flat top mesa that was further west of the applicant's proposed location and accompanied by visual assessment demonstrating that the structure would not be visible against the skyline as viewed from the east or west directions."*

Strategic Community Plan/Corporate Business Plan:

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

CONSULTATION

Council is not required to undertake community consultation for this application. However Council may also choose to advertise the application for public comment under Schedule 2 Part 8 Clause 64 of the *Planning and Development*

(Local Planning Schemes) Regulations 2015 should it wish to seek comment on the proposal and return the matter to a future meeting of Council for consideration of any received submissions, prior to making its determination.

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 Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant planning approval for an outbuilding upon 579 (Lot 306) Chapman Valley Road, Waggrakine subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plans as contained within Attachment 10.1.3 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and must not be used for habitation, commercial or industrial purposes.
- 4 The development is required to use colours and materials complementary to the natural landscape features, and be to a (non-reflective) finish, to the approval of the local government.
- 5 Installation and maintenance of landscaping about the development for the purposes of screening to the approval of the local government.
- 6 Any lighting devices must be positioned so as to not cause glare to neighbouring properties or vehicles on the Chapman Valley Road or Morell Road to the approval of the local government.
- 7 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination, the approval shall lapse and be of no further effect.

Notes:

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

Voting F6/A0

CARRIED

Minute Reference: 09/21-05

10.1.4 Shire of Chapman Valley Local Planning Strategy

PROPONENT:	Shire of Chapman Valley
SITE:	Shire of Chapman Valley
FILE REFERENCE:	204.09
PREVIOUS REFERENCE:	12/04-9, 12/05-9, 11/06-10, 12/15-6 & 04/17-9 & 09/19-4
DATE:	8 September 2021
AUTHOR:	Simon Lancaster, Deputy CEO

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.4(a)	Draft Shire of Chapman Valley Local Planning Strategy		√
10.1.4(b)	WAPC correspondence		√
10.1.4(c)	WAPC Minutes		√

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Western Australian Planning Commission ('WAPC') have reaffirmed its previous decision to withhold consent to advertise the draft Shire of Chapman Valley Local Planning Strategy unless modifications are made that removes areas of land identified for 'Rural Smallholdings' (and ability for the subdivision that this entails) that are contained in the current Strategy. This report recommends that Council not undertake the WAPC's required modifications, and thereby not advertise the draft Strategy. This report also recommends that the Shire write to the landowners who are impacted by the WAPC's decision and advise them of the current situation, and write to the Minister for Planning to advise of the Shire's disappointment with the stance being taken by the WAPC.

COMMENT

The current Shire of Chapman Valley Local Planning Strategy ('the Strategy'), which is Council's primary strategic planning document, was adopted by Council at its 16/11/06 meeting and subsequently endorsed by the WAPC on 20/11/07. The Strategy requires updating to reference (and ensure it is not inconsistent with) several strategic planning documents that have been prepared since it was released.

A timeline of key events relevant to the Strategy is provided below:

16/12/15	Council resolved to prepare a new Strategy;
19/4/17	Council resolved to adopt the draft Strategy and forward it to the WAPC seeking its consent to advertise;
10/10/17	WAPC's Statutory Planning Committee resolved to defer this matter without explanation or transparency;
23/7/19	WAPC's Statutory Planning Committee gave consent to advertise the Strategy subject to modifications, which included the removal of land identified as having future 'Rural Smallholdings' potential (typically allowing for subdivision into 4-40ha under the statewide regulations, but with further limitation under the current and draft Strategy of 20-40ha);
18/9/19	Council resolved to undertake all of the required modifications, with the exception that land that had previously been identified in the 2007 Strategy as Rural Smallholdings (and therefore capable of subdivision) <u>not</u> be removed as had been required by the WAPC. Council considered that this was unacceptable as this land had been identified not just in the 2007 Strategy (that had been endorsed by the WAPC) but also the WAPC's own 2011 Greater Geraldton Structure Plan;
31/7/20	Shire re-submitted Strategy to WAPC and wrote to the Minister for Planning seeking support;
25/10/20	Minister's response advised that WAPC would put forward options for Council's consideration to reach a workable solution;
20/7/21	WAPC's Statutory Planning Committee gave consent to advertise the Strategy subject to modifications, again these being the removal of land identified as Rural Smallholdings in the 2007 WAPC adopted Strategy and its designation instead as Rural.

A copy of the draft Strategy as presented by the Shire to the WAPC has been provided as **separate Attachment 10.1.4(a)**.

The Shire's current 2007 Strategy can be viewed on the WAPC website at the following link:

<https://www.dplh.wa.gov.au/chapman-valley>

A copy of the WAPC Statutory Planning Committee Agenda and Minutes from its 20/7/21 meeting has been provided as **separate Attachment 10.1.4(b)**.

A copy of the WAPC correspondence arising from the 20/7/21 Statutory Planning Committee has been provided as **separate Attachment 10.1.4(c)**.

General Background

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

It is noted that the WAPC's Statutory Planning Committee resolution from the 20/7/21 meeting was not in accordance with the WAPC staff recommendation (which was a compromise solution that would have been more equitable than the WAPC decision).

The Strategy as returned to the WAPC for consideration for a 3rd time included additional text bringing (yet further) attention to the fact that the land is not in an area deemed high quality agricultural land by the Department of Primary Industries & Regional Development, nor within an area identified as subject to flooding by the Department of Water & Environment Regulation, and can meet other relevant planning criteria and still requires comprehensive assessment through the scheme amendment process. The Strategy also notes that for much of the 'Proposed Rural Smallholdings' area the land is already of a lot size and land use suited to a designation of 'Rural Smallholdings'. The Strategy's continued identification of this land as 'Rural Smallholdings' enables the future zoning to correspond more appropriately with the prevailing lot sizes, land uses and established settlement pattern. Retaining the 'Proposed Rural Smallholdings' identification within the Strategy also assists as an interim measure to manage potential incompatible development prior to subsequent rezoning.

The WAPC's requested direction removes landowner's ability to realise their landholdings potential, and undermines the investment, purchase and development decisions they have made regarding their land. More importantly, however, it represents a reversal of the established strategic direction for some precincts and numerous planning determinations in the previous decade that have been publicly available in both State and local government planning instruments for several years. These prior planning strategies and region plans have consequently formed the basis for people to make key life impacting choices including purchasing into an area, siting homes, business decisions and the intended creation of lots for their children.

