

ORDINARY COUNCIL MEETING

Confirmed Minutes

8.30am Thursday
20 October 2022
Council Chambers

OCTOBER 2022

SHIRE OF CHAPMAN VALLEY
Jamie Criddle
CHIEF EXECUTIVE OFFICER

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



SHIRE OF
Chapman Valley
love the rural life!

DISCLAIMER



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.

A handwritten signature in black ink, appearing to read 'Jamie Criddle', is positioned above the printed name and title.

Jamie Criddle
CHIEF EXECUTIVE OFFICER

Table of Contents

1.0	DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS.....	4
2.0	ANNOUNCEMENTS FROM THE PRESIDING MEMBER	4
3.0	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED).....	4
3.1	Attendees.....	4
3.2	Apologies.....	4
3.3	Previously Approved Leave of Absence (By Resolution of Council)	4
4.0	PUBLIC QUESTION TIME	4
4.1	Response to Previous Public Questions on Notice	4
4.2	Public Question Time.....	4
5.0	APPLICATIONS FOR LEAVE OF ABSENCE (by Resolution of Council)	4
6.0	DISCLOSURE OF INTEREST.....	4
7.0	PETITIONS/DEPUTATIONS/PRESENTATIONS.....	5
7.1	Petitions	5
7.2	Presentations	5
7.3	Deputations.....	5
8.0	CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS.....	6
8.1	Ordinary Meeting of Council - 15 September 2022	6
9.0	ITEMS TO BE DEALT WITH EN BLOC	6
10.0	OFFICERS REPORTS	6
10.1	Deputy Chief Executive Officer	7
10.1.1	Proposed Building Envelope Alteration	8
10.1.2	Proposed Reduced Boundary Setbacks.....	19
10.1.3	Proposed Outbuilding.....	28
10.2	Manager of Finance & Corporate Services	38
10.2.1	Financial Management Report	39
10.3	Chief Executive Officer	41
10.1.4	Local Government Reform - Election Transition Arrangements	42
10.3.2	Covid-19 Policy Amendment.....	45
11.0	ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	48
12.0	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING	48
13.0	DELEGATES REPORTS	48
14.0	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	48
15.0	MATTERS FOR WHICH MEETING TO BE CLOSED TO MEMBERS OF THE PUBLIC.....	48
15.1	Regional Waste Services	48
16.0	CLOSURE.....	49

ORDER OF BUSINESS

1.0 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS

The Shire President welcomed Elected members & Staff and declared the meeting open at 8:45am.

2.0 ANNOUNCEMENTS FROM THE PRESIDING MEMBER

I would like to acknowledge the traditional owners of the land we are meeting on today, the Naaguja people, and we pay our respects to elders both past, present and emerging.

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

3.1 Attendees

Elected Members	In	Out
Cr Kirrilee Warr (President)	8:45am	10:14am
Cr Darrell Forth (Deputy President)	8:45am	10:14am
Cr Nicole Batten	8:45am	10:14am
Cr Elizabeth Elliott-Lockhart	8:45am	10:14am
Cr Peter Humphrey	8:45am	10:14am
Cr Catherine Low	8:45am	10:14am
Cr Trevor Royce	8:45am	10:14am
Officers	In	Out
Jamie Criddle, Chief Executive Officer	8:45am	10:14am
Simon Lancaster, Deputy Chief Executive Officer	8:45am	10:14am
Solataire Cameron, Community Development Officer	8:53am	10:14am

Visitors	In	Out
Nil		

3.2 Apologies

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

Cr Davidson for the October 2022 Ordinary Council Meeting.
Cr Humphrey for the November 2022 Ordinary Council Meeting.

4.0 PUBLIC QUESTION TIME

4.1 Response to Previous Public Questions on Notice

Nil

4.2 Public Question Time

Nil

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

Nil

6.0 DISCLOSURE OF INTEREST

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

Section 5.60A:

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

Section 5.60B:

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

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

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

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

Regulation 34C (Impartiality):

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

Item No.	Member/Officers	Type of Interest	Nature of Interest
10.1.3	Cr Low	Proximity	Leasing adjoining property

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations

Nil

7.3 Deputations

Nil

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

8.1 Ordinary Meeting of Council - 15 September 2022

MOVED: Cr Forth

SECONDED: Cr Elliott-Lockhart

COUNCIL RESOLUTION

That the Minutes of the Ordinary Meeting of Council held on Thursday 15 September 2022 be confirmed as true and accurate.

Voting F7/A0

CARRIED 7/0

Minute Reference: 10/22-01

9.0 ITEMS TO BE DEALT WITH EN BLOC

Nil

10.0 OFFICERS REPORTS

10.1

Deputy Chief Executive Officer

10.1 AGENDA ITEMS

- 10.1.1 - Proposed Building Envelope Alteration
- 10.1.2 - Proposed Reduced Boundary Setbacks
- 10.1.3 - Proposed Outbuilding

10.1.1 Proposed Building Envelope Alteration

PROPONENT:	Planned form for G & A Whitby
SITE:	15 (Lot 303) Patten Place, White Peak
FILE REFERENCE:	A1813
PREVIOUS REFERENCE:	Nil
DATE:	11 October 2022
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.1(a)	Application		✓
10.1.1(b)	Submissions		✓
10.1.1(c)	Applicant response to submissions		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application for a residence and outbuilding outside the building envelope for 15 (Lot 303) Patten Place, White Peak. The application has been advertised for comment and 2 submissions expressing support and 1 objection were received. This report recommends approval.

COMMENT

Lot 303 is a 7,997m² property on the southern side of Patten Place in the Dolby Creek Estate. The lot is oblong in shape, sloping downwards along its 124m length from the 84m contour in the rear, south-eastern corner to the 76m contour in the front, north-western corner.

Figure 10.1.1(a) – Location Map for 15 (Lot 303) Patten Place, White Peak



Figure 10.1.1(b) – Aerial photo of 15 (Lot 303) Patten Place, White Peak



The applicant is seeking approval for the following:

- 218.5m² single storey 3 bedroom, 1 bathroom residence with Surfist weatherboard wall cladding and Evening Haze custom orb roof sheeting. Due to the sloping nature of the site the residence would be set upon cut and fill earthworks with the front, north-western corner of the residence approximately 1m above natural ground level and the rear, south-eastern corner of the residence approximately -0.25m below natural ground level;
- 51.84m² timber framed, gable roofed outbuilding with a 4.1m total height with weatherboard wall cladding and custom orb roof sheeting in colour scheme to match the residence. The outbuilding would also be set upon cut and fill earthworks with the north-western corner of the outbuilding approximately 0.35m above natural ground level and the south-eastern corner of the outbuilding approximately -0.3m below natural ground level;
- temporary siting of a sea container in the current location in the rear, south-western corner of the property to enable the on-site storage of equipment used to maintain fencing and vegetation on the property, with intention to ultimately either remove the sea container or relocate it upon the property to comply with Council's Sea Container Policy (which requires sea containers to be within 2m of an existing approved building).



The front-most portion of the residence is proposed to be sited within the building envelope that was assigned to Lot 303 at time of subdivision with the majority of the residence's floor area immediately south/to the rear of the building envelope. The outbuilding is proposed to be sited 5.3m behind the residence placing it entirely outside of the building envelope.

The applicant is seeking to amend the building envelope by moving it backwards (southwards) by 25m to enable the proposed development. As per the requirements of the Building Envelope the application was therefore advertised for comment to surrounding landowners and is now presented to Council for determination.

A copy of the application, including site, floor and elevation plans and the applicant's supporting correspondence has been provided as **separate Attachment 10.1.1(a)**.

Council adopted the Dolby Creek Estate Structure Plan at its 20 October 2010 meeting that designated a 2,000m² building envelope for Lot 303, a copy of the building envelope plan with the requested building envelope alteration is provided as **Figure 10.1.1(c)** and is also included in **separate Attachment 10.1.1(a)**.

Figure 10.1.1(c) – Dolby Creek Estate Structure Plan with proposed Lot 303 Building Envelope alteration in red