The WAPC's 20/7/21 decision reveals that the sole outstanding issue it has with the draft Strategy is the amount of 'Rural Smallholding' land identified upon the Strategy Maps. Since the Strategy's release in 2007 it would seem that the WAPC have developed a disinclination towards rural living lots on the basis they have potential to remove high quality agricultural land from production as it becomes hobby farms and lifestyle lots, and the belief that it can introduce residents into areas of bushfire risk and is inefficient in terms of servicing.

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

The retention of the area of land that the WAPC is requiring have its Rural Smallholding status removed would not lead to wide-scale or excessive lot creation, given that it impact just 26 landowners and a potential lot yield of an additional 246 lots. It may be considered that once a development/subdivision potential has been identified in a local and state

government adopted planning document it is concerning to then seek to take that potential away, particularly so if land purchases and investments have then been made by landowners with a level of expectation. It might also be queried how an argument can be raised that if a subject area met land capability requirements previously, what has changed in the intervening period to make such an arbitrary decision.

Options

Given Council's previous opposition to the removal of the 'Rural Smallholdings' area (as required by the WAPC) that would disadvantage members of the Shire community, there are considered to be 2 options open to it at this time.

Option 1 – Undertake the WAPC modifications and advertise the Strategy

Council could resolve to undertake the WAPC's contentious Rural Smallholdings modification and advertise the Strategy for comment, at the conclusion of which the Strategy and the received submissions would be presented to a future meeting of Council for consideration. The Strategy would then need to be returned to the WAPC for final determination.

Under this option the Shire would make clear that it is the WAPC who have insisted that the Strategy must have the 'Rural Smallholdings' area removed, and the advertising process could involve some additional consultation measures to the statutory minimum requirements, including any (or all) of the below:

- write directly to every impacted landowner making clear what the new strategy is proposing, who is enforcing it upon them (even after repeated Shire requests to have them reconsider), and their ability to make a submission. The Shire correspondence could also advise parties they may wish to write directly to the Minister for Planning and local State politicians if they are unhappy with the WAPC direction (in addition to making a submission);
- engage with local media to raise awareness;
- place a new advisory sign on the 2 roadside poles that remain alongside Nanson-Howatharra Road (formerly used for the proposed highway bypass advisory sign); &
- hold a community meeting at the Nabawa Community Centre.

Under this option the Shire could also choose to not simply undertake the WAPC's required standard statutory consultation measures of placing a notice in a local newspaper and on its website and writing to relevant public authorities and providing 21 days to comment. Instead it would be more reasonable that the Shire would, in addition to writing directly to the 26 impacted landowner (that the WAPC seeks to remove 'Rural Smallholding' potential from) run an extended advertising period of 60 days to enable landowners greater opportunity for comment.

Option 2 – Refuse to undertake the WAPC modifications

Council may refuse to undertake the modifications to the Strategy as required by the WAPC (noting that the current Strategy enables the impacted landowners some opportunity to rezone and subdivide).

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

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

As part of Option 2 Council may also wish to send a letter to the Minister of Planning to express its disappointment with the WAPC's stance.

Further in the event Council pursues Option 2 it might also wish to write to the 26 landowners within the area the WAPC seeks to no longer have identified for 'Rural Smallholdings' in the Strategy to make them aware of what the WAPC is attempting to do to them.

STATUTORY ENVIRONMENT

Part 3, Regulation 11 of the *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') requires that:

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

Part 3, Regulation 12 of the Regulations requires that a local government must gain certification of the WAPC prior to advertising its Strategy.

- 12 Certification of draft local planning strategy*
- (1) Before advertising a draft local planning strategy under regulation 13 the local government must provide a copy of the strategy to the Commission.*
 - (2) On receipt of a copy of a draft local planning strategy the Commission must, as soon as reasonably practicable, assess the strategy for compliance with regulation 11(2).*
 - (3) If the Commission is not satisfied that a draft local planning strategy complies with regulation 11(2) the Commission may, by notice in writing, require the local government to —*
 - (a) modify the draft strategy; and*
 - (b) provide a copy of the draft strategy as modified to the Commission for assessment under subregulation (2).*
 - (4) If the Commission is satisfied that a draft local planning strategy complies with regulation 11(2) it must certify the strategy accordingly and provide a copy of the certification to the local government for the purpose of proceeding to advertise the strategy.*
- 13 Advertising and notifying local planning strategy*
- (1) A local government must, as soon as reasonably practicable after being provided with certification that a local planning strategy complies with regulation 11(2), advertise the strategy as follows —..."*

In the event that the Shire does not make the modifications as requested by the WAPC to the Strategy then the local government will not have provided the WAPC with a copy of the Strategy in accordance with Regulation 12(3)(b) for certification, which is a requirement to commence advertising of the Strategy.

This would result in the 2007 Strategy, which contains the Rural Smallholdings area remaining the local government's strategic planning document. Whilst this is not ideal as the 2007 Strategy is dated in many other aspects it would mean that the 2021 Strategy had not advanced to a stage where it could reasonably be considered as 'seriously entertained'.

The 2020 WAPC publication 'Making Good Planning Decisions' notes the following:

"Draft scheme amendments and policies can still be given weight even though they are not operative. This is the basis of the much-cited case Coty (England) Pty Ltd v Sydney City Council (1957) 2 LGRA 117. This case provides that weight can be given to a draft-planning instrument once it becomes 'seriously entertained'. In Western Australia, this usually occurs after advertising is completed – the further towards approval the document is, the more 'seriously entertained' it is considered to be.