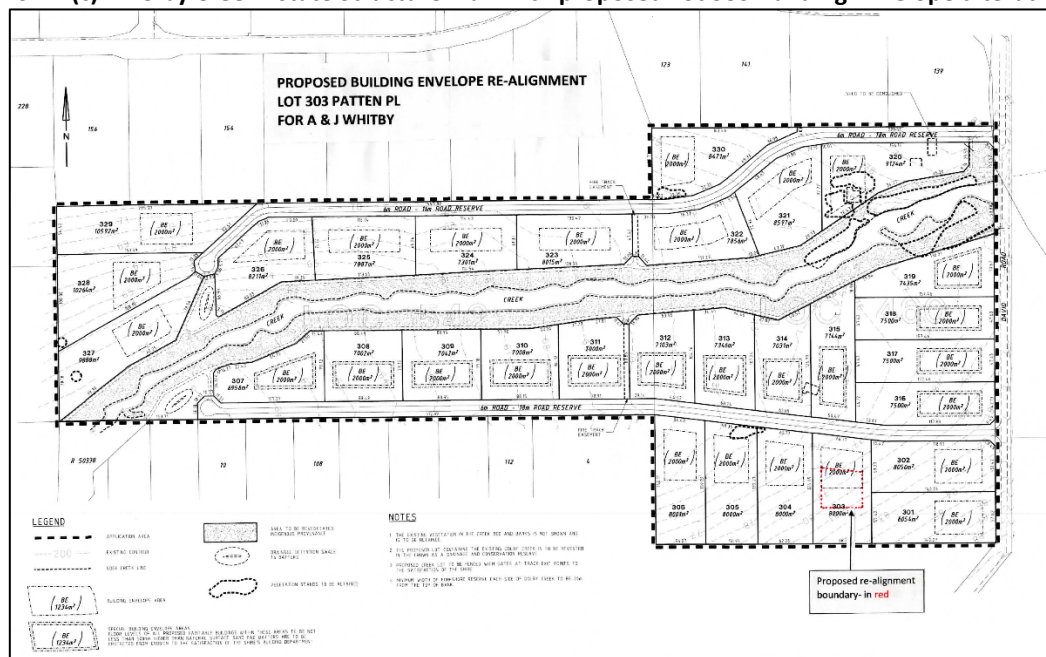
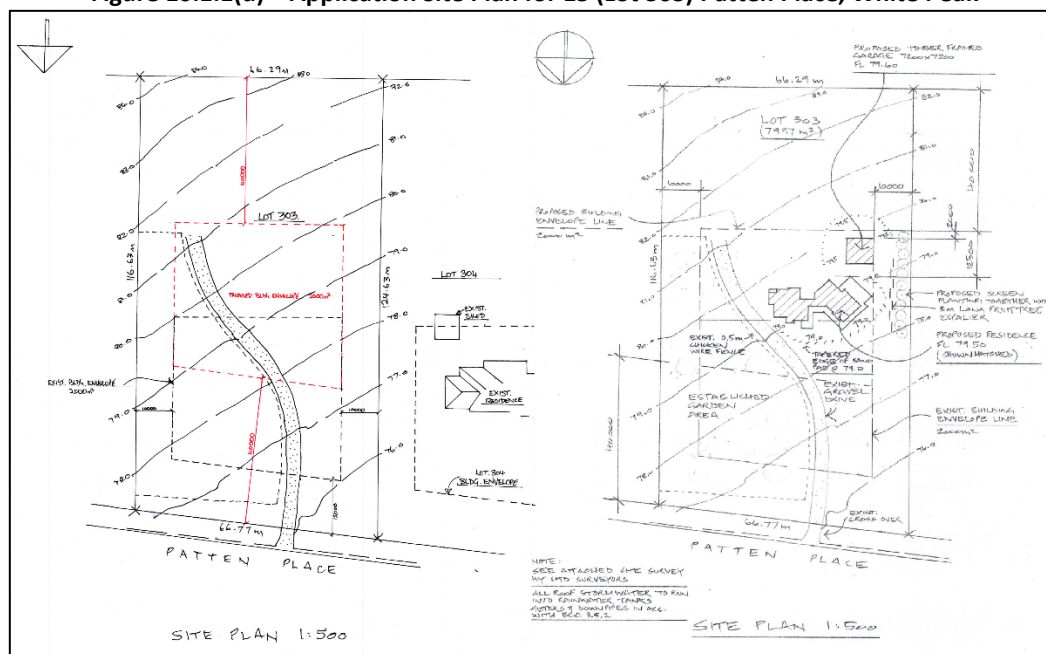


Figure 10.1.1(d) – Application Site Plan for 15 (Lot 303) Patten Place, White Peak



Council may consider that the application could be supported based upon the following:

- the landowner has undertaken significant native vegetation landscaping upon the property as can be seen in **Figures 10.1.1(e)-(i)** and proposes to undertake further planting (including espaliered fruit trees on 3m wide, 1.8m high screens) that will assist in screening the development from the neighbouring side properties;
- the proposed residence and outbuilding design are single storey and have skillion roofs to reduce their visual impact upon the skyline and would be clad in earth tones to work-in with the surrounding landscape;
- the proposed residence would be set at a lower contour level than the 2 existing residences to the east;
- the proposed residence and outbuilding would be clustered together to provide a relatively small development footprint;
- the residence and outbuildings would be setback 10m from the eastern side boundary and the residence approximately 30m from the western side boundary;
- the residence would be approximately 35m from the closest neighbouring residence (to the west) and 110m from the 2 existing residences to the east and south-east, providing sufficient area for screening landscaping to protect both the applicant's and the neighbours' privacy;

- the outbuilding would be relatively minor in scale and height (51.84m² floor area) and would not present a privacy issue to the eastern side neighbour as the wall elevation facing the side boundary has no major openings;
- the 51.84m², 4.1m total height outbuilding would be relatively minor in scale and height and considerably less than the 360m² (240m² enclosed, 120m² unenclosed) outbuilding area and 5.5m overall height that can be approved in the 'Rural Residential' zone under the Shire of Chapman Valley Outbuildings Local Planning Policy;
- the primary purpose for establishing building envelopes upon the Dolby Creek Estate Structure Plan was to set a recommended finished floor level and ensure that habitable development was located away from the Dolby Creek watercourse to reduce potential risk from flooding and away from the associated riparian vegetation to reduce fire risk. Given this application is on the opposite/southern side of Patten Place from Dolby Creek the requested modification of the building envelope does not have adverse impact in regards to this key issue.

Figure 10.1.1(e) – View of 15 (Lot 303) Patten Place, White Peak looking south (2020 to left, 2022 to right)



Figure 10.1.1(f) – View of 15 (Lot 303) Patten Place, White Peak looking north-west towards neighbouring residence (2020 to left, 2022 to right)



Figure 10.1.1(g) – View of 15 (Lot 303) Patten Place, White Peak looking east towards neighbouring residence (2020 to left, 2022 to right)



Figure 10.1.1(h) – View of 15 (Lot 303) Patten Place, White Peak looking south-east (2020 to left, 2022 to right)



Figure 10.1.1(i) – View of 15 (Lot 303) Patten Place, White Peak looking south-west (2020 to left, 2022 to right)



Figure 10.1.1(j) – View of sea container upon 15 (Lot 303) Patten Place, White Peak



In the event that Council considers the application should be refused it may consider the following wording appropriate:

“That Council refuse the application for the relocation of the building envelope upon 15 (Lot 303) Patten Place, White Peak for the following reasons:

- 1 The development is not considered to satisfy Sections 40 and Schedule 5 of the Shire of Chapman Valley Local Planning Scheme No.3.*
- 2 The development is not considered to satisfy Clause 67 of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 3 Council is not satisfied that sufficient justification has been provided to warrant a concession being granted in this instance to the requirements under Section 6 of the Shire of Chapman Valley Local Planning Policy ‘Building Envelopes’.*
- 4 The proposed residence location is outside of the building envelope as identified on the Dolby Creek Estate Subdivision Guide Plan.*

- 5 Council considers that the building envelopes assigned for the lots on the southern side of Patten Place have created a built form designed with regard to privacy protection and the approval of this application will have negative impacts on the privacy of the adjoining side neighbours.
- 5 Approval of this application may well set an undesirable precedent for future variation to the Shire's statutory and policy requirements, which in time could prove to be detrimental to the visual amenity, natural landscape character, privacy and amenity of residents of the surrounding locality.

Note:

If an applicant is aggrieved by this determination there is a right pursuant to the Planning and Development Act 2005 to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination."

STATUTORY ENVIRONMENT

15 (Lot 303) Patten Place, White Peak is zoned 'Rural Residential 1' under Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme').

Table 2 of the Scheme lists the objectives of the 'Rural Residential' zone as being:

- *To provide for lot sizes in the range of 1 ha to 4 ha.*
- *To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.*
- *To set aside areas for the retention of vegetation and landform or other features which distinguish the land."*

The Scheme notes the following of relevance to this application:

"40 Building envelopes

- (1) *Where a building envelope is identified on a structure or fire management plan, all development shall be contained within the designated envelope area.*
- (2) *No development of any structures shall occur within any area/s identified as 'Development Exclusion Area', 'Re-vegetation Area', 'Remnant Vegetation' or similar on the structure or fire management plan;*
- (3) *Notwithstanding the requirements of Clause 62 of the deemed provisions, where a building envelope exists on a particular lot an application for development approval to change or relocate the building envelope shall be accompanied by relevant building plans and information addressing visual amenity, privacy and screening, vegetation loss, access, and proximity to natural features.*
- (4) *In considering an application to relax the requirements of subclause (2) and (3), the local government shall, in addition to the general matters set out in Clause 67 of the deemed provisions, give particular consideration to:*
 - (a) *unacceptable visual clutter, especially in elevated areas of high landscape quality or visually exposed locations; and*
 - (b) *unnecessary clearing of remnant native vegetation; and*
 - (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 Residential

(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;...*

...(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 to be considered by Council in considering a development application:

- "(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(g) any local planning policy for the Scheme area;*
- (h) any structure plan or local development plan that relates to the development;...*
- ...(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;...*
- ...(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 Dolby Creek Estate Subdivision Guide Plan was adopted by Council at its 20 October 2010 meeting and is considered to form a Structure Plan as per Part 9 Regulation 79 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

POLICY/PROCEDURE IMPLICATIONS

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

Shire of Chapman Valley Local Planning Policy 5.1 – Building Envelopes provides guidance on the assessment of applications of this nature and a copy of this policy can be viewed at the following link:

<https://www.chapmanvalley.wa.gov.au/Profiles/chapmanvalley/Assets/ClientData/Document-Centre/planning/policies/SoCV LPP 5 1 Building Envelopes.pdf>

A Local Planning Policy does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

In most circumstances the Council will adhere to the standards prescribed in a Local Planning Policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification warrants a concession and the variation granted will not set an undesirable precedent for future development.