The leading case in the State Administrative Tribunal is Nicholls and Western Australian Planning Commission [2005] WASAT 40, which provides at paragraph [45] a useful analysis of how a draft policy is to be treated by setting out a four-stage enquiry:

- “(1) In jurisdictions where there is no requirement to take into consideration a draft planning instrument or policy or a draft amendment to a planning instrument or policy once it has reached a certain specified stage, the authority or tribunal must consider whether the draft constitutes a seriously-entertained planning proposal. If it determines that it is a seriously entertained planning proposal, it is a relevant matter for consideration in relation to the planning assessment.*
- (2) If the draft is a relevant matter for consideration, the authority or tribunal must consider the extent to which the application before it is consistent with the planning objective or planning approach embodied or reflected in the draft. In particular, the authority or tribunal must consider whether the approval of the application is likely to impair the effective achievement of the planning objective or planning approach embodied or reflected in the draft or is likely to render more difficult the ultimate decision as to whether the draft should be made or its ultimate form.*
- (3) The authority or tribunal must consider the weight to be accorded to the consistency or otherwise between the application and the draft.*
- (4) The authority or tribunal must weigh its conclusions in relation to the foregoing matters in the balance along with all other relevant considerations relating to the application, and determine whether, in light of all relevant considerations, it is appropriate in the exercise of planning discretion to grant approval to the application and, if so, subject to what conditions.” (emphasis added)”*

Part 6, Division 1, Regulations 65 & 66 of the *Planning and Development (Local Planning Schemes) Regulations 2015* do make allowance for the WAPC to require a local government to make recommendation on whether it considers its Strategy satisfactory in its existing form, or should be amended or revoked, as part of a Local Planning Scheme Review. However, this would then return the process to Part 3, Regulations 11-13 which is the current impasse point of the Strategy process.

POLICY/PROCEDURE IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The Shire was advised on 28/5/16 that its application to the Department of Planning for \$25,000 funding under the Royalties for Regions-Northern Planning Program for the review of its Strategy had been successful. The received grant funds have now been expended and further modifications to the Strategy will be required to be funded from Account 1992-Planning Consultancy Expenses in the Shire budget.

Long Term Financial Plan (LTFP):

The Shire of Chapman Valley Long Term Financial Plan was endorsed by Council at its 19/7/17 meeting. The review of the Local Planning Strategy is not considered to be inconsistent with the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

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

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

The strategy sets out the local government's objectives for future planning and development and includes a broad framework by which to pursue those objectives. The strategy will need to address the social,

environmental, resource management and economic factors that affect, and are in turn affected by, land use and development.

The local planning strategy should:

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

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

- Shire of Chapman Valley Local Planning Schemes No.2 (2013) & No.3 (2019);
- Greater Geraldton Structure Plan (WAPC) (2011);
- Oakajee Industrial Estate Structure Plan (Development WA) (2012);
- Oakajee Port Master Plan (Mid West Ports Authority) (2011);
- Oakajee Narngulu Infrastructure Corridor Alignment Definition Report (WAPC) (2014);
- Dongara-Geraldton-Northampton Route Alignment Selection Study (MRWA) (2015-2021);
- Wokarena Heights Structure Plan (Shire) (2013);
- Buller Structure Plan (Shire) (2016);
- Dolbys Drive Structure Plan (Shire) (2017);
- Chapman Valley Coastal Management Strategy & Action Plan (Shire) (2016);
- Moresby Range Management Strategy (WAPC) (2009);
- Moresby Range Management Plan (Shire) (2010);
- Nabawa Townsite Revitalisation Plan (Shire) (2016);
- Chapman River Flood Study – Nanson & Nabawa Townsites (DWER) (2020).

With the exception of the last 2, all of these planning documents relate to the western regions of the Shire and it is this coastal strip that requires most updating in the Local Planning Strategy to reflect subsequent documents.

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

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

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

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 15/11/17 meeting.

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

CONSULTATION

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

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

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

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

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

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

In relation to the final dot point it is considered that were the draft Strategy to be advertised with the modifications as required by the WAPC, that the Shire should write to the 26 impacted landowners and advise them of the draft Strategy, how it relates to their property, and of their opportunity to make comment.

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

RISK 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 Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council:

- 1 Refuse to undertake the modifications requested by the Western Australian Planning Commission to the draft Shire of Chapman Valley Local Planning Strategy as they are considered unreasonable, unjustified and a reversal of the strategic planning direction of publicly available planning documents (prepared both at a local and state government level) that have previously been adopted by the WAPC.
- 2 Write to the landowners who would be disadvantaged by the WAPC's decision to advise them of this issue and the Council's opposition to the WAPC's decision.
- 3 Write to the Minister of Planning to advise of Council's disappointment with, and objection to, the WAPC's decision

Voting F6/A0

CARRIED

Minute Reference: 09/21-06

10.2

Manager of Finance & Corporate Services

10.2 AGENDA ITEMS

10.2.1 Financial Management Report for August 2021

10.2.1

Financial Management Report for August 2021

PROPONENT:	Shire of Chapman Valley
SITE:	Shire of Chapman Valley
FILE REFERENCE:	307.00
PREVIOUS REFERENCE:	Nil
DATE:	15 th September 2021
AUTHOR:	Dianne Raymond, Manager Finance & Corporate Services

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.1(a)	August 2021 Financial Management Reports		✓
10.2.1(b)	Confidential List of August 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 August 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 August 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 and processes are current and relevant	Review policy categories and set ongoing accountability for review processes	Review current Council and Management policies and formalise update process and timelines.

CONSULTATION

Not applicable

RISK ASSESSMENT

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

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

VOTING REQUIREMENTS

Simple Majority

MOVED: Cr. Davidson

SECONDED: Cr Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council receives the financial management report supplied under separate cover for the months of August 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: 09/21-07

PRESENTATION WESTERN POWER

Pip Brown & Beth Winter from Western Power joined the meeting at 9:25am for a presentation on the following:

- Standalone Power Systems (SPS)
- Tropical Cyclone Seroja repair works
- Western Power communication process
- SPS at Telstra Mobile Towers
- Discussion of contracting local electrician in disaster situations

P Brown & B Winter from Western Power left the meeting at 10:16am.

Meeting adjourned at 10:16am.

Meeting reconvened at 10:44am.

PRESENTATION MARG HEMSLEY

Marg Hemsley from Risk ID joined the meeting at 10:44am for a presentation and discussion on the Strategic Community Plan review and community consultation process.

M Hemsley left the meeting at 12:13pm

Cr Warr left the meeting at 12:14pm.