The Shire of Chapman Valley 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.”*

Shire of Chapman Valley Local Planning Policy 7.3 – Sea Containers also provides guidance on the assessment of this application and a copy of this policy can be viewed at the following link:

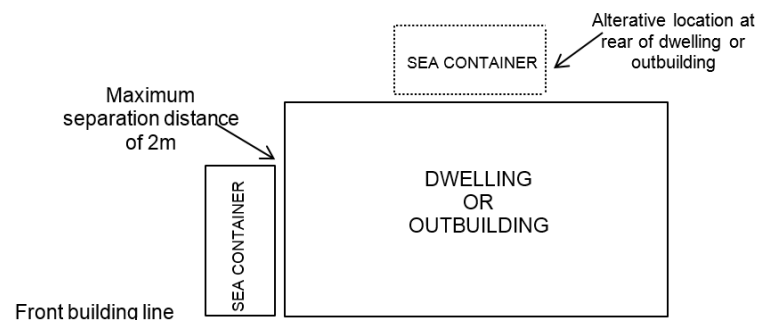
https://www.chapmanvalley.wa.gov.au/Profiles/chapmanvalley/Assets/ClientData/Document-Centre/planning/policies/SoCV_LPP_7_3_Sea_Containers.pdf

The ‘Sea Containers’ policy has the following objectives:

- “3.1 To ensure an acceptable quality of development is achieved that does not detrimentally affect the amenity and streetscape of the locality.*
- 3.2 Establish guidelines for the placement of sea containers or other similar re-locatable storage units on land within the municipality.”*

Section 4.2 of the ‘Sea Container’ policy requires the following:

- “6.1 A sea container proposed to be permanently sited upon a property is required to comply with the following criteria:*
 - 6.1.a A maximum of one (1) sea container on a lot (excepting industrial or rural zoned land).*
 - 6.1.b The sea container is to be sited behind the front building line of an existing or under construction built development upon the property and must not impinge on any boundary setbacks as required by the Local Planning Scheme.*
 - 6.1.c The sea container is to be positioned at a maximum separation distance of 2m.*
 - 6.1.d The sea container is to be used for general storage purposes only associated with the predominant use of the land and shall NOT be used for habitation, commercial or industrial purposes.*
 - 6.1.e The sea container is required to be painted or clad in materials the same colour as the existing structure up against which the sea container is positioned.”*



- 6.2 A sea container proposed to be temporarily sited upon a property is only required to comply with Clauses 6.1.a, 6.1.b and 6.1.d (but not Clauses 6.1.c and 6.1.e) providing the sea container is removed within 12 months of its initial siting upon property and a current building permit has been issued for that property.
- 6.3 The permanent placement of a sea container or other similar relocatable storage unit will not be permitted on land zoned residential.
- 6.4 A sea container is considered in the calculation of the total aggregate outbuilding area as permitted under the Shire's 'Outbuildings' Local Planning Policy.
- 6.5 Should the sea container not meet the requirements of Clauses 6.1 and 6.2 of this policy a planning application is required to be lodged."

In the event that Council were to issue development approval for the relocation of the building envelope, and the Shire subsequently issued a building permit for the residence and/or outbuilding, then pursuant to Section 6.2 of the Sea Container Policy the sea container could remain in its current location on-site for a period of not greater than 12 months after which time the sea container would need to be either removed from the property, or relocated to within 2m of an approved building, and painted to match, pursuant to Section 6.1.c & 6.1.e of the Sea Container Policy.

FINANCIAL IMPLICATIONS

Nil.

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

Council has previously granted approval for 3 developments to be located partially outside of the building envelopes identified on the Dolby Creek Estate Structure Plan. These have generally been for relatively minor encroachments where only a portion of the building was located outside of the envelope as follows:

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

Council has previously approved 2 applications for development that were entirely outside of the building envelopes as shown upon the Dolby Creek Estate Structure Plan. These being:

- Council approved a shed 18m outside of the building envelope upon 30 (Lot 330) Westlake Place, White Peak at its 16 December 2015 meeting. This application sought to elongate the building envelope (rather than entirely relocate it) and the agenda report noted the irregular triangular shape of the lot and curving street frontage as basis for consideration, and that the proposed location for the shed was at a lesser contour and therefore less likely to interfere with neighbours' views than were it to be located upon the higher contour as contained within the building envelope. Whilst that application sought to site the shed outside the building envelope, the nearby clustered residence would still be contained within it, and no objection was received in that instance from surrounding landowners when the application was advertised for comment.