10.3

Chief Executive Officer

10.3 AGENDA ITEMS

- 10.3.1 Code of Conduct for Council Members, Committee Members and Candidates**
- 10.3.2 Occupational Health & Safety Compliance Officer**
- 10.3.3 2021 Regional Telecommunication Review**

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

PROPONENT:	Councillors
SITE:	Shire of Chapman Valley
FILE REFERENCE:	401.01
PREVIOUS REFERENCE:	Minute Ref: 02/21-12; Concept Forum August 2021
DATE:	15 September 2021
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.1(a)	Revised addendum to Code of Conduct		✓
10.3.1(b)	Revised Values Chart		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council resolved the following at the February 2021 OCM:

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

Council also resolved the following at the June 2021 OCM:

Council agree to:

1. Undertaking an internal review of the existing Team Values & Behaviours linked to the Code of Conduct for Council Members, Committee Members and Candidates, with the CEO and Senior Staff.
2. Attend a social function after the internal review of the Team Values & Behaviours linked to the Code of Conduct for Council Members, Committee Members and Candidates, with all Elected Members and Senior Staff invited.

Voting F7/A0

CARRIED

Minute Reference: 06/21-12

Councillors and Senior Staff participated in a session on the 29th July 2021 to review the *Team Values & Behaviours* (current included as an Addendum to the Shire's *Code of Conduct for Council Members, Committee Members and Candidates*) and the *Values Chart* which is linked to the values and behaviours. The outcome of these discussions were presented to the August 2021 Concept Forum. Direction was then given to the Chief Executive Officer at the August 2021 Concept Forum to bring this matter to Council for consideration.

COMMENT

Attachments 10.3.1(a) and 10.3.1(b) have tracked changes noted from what I believe was the outcome of the review process and which was agreed to at the August 2021 Concept Forum. It is important Councillors agree with the proposed changes presented and to formally adopt the changes as the *Team Values & Behaviours* and the *Values Chart*. The Staff Recommendation is to include both these documents as addendums to the *Code of Conduct for Council Members, Committee Members & Candidates*.

No action has been taken on item 2 of Resolution 06/21-12 at the June 2021 OCM i.e.

“Attend a social function after the internal review of the Team Values & Behaviours linked to the Code of Conduct for Council Members, Committee Members and Candidates, with all Elected Members and Senior Staff invited.”

Direction is required from Council if this item is still to be actioned or not. The Staff Recommendation is to revoke this action and for Council to consider a function after the new Chief Executive Officer has been appointed and has taken up the position.

STATUTORY ENVIRONMENT

Local Government (Model Code of Conduct) Regulation, 2021

POLICY/PROCEDURE IMPLICATIONS

Policy CP-005 Code of Conduct for Council Members, Committee Members & Candidates

FINANCIAL IMPLICATIONS

No financial implications envisaged.

Long Term Financial Plan (LTFP):

Nil effect on the LTFP.

STRATEGIC IMPLICATIONS

It is important Councillors and Staff to have an agreed set of values and behaviours they can aspire to, have ownership of and refer to in times of need. It is equally important these values and behaviours are prominently displayed as a reminder and not simply agreed to and shelved.

Strategic Community Plan/Corporate Business Plan:

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

CONSULTATION

As previously mentioned, Councillors and Senior Staff participated in a session on the 29th July 2021 to review the *Team Values & Behaviours* (current included as an Addendum to the Shire's *Code of Conduct for Council Members, Committee Members and Candidates*) and the *Values Chart* which is linked to the values and behaviours and discussed this matter at the August 2021 Concept Forum.

RISK ASSESSMENT

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

Measures of Consequence							
Rating	Health	Financial Impact	Service Interruption	Compliance	Reputational	Property	Environment

(Level)							
Insignificant (1)	Negligible injuries	Less than \$1,000	No material service interruption	No noticeable regulatory or statutory impact	Unsubstantiated , low impact, low profile or 'no news' item	Inconsequential or no damage.	Contained, reversible impact managed by on site response

VOTING REQUIREMENTS

Simple Majority

MOVED: Cr. Batten

SECONDED: Cr Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council adopt the revised *Team Values & Behaviours* and the *Values Chart* as presented and included both documents as Addendums to the Shire's *Code of Conduct for Council Members, Committee Members and Candidates*.

Voting F5/A0

CARRIED

Minute Reference: 09/21-08

Cr Warr returned to the meeting at 12:17am.

MOVED: Cr. Farrell

SECONDED: Cr Humphrey

Council deal with Revocation/Amendments to Council Resolution 06/21-12)

Revocation of Item 2 of resolution 06/21-12 i.e.

"Attend a social function after the internal review of the Team Values & Behaviours linked to the Code of Conduct for Council Members, Committee Members and Candidates, with all Elected Members and Senior Staff invited."

COUNCIL RESOLUTION 1 - (one third affirmative votes required – i.e. 3 Votes)

Council agree to deal with amendment/revocation of part of resolution 06/21-12 as presented.

Voting F6/A0

CARRIED

Minute Reference: 09/21-09

MOVED: Cr. Batten

SECONDED: Cr Warr

COUNCIL RESOLUTION 2 - (Absolute Majority required – i.e. 5 Votes)

Council revoke Item 2 of resolution 06/21-12 i.e.

"Attend a social function after the internal review of the Team Values & Behaviours linked to the Code of Conduct for Council Members, Committee Members and Candidates, with all Elected Members and Senior Staff invited."

Voting F6/A0

CARRIED

Minute Reference: 09/21-10

10.3.2 Occupational Health & Safety Compliance Officer

PROPONENT:	Chief Executive Officer
SITE:	Shire of Chapman Valley
FILE REFERENCE:	904.00
PREVIOUS REFERENCE:	NA
DATE:	15 September 2021
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
	Nil		

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Western Australia has joined the 'Work Health and Safety' (WHS) regime, in line with New South Wales, Queensland, South Australia, the Northern Territory and Tasmania. Victoria will continue to operate under a separate regime. The Work Health and Safety Act 2020 (WA) passed through the Legislative Assembly on 3 November 2020. It is expected the legislation will be passed by the Legislative Council by the end of 2021.