- Council approved a shed 5m outside of the building envelope upon 22 (Lot 314) Patten Place, White Peak at its 17 November 2021 meeting. The outbuilding in that instance was considered minor in nature (being 88m² in area and having a 3.5m wall height and 4.72m total height) and was screened from the road by the existing residence, fencing and established landscaping. Again, whilst that application sought to site the shed outside the building envelope, the nearby clustered residence was still contained within it, and no objection was received in that instance from surrounding landowners when the application was advertised for comment.

Council has refused an application that sought to relocate entirely a building envelope at 29 (Lot 305) Patten Place, White Peak at its 16 December 2020 meeting. In that particular instance the applicant was seeking to relocate the entire building envelope 70m further back on the property, from the lower ground at the front of the property to the higher ground at the rear of the property, and this was objected to by neighbouring parties.

It is considered that the current application bears more in common with the building envelope adjustment applications that were supported by Council than the entire building envelope relocation application that was refused by Council.

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 18 August 2022 meeting and includes the following objectives of relevance:

Ref	Strategies & Actions	Timeline	2022 Status	Desired Status
<i>Community Health & Lifestyle</i>				
Objective 1.1 Nurture the sense of community throughout the Shire while maintaining / supporting the differing residential groups and volunteers				
Strategy: Development of plans and strategies relevant to emerging population needs				
1.1.1	Review existing plans and develop new plans as required	Ongoing	Monitor existing plans to ensure they remain current and pursue funding opportunities should they arise	Policies & Plans remain current and relevant and implemented as funding becomes available
<i>Environment & Sustainability</i>				
Objective 2.1: Maintain the rural identity of the Shire				
Strategy: Develop western peri-urban environment in context to rural lifestyle				
3.2.1	Ensure planning is in place to encourage peri-urban development activities.	Ongoing	Solid and appropriate Planning is in place.	Retain and improve where necessary

CONSULTATION

Section 7.0 of Shire of Chapman Valley Local Planning Policy 5.1 – Building Envelopes states that “An application for the relocation, removal or expansion of a building envelope may be advertised to surrounding landowners prior to being placed before a meeting of Council for consideration”.

The application was advertised from 23 August 2022 until 20 September 2022 with the Shire writing to the 10 surrounding landowners inviting comment. An advisory sign was placed on-site and the application was also placed on the Shire website and made available for viewing at the Shire office.

At the conclusion of the advertising period, 3 submissions had been received, with 2 of these being submissions expressing support for the proposed development and 1 in objection.

A copy of the received submission, with the identity of the respondents redacted as per standard local government procedure has been provided as **separate Attachment 10.1.1(b)**.

The applicant was provided with opportunity to respond to the issues raised during the advertising period and a copy of their response has been provided as **separate Attachment 10.1.1(c)**.

RISK ASSESSMENT

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

VOTING REQUIREMENTS

Simple majority required

MOVED: Cr Forth

SECONDED: Cr Elliott-Lockhart

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant formal planning approval for the alteration of the building envelope to accommodate the proposed residence and outbuilding upon 15 (Lot 303) Patten Place, White Peak subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plan(s) as contained within Attachment 10.1.1(a) 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 buildings or land (not the subject of this consent/approval) considered by the local government Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
- 3 The development shall be of materials, finish and colours that are non-reflective (i.e. not zincalume) and complementary to the natural landscape features to the satisfaction of the local government.
- 4 Landscaping is required to be installed and maintained by the landowner between the development and the western and eastern side property boundaries for the purpose of assisting in privacy for the adjoining side landowners to the satisfaction of the local government.
- 5 All stormwater must be contained and disposed of on-site to the satisfaction of the local government.
- 6 Any soils disturbed or deposited on site shall be stabilised to the satisfaction of the local government.
- 7 The laying of all water pipes under ground to a minimum depth of 300mm to better withstand the effects of a bush fire.
- 8 The development shall comply with the requirements of Shire of Chapman Valley Local Planning Policy 7.3 – Sea Containers.
- 9 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) In regards to condition 8 the landowner is permitted to retain the sea container in its current location for a period of not greater than 12 months from the date of this determination providing that they proceed to obtain a building permit for the residence and/or outbuilding hereby given planning approval. At the conclusion of the 12 month period the sea container is required to be either removed from the property, or relocated to within 2m of an approved building, and painted (or clad) in a colour to match, pursuant to Section 6.1.c & 6.1.e of Shire of Chapman Valley Local Planning Policy 7.3 – Sea Containers.
- (c) 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 F3/A4
Motion LOST
Minute Reference: 10/22-02

10.1.2 Proposed Reduced Boundary Setbacks

PROPONENT:	Eco Building & Design for J. Duffy
SITE:	7 (Lot 119) Dune Vista, Buller
FILE REFERENCE:	A1873
PREVIOUS REFERENCE:	Nil
DATE:	5 October 2022
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.2	Application		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application to construct a dwelling, outbuilding and retaining walls upon 7 (Lot 119) Dune Vista, Buller. The application has been advertised for comment and no objections were received. This report recommends approval.