The Work Health and Safety Act 2020 (WA) will introduce following, amongst other things:

- the same WHS concepts to Western Australia existing in the other jurisdictions to have adopted the harmonised WHS framework. These include the uniting duty of care of 'Persons Conducting a Business or Undertaking' (PCBUs) to ensure the health and safety of workers and others, so far as is reasonably practical;
- onerous officer duties, which require officers to exercise due diligence to ensure WHS compliance by the PCBU;
- a framework to establish a general scheme for authorisations such as licences, permits and registrations (e.g. for persons engaged in high-risk work or users of certain plant or substances), including provisions for automated authorisations;
- a prohibition on insurance and indemnities for WHS fines; and
- one industrial manslaughter charge. Western Australia will be the fifth state to introduce a specific industrial manslaughter charge, along with Queensland, Victoria, the ACT and the Northern Territory.

Industrial Manslaughter – Crime

- This charge arises when a duty holder engages in conduct which causes the death of an individual, in the knowledge the conduct was likely to result in death or serious harm, and in disregard of this likelihood. The conduct must also constitute a failure to comply with the duty holder's health and safety duty.
- The maximum penalty for an individual is 20 years' imprisonment and a fine of \$5m.
- The maximum penalty for a body corporate is a fine of \$10m.
- Officers can also be charged for crimes committed by a PCBU in certain circumstances, including when the PCBU's conduct was attributable to the officer's neglect, or engaged in with the officer's consent or involvement.

This matter was raised at February 2021 Concept Forum and will be again at the September 2021 Concept Forum in relation to the serious concerns and effect this may have on the Bushfire Volunteer operation and liability exposure of the Shire as a body corporate and the Chief Executive Officer individually.

COMMENT

There is significant concern being expressed amongst local government Chief Executive Officers on their inability to adequately comply with both the existing legislation and the new legislation about to be introduced, with many LGAs allocating additional resources (either externally and/or internally) to address compliance requirements.

I have been in discussions with the Shire of Northampton who are keen to enter into a formal arrangement with the Shire of Chapman Valley to employ a OSH Compliance Officer to cover both local government authorities. This is considered a wise approach in the first instance as it will assist the incoming CEO at the Shire of Chapman Valley to have some comfort this area of the organisational operations of the Shire is being addressed. It may also be beneficial during the CEO Recruitment process for the Council to assure applicants the new requirements of the Work Health & Safety legislation is being resourced and addressed.

The actual cost of the position is yet to be confirmed and this, along with a Position Description for this proposed position will be developed with the Shire of Northampton, using examples and estimates from other LGAs. There may also be a need to obtain initial external consultancy services as well to assist the new employee to establish the basic requirements for compliance.

The purpose of this Agenda Report is to seek endorsement from Council to proceed with the proposal to employ a OSH Compliance Officer with the Shire of Northampton and to utilise \$50,000 from the additional Financial Assistance Grants (FAGS) we have recently been advise by the WA Grants Commission will be paid to the Shire in 21/22 for this purpose.

The WA Grants Commission has confirmed the following:

	Budgeted Amount	Actual Amount	Additional Funds
General Purpose Grant	\$202,912	\$308,410	\$105,498
Road Grant	\$241,604	\$271,733	\$30,129
Total	\$444,516	\$580,143	\$135,627

The WA Grants Commission has stated the following reason for the increased in the notional FAGS amount (used for budget purposes) to all WA local government authorities:

"The Commission previously phased in increases to local government grants at a slower rate. However, in recent years the Commission has attempted to pass on increases quicker. You may recall last year, all local governments were advised that they would receive a general purpose grant no less than the previous year due to concern of the effects of COVID. The Commission also received minimal growth to the funding pool. This meant many local government did not receive the increase they otherwise would have in a normal year.

This year we were a beneficiary of growth in our funding pool, allowing us to provide an increase that reflected what we weren't able to provide in the previous years as well as pass on the increase for this year (thus the large increase".

Once the estimate costs for an OSH Compliance Officer are more accurately defined it may be necessary to bring another item back to Council seeking an additional budget variation(s) to accommodate this expenditure. However, it is anticipated the \$50,000 should be more than adequate for the balance of 21/22.

STATUTORY ENVIRONMENT

Work Health and Safety Act 2020 (WA)

In recent discussions with Worksafe on the new WHS legislation and where the responsibility rest the following information was provided:

Meaning of Officer

Officer – an officer within the meaning of section 9 of the Corporations Act 2001 (Cth) other than each partner within a partnership. Broadly, an officer is a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the organisation's activities. This does not include a local government member acting in that capacity or a minister of a state, territory or the Commonwealth.

An officer can also be an officer of the Crown or a public corporation if they are a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the

business or undertaking of the Crown or public corporation.

Each partner within a partnership is not an officer but a PCBU in their own right.

Person conducting a business or undertaking (PCBU) – a person conducting a business or undertaking alone or with others, whether or not for profit or gain. A PCBU can be a sole trader (for example, a self-employed person), each partner within a partnership, company, unincorporated association, government department or public corporation (including a local or regional government).

A local government member acting in that capacity is not a PCBU.

A 'volunteer association' that does not employ anyone is not a PCBU. If it becomes an employer it also becomes a PCBU for purposes of the WHS Act.

A 'strata company' responsible for any common areas used only for residential purposes is not a PCBU, unless it engages a worker as an employee.

Like most legislation, nothing is simple and the following information was provided by WALGA regarding the WHS legislation and Elected Members:

WHS & Elected Members

There has been some uncertainty around how the WHS Act and associated regulations will impact elected members, particularly around the application of section 4, which excludes local government members in the definition of an 'officer'.

This **does not** remove an elected member's obligations from elsewhere in the Act, and whilst they may not be considered an officer or worker, they are considered an '**other**'. For the purposes of their specific individual duty, section 29 provides a **duty of other persons at a workplace**.

For an elected member to discharge their duty under section 29, they must:

- **Take reasonable care for their own health and safety**
- **Take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons**
- **Comply, so far as reasonably able, with any reasonable instruction that is given by the local government (as the PCBU) to ensure the local government complies with its duty under the Act.**

So in practice, when an elected member fulfils their obligations in that role, including when interacting with local government and participating in discussions and decisions for the local government, it is incumbent on them to consider the above. This includes decisions relating to Bushfire Brigade Volunteers



Therefore, contrary to some comments made by a few individuals on the exposure Elected Members have under the new WHS legislation, it appears there is definitely an exposure to the Elected Members if decisions (or lack of) are made which could adversely affect the health and safety of others (e.g. employees, volunteers, contractors).

POLICY/PROCEDURE IMPLICATIONS

The Shire has a number of OSH & Risk Management Policies and Procedures, which are presently being collated into the one Matrix for future ease of access. The issue remains with not just having these policies & procedures, rather ensuring they are adequately communicated to the relevant staff, contractors, volunteers, etc. Something line management staff continue to grapple with. The role of the OSH Compliance Officer is not just to ensure the policies &

procedures are in place, reviewed, up to date and communicated it will also be to ensure they are being adhered to. Again an area staff simply are currently not adequately resource to do.

FINANCIAL IMPLICATIONS

Council allocated an amount of \$50,000 in the 2021/2022 from additional FAGS grants to be received to the proposed OSH Compliance Officer is being recommended due to the need to urgently achieve at least minimal compliance with the WHS legislation about to be imposed on the Shire.

It will be a requirement to continue the OSH Compliance Officer into future budgets to ensure compliance is continued and the organisations liability reduced.

Long Term Financial Plan (LTFP):

There will be an effect on the LTFP as the OSH Compliance Officer will be a new employee (FTE 0.50).

STRATEGIC IMPLICATIONS

Establishing an Organisational Structure to adequately accommodate to compliance for the operational requirements of the Shire is important. With the ever increasing presence of exposure to litigation, combined with the continued imposition of resource hungry legislation being imposed on local government, it is imperative the adequate resources are made available to the CEO to comply.

Strategic Community Plan/Corporate Business Plan:

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

CONSULTATION

The issue of the imminent WHS legislation has been around for some time and there has been several notifications from WALGA and LGIS on the effects the new legislation will have on local government.

The effects the WHS legislation will have on the Bushfire operations in the Shire has also been presented to Council at previous Shire Concept Forums for discussion.

WALGA & LGIS conducted a Webinar on the 31st August 2021 specifically regarding how the WHS legislation will effect local government Bushfire operations

RISK ASSESSMENT

As mentioned, the risk is difficult to determine; however, if it is based upon the maximum penalties under the new WHS legislation of:

- The maximum penalty for an individual is 20 years' imprisonment and a fine of \$5m.
- The maximum penalty for a body corporate is a fine of \$10m.

then the consequence would be **Catastrophic**. Realistically, I doubt the maximum penalties will be imposed if the Shire is being seen to at least try its best to be compliant and to introduce best practices as a minimum. However, the risk is definitely there if the Shire doesn't at least resource the CEO in trying to reach this base level.

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

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
Moderate (3)	Medical type injuries	\$10,001 - \$50,000	Medium term temporary interruption – backlog cleared by additional resources < 1 week	Short term non-compliance but with significant regulatory requirements imposed	Substantiated, public embarrassment, moderate impact, moderate news profile	Localised damage requiring external resources to rectify	Contained, reversible impact managed by external agencies
Major (4)	Lost time injury	\$50,001 - \$150,000	Prolonged interruption of services – additional resources; performance affected < 1 month	Non-compliance results in termination of services or imposed penalties	Substantiated, public embarrassment, high impact, high news profile, third party actions	Significant damage requiring internal & external resources to rectify	Uncontained, reversible impact managed by a coordinated response from external agencies
Catastrophic (5)	Fatality, permanent disability	More than \$150,000	Indeterminate prolonged interruption of services – non-performance > 1 month	Non-compliance results in litigation, criminal charges or significant damages or penalties	Substantiated, public embarrassment, very high multiple impacts, high widespread multiple news profile, third party actions	Extensive damage requiring prolonged period of restitution Complete loss of plant, equipment & building	Uncontained, irreversible impact

VOTING REQUIREMENTS

Absolute Majority

MOVED: Cr Forth

SECONDED: Cr Humphrey

Suspend standing orders at 12:18pm.

Voting F6/A0

CARRIED

Minute Reference: 09/21-11

Discussion undertaken on item

MOVED: Cr Forth

SECONDED: Cr Davidson

Reinstate standing orders at 12:59pm

Voting F6/A0

CARRIED

Minute Reference: 09/21-12

MOVED: Cr Davidson

SECONDED: Cr Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council:

1. Endorse the introduction of a shared Occupational Safety & Health Compliance Officer with the Shire of Northampton as part of the Shire of Chapman Valley's organisational structure.
2. Allocate \$50,000 in the adopted 2021/2022 budget from additional Financial Assistance Grants to be received from the WA Grants Commission for the costs associated with employing shared Occupational Safety & Health Compliance Officer with the Shire of Northampton and (if necessary) to obtain external consultancy/contract assistance in 2021/2022.

If additional funds are required in this financial year then this be brought back to Council for consideration of additional budget variation(s) to accommodate the new position.

3. Authorise the Chief Executive Officer to work with the Shire of Northampton to:
 - a. establish a Position Description and Remuneration Package for the Occupational Safety & Health Compliance Officer position; and
 - b. undertake a recruitment and selection process for the Occupational Safety & Health Compliance Officer position;
4. In the event the Shire of Northampton declines to share an Occupational Safety & Health Compliance Officer the Chief Executive Officer be authorised to:
 - a. use the \$50,000 allocated to either seek another willing local government authority to share the position; and/or
 - b. obtain external contract/consultancy services to assist with improved compliance with the Work Health Safety legislation.
5. Allocate funds in future budgets to cover costs for the ongoing employment of an Occupational Safety & Health Compliance Officer and/or external contract/consultancy services to assist with compliance with the Work Health Safety legislation.

Voting F6/A0

CARRIED

Minute Reference: 09/21-13

10.3.3 2021 Regional Telecommunication Review

PROPONENT:	Australian Government – Department of Infrastructure, Transport, Regional Development & Communications
SITE:	Australia
FILE REFERENCE:	204.15.17
PREVIOUS REFERENCE:	NA
DATE:	15 September 2021
AUTHOR:	Maurice Battilana, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.3(a)	2021 Regional Telecommunication Review – Issues paper		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Australian Government, Department of Infrastructure, Transport, Regional Development & Communications has advised an independent committee is conducting a review of regional telecommunications issues and seeks submissions by 30 September 2021. The following is posted on the Department's website on this review:

"The Committee wants to hear your views on regional telecommunication issues, including your experience with getting connected and making the most of your connection. Your feedback will be important in setting the Government's regional telecommunications policy agenda over the coming years."