COMMENT

Lot 119 is a 4,002m² vacant property on the eastern side of Dune Vista in the Wokarena Heights Estate. The lot is rectangular in shape, sloping downwards along its 95m length from the 49m contour at the rear to the 44m contour in the front, south-western corner.

Figure 10.1.2(a) – Location Map for 7 (Lot 119) Dune Vista, Buller



Figure 10.1.2(b) – Aerial photo of 7 (Lot 119) Dune Vista, Buller



The application is for a dwelling, outbuilding and retaining walls upon 7 (Lot 119) Dune Vista, Buller. The proposed single storey, three bedroom, one bathroom dwelling would have Jasper custom orb wall cladding and Surfmist custom orb roof sheeting. The proposed outbuilding would have Shale Grey custom orb wall cladding and Surfmist custom orb roof sheeting.



The proposed dwelling has been designed to meet with the floor area requirements of an ancillary dwelling (more commonly known as 'granny flats') of the Shire of Chapman Valley Ancillary Dwellings Local Planning Policy which allows for a maximum 160m² roofed area and maximum 80m² habitable floor area upon 'Residential R2.5' (i.e. 4,000m²) zoned properties. This design would provide the landowner the flexibility to subsequently construct a main residence upon the property.

The proposed accompanying outbuilding, being 120m² in area with a wall height of 4m and a total height of 4.885m would meet with the maximum 180m² floor area and maximum 4m wall height/5m total height requirements of the Shire of Chapman Valley Outbuildings Local Planning Policy.

Table 1 of State Planning Policy 7.3 - Residential Design Codes ('R-Codes') recommends a setback distance of 7.5m from (non-front) boundaries in the 'Residential R2.5' zone. The received application proposes variation to this 7.5m side/rear setback requirement with the dwelling proposed to be setback 5m from the side (southern) and rear (eastern) boundaries, and the outbuilding proposed to be setback 2m from the side (northern) and rear (eastern) boundaries.

Both buildings would be set into cut earthworks, with a retaining wall approximately 0.75m at its highest point in the north-eastern corner of Lot 119 behind the outbuilding and a retaining wall approximately 0.4m at its highest point in the south-eastern corner of Lot 119 behind the residence. The retaining wall would be situated in cut (rather than retaining fill) so that it would face inwards towards the property (and behind the buildings) rather than be exposed to neighbouring lots.

Due to the application proposing variation to the R-Codes boundary setback requirements, the application was advertised to the surrounding landowners inviting comment, with no objections being received, and is now presented to Council for determination. A copy of the received application that includes the site, elevation and floor plans along with the supporting correspondence has been provided as **separate Attachment 10.1.2**.