"You can have your say by reading the Issues Paper and providing a comment or submission by 30 September 2021. You can submit your response to the Issues Paper below or email the Committee Secretariat at secretariat@rtirc.gov.au."

"The Committee is required to report to Government on the adequacy of telecommunications services in regional, rural and remote Australia. Your submission will help the Committee to understand the issues of concern in regional Australia and to develop recommendations in the report to address these issues."

"The Regional Telecommunications Review (the Review) is an opportunity for people living and working in regional, rural and remote areas of Australia to share their views and experiences using telecommunications services in their area."

Every three years the Regional Telecommunications Independent Review Committee (the Committee) is appointed to conduct the review. Committee reports are important in setting the regional communications policy agenda in the following years."

The 2021 Committee was appointed on 1 June 2021. The Review will be held from June to December. The five members appointed to the Committee are the Hon Luke Hartsuyker (Chair), Ms Sue Middleton, Ms Kristy Sparrow, Professor Hugh Bradlow and Mr Michael Cosgrave."

The Review will examine the adequacy of telecommunications services in regional, rural and remote Australia. It will also consider particular issues identified in the Terms of Reference, including the impact of Government policies and programs, insights from COVID-19, emerging technologies, service reliability, regional development, and improving coordination between tiers of government."

The Committee has been asked to deliver its report to the Australian Government by 31 December 2021 or earlier. The Committee may make recommendations to the Government, on which it must respond."

Visit the Committee's website for more information about the review and the consultation process, and how to get involved in a public consultation session near you."

Individual can (and are encouraged) to make submission. The website address to make a submission is:

<https://www.communications.gov.au/have-your-say/2021-regional-telecommunications-review>

COMMENT

The Chief Executive Officer logged into a Webinar Teleconference on the Review process on 20 August 2021, which was informative and all the comments made by participant on the day echoed those being made in this Shire, including, yet not limited to:

- Mobile Network Tower must have better power backup as the current system is inadequate;
- Towers coverage appears to be turned down and this should not be blamed on illegal booster in the area;
- Broadacre agricultural business are reliant upon mobile and internet telecommunication;
- Fears on how the 5G upgrade is going to have an adverse effect on the coverage, specifically if the 3G network is going to be turned off;
- Demand is increasing for digital telecommunications, yet the services to regional areas is lagging;
- Skymuster is not a practical option and perhaps more focus should be placed on expanding the High Speed Fixed Wireless service, which may also be able to accommodate VOIP as an alternative to mobile phone services through Telstra towers;
- Australian Government's Community Service Obligation (CSO) to those in the regional and remote areas appears to have been given less significance than it should be. Most telecommunication decisions appear to Metrocentric or Regional Centre Centric;
- Current Telstra help services are poor and inadequate;
- The current largely monopolistic system doesn't appear to be benefiting communities

I have been working with CEO at the Shire of Mingenew (Nils Hay) on a submission and he has kindly provided a copy of his submission, which I believe covers most (if not all) of what are our concerns. Nils' draft submission is based upon the sixteen (16) questions being asked in the Issues Paper and is provided at **Attachment 10.3.3(b)**

STATUTORY ENVIRONMENT

Part 9B of the Telecommunications (Consumer Protection and Service Standards) Act 1999

POLICY/PROCEDURE IMPLICATIONS

Not existing Policy or Procedure affected.

FINANCIAL IMPLICATIONS

No financial implications envisaged.

Long Term Financial Plan (LTFP):

No effect on the LTFP.

STRATEGIC IMPLICATIONS

Good quality and reliable Telecommunications is an essential aspect to the growth and wellbeing of the Shire and should continue to be high on the list of issues the Shire should monitor and lobby for. However, it is important the Shire does not get dragged into providing or contributing to what is a Australian and State Government responsibility.

Strategic Community Plan/Corporate Business Plan:

Ref	Objective	Strategy	Action
4.3	Aspire to robust communication and digital infrastructure in the Shire	Engage with infrastructure and service providers	Continue advocating for improvements to existing infrastructure and introduction of new infrastructure for digital communications

CONSULTATION

The Australian Government, Department of Infrastructure, Transport, Regional Development & Communications has advised and independent committee is conducting a review of regional telecommunications issues and seeks submissions by 30 September 2021.

RISK ASSESSMENT

Making a submission is considered an *insignificant* risk.

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

STAFF RECOMMENDATION

Council endorse the Shire of Mingenew submission as presented at **Attachment 10.3.3(b)** with the following additional comments:

1. Skymuster is not a practical option due to latency issues, poor speeds, low data limits and high cost/poor value for money to the end-user compared to NBN fibre to the premise and fixed wireless services. Perhaps more focus should be placed on expanding the High Speed Fixed Wireless service to regional areas, which may also be able to accommodate VOIP as an option to complement or be a backup to the mobile phone services through Telstra.

Modern "smartphones" can access the Internet through Wi-Fi as well as mobile phone cells, and can conduct voice traffic through apps such as Skype, Teams, Whats App, etc. Internet access in households and business premises can access this option to complement the current Telstra dominated mobile phone service.

2. Australian & State Government Community Service Obligation (CSO) to those in the regional and remote areas appears to have been given less significance than it should be. Most telecommunication decisions appear to Metro or Regional Centre Centric;
3. Mobile Towers currently allocated to Telstra, without the ability for other telecommunication service providers to have access to is not practical, particularly as these towers where funded from public revenue. There needs to be an easing of access to the towers by other service providers at affordable rates to encourage competition for telecommunication services in regional areas.
4. Reliability of Connections remains an issue in the regional area i.e.
 - i. Often no 'back-up' or alternative options for consumers during outages and downtime.
 - ii. Dropouts and outages - both with mobile broadband and satellite services.
 - iii. Power outages and no power backup, leaving connections offline for long periods.
 - iv. Landline services declining over time or being impacted by weather, lack of available parts for repairs, lack of available technicians.
 - v. Delayed repairs of voice and telecommunication services due to remote location of end-user.
5. The issue of the footprint when tower is upgraded from 3G to 4G to 5G reportedly lessens, reducing the number of consumers able to access a specific tower. Will this result in additional towers needing to installed to at least maintain the existing 3G/4G footprint?

ALTERNATIVE RESOLUTION

MOVED: Cr. Forth

SECONDED: Cr Batten

Council endorse the Shire of Mingenew submission as presented at **Attachment 10.3.3(b)** with the following additional comments:

1. Skymuster is not a practical option due to latency issues, poor speeds, low data limits and high cost/poor value for money to the end-user compared to NBN fibre to the premise and fixed wireless services. Perhaps more focus should be placed on expanding the High Speed Fixed Wireless service to regional areas, which may also be able to accommodate VOIP as an option to complement or be a backup to the mobile phone services through Telstra.

Modern “smartphones” can access the Internet through Wi-Fi as well as mobile phone cells, and can conduct voice traffic through apps such as Skype, Teams, Whats App, etc. Internet access in households and business premises can access this option to complement the current Telstra dominated mobile phone service.
2. Australian & State Government Community Service Obligation (CSO) to those in the regional and remote areas appears to have been given less significance than it should be. Most telecommunication decisions appear to Metro or Regional Centre Centric;
3. Mobile Towers currently allocated to Telstra, without the ability for other telecommunication service providers to have access to is not practical, particularly as these towers where funded from public revenue. There needs to be an easing of access to the towers by other service providers at affordable rates to encourage competition for telecommunication services in regional areas.
5. Reliability of Connections remains an issue in the regional area i.e.
 - i. Often no ‘back-up’ or alternative options for consumers during outages and downtime.
 - ii. Dropouts and outages - both with mobile broadband and satellite services.
 - iii. Power outages and no power backup, leaving connections offline for long periods.
 - iv. Landline services declining over time or being impacted by weather, lack of available parts for repairs, lack of available technicians.
 - v. Delayed repairs of voice and telecommunication services due to remote location of end-user.
6. The issue of the footprint when tower is upgraded from 3G to 4G to 5G reportedly lessens, reducing the number of consumers able to access a specific tower. Will this result in additional towers needing to installed to at least maintain the existing 3G/4G footprint?
7. End user education and creating a digital pathway for businesses to either consolidate IoT, expand options and capatilise on an existing comms network.
8. Growing tourism industry and current Telstra network inhibits large events due to network inadequacies, as well as basic business operations due to black spots or low bandwidth.
9. Measure past programs of digital investment to explore pros and cons. Digital Farm Grants - learn from what has worked, better understand the potential of rural digital networks and what is possible with future investment. Also further explore a co-investment model, e.g. Chapman Valley digital farms project with investment from State Govt, Local Govt, service provider, local businesses and other local organisations.

Voting F6/A0

CARRIED

Minute Reference: 09/21-14

Reason for Deviation from The Staff Recommendation: Council requested additional comments be included in the submission

Meeting adjourned at 1:01pm.
Meeting reconvened at 1:36pm.

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. Warr

SECONDED: Cr Forth

Council agree to deal with the late item presented regarding conducting an extraordinary election.

Voting F6/A0

CARRIED

Minute Reference: 09/21-15

12.1 Extraordinary Election

MOVED: Cr. Batten

SECONDED: Cr Humphrey

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council approve the date of the extraordinary election as being 26 November 2021 pursuant to Sections 4.57 & 4.9 of the *Local Government Act 1995*.

Voting F6/A0

CARRIED

Minute Reference: 09/21-16

13.0 DELEGATES REPORTS

Member	Reports
Cr Forth	Chapman Valley Agricultural Society
Cr Farrell	Ministers Whitby & MacTiernan at CVAS, Northern Country Zone Meeting, Mingenew

COUNCIL RESOLUTION

MOVED: Cr. Farrell

SECONDED: Cr Batten

Council commend Chapman Valley Agricultural Society on a successful 2021 show and congratulate all committee members and volunteers on their incredible efforts.

Voting F6/A0

CARRIED

Minute Reference: 09/21-17

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. Batten

SECONDED: Cr Forth

COUNCIL RESOLUTION

Council closes the meeting to the public at 1:52pm for Agenda Item 15.1 in accordance with the Local Government Act, 1995, per Section 5.23(2)(c) due to a contract(s) being entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

Voting F6/A0

CARRIED

Minute Reference: 09/21-18

15.1 Panel Tenders

MOVED: Cr. Warr

SECONDED: Cr Farrell

COUNCIL RESOLUTION/STAFF RECOMMENDATION

Council endorse the following Evaluation Panel recommendations:

- a) Accepts the Tenders submitted for appointment to the Panel of Pre-Qualified Suppliers for the provision of Plant, Equipment & Traffic Management Services for Occasional Hire, ITT 01-21/22.

The recommended companies represent the most advantageous Tender to form a Contract with the initial term being for twelve (12) months with two (2) options to extend of twelve (12) months each with an estimated commencement date of 1 October 2021.

- b) The following respondents are recommended for award for the specific categories, subject to contracting and satisfaction of outstanding clarifications and minor variations:

Plant Hire – Dry &/or Wet

Evary Pty Ltd (Thurkle Earthmoving & Maintenance Pty Ltd)
Lenane Holdings
Magor & Swartz Pty Ltd
Red Dust Enterprises PTY Ltd
Squires Resources Pty Ltd
Thurkle's Dozing

Traffic Management

Baba Marda Road Services
Advanced Traffic Management (WA) Pty Ltd
Altus Traffic Pty Ltd

Voting F6/A0

CARRIED

Minute Reference: 09/21-19

MOVED: Cr. Humphrey

SECONDED: Cr Forth

Council reopened the meeting to the public at 1:53pm.

Voting F6/A0

CARRIED

Minute Reference: 09/21-20

16.0 CLOSURE

The President announced this would be his last Council Meeting and thanked Elected Members and Staff for their contributions throughout his time as Shire President.

The Deputy President responded by thanking the President for his commitment and contributions to the Shire over the last several years leaving behind a positive legacy.

The President closed the meeting at 1:57pm.