Figure 10.1.2(c) – Application Site Plan for 7 (Lot 119) Dune Vista, Buller

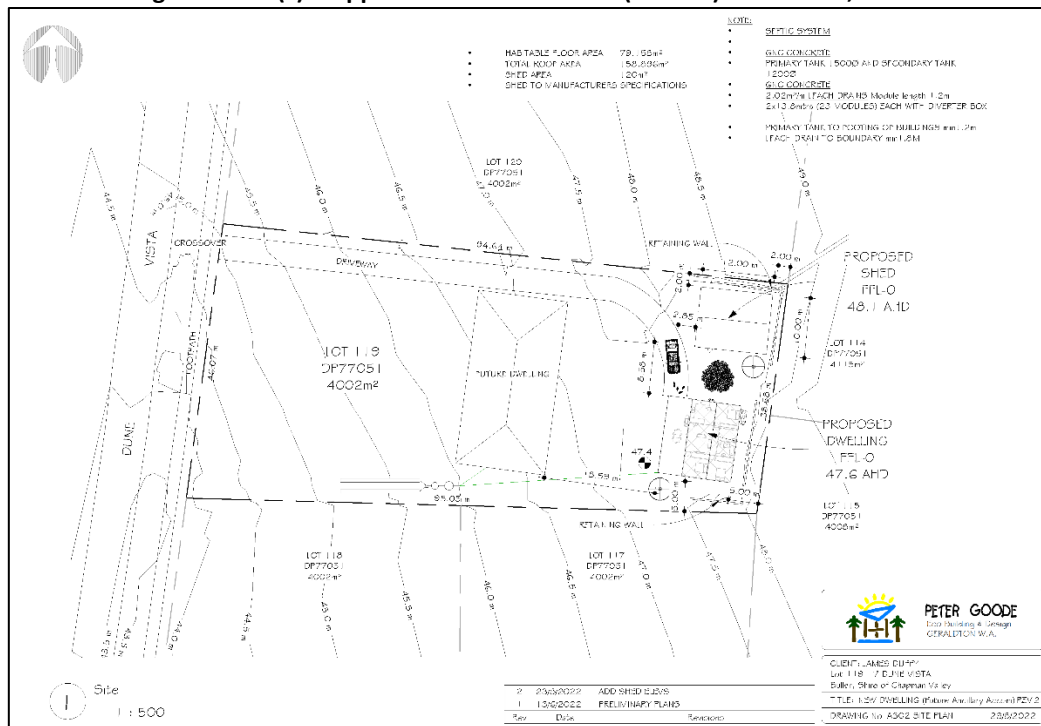


Figure 10.1.2(d) – View of 7 (Lot 119) Dune Vista, Buller looking east from north-west front corner



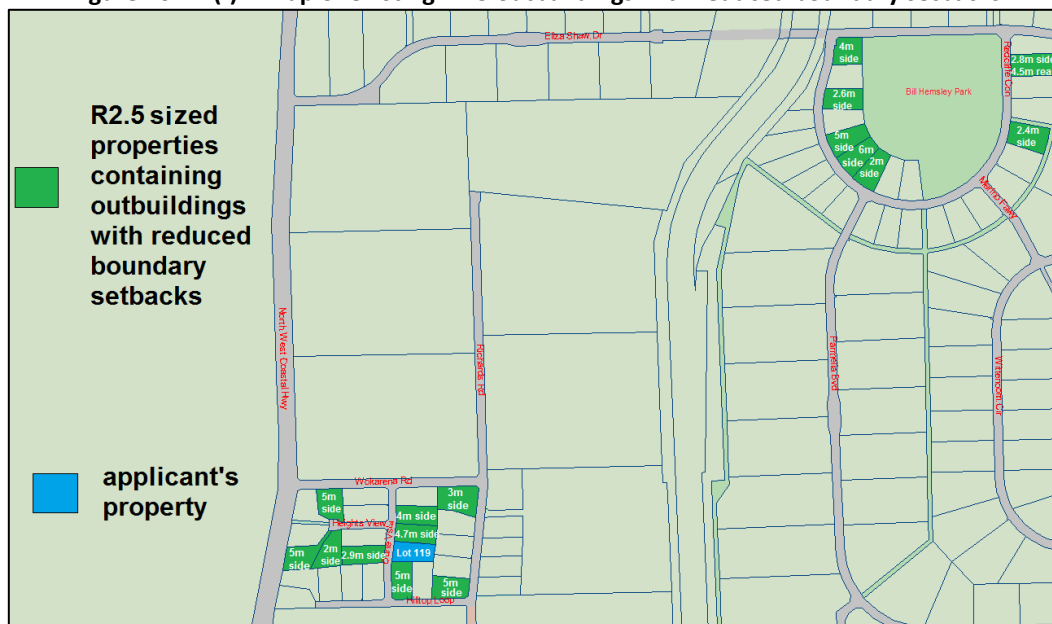
Figure 10.1.2(e) – View of 7 (Lot 119) Dune Vista, Buller looking east from south-west front corner



It is considered that the proposed variation to the R-Codes side/rear boundary setback requirements should be supported in this instance, based upon the following:

- the outbuilding's proposed side/rear boundary setback variation of 2m, and the dwelling's proposed side/rear boundary setback of 5m rather than the R-Code requirement of 7.5m would not be out of character with the surrounding area where a number of structures have been approved with a reduced setback on the Wokarena Heights and Redcliffe Concourse R2.5 zoned lots as illustrated in **Figure 10.1.2(f)**;

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



- the proposed external cladding colours of Jasper walls and Surfmist roof for the dwelling and Shale Grey walls and Surfmist roof for the outbuilding are considered to be neutral, complementary tones that would not draw undue attention to the structures;
- the single storey dwelling's proposed 2.7m wall height/4.025m gable height would not lead to significant visual impact and this would be further reduced through being situated in an area of cut earthworks, lowering its overall height as measured from natural ground level;

- given that the only openings on the eastern elevation of the dwelling are a bathroom window (that can be conditioned to be glazed in an obscure material) and a laundry sliding door, and it will be situated in cut earthworks, the reduced setback would not present privacy issues for the adjoining rear/eastern neighbour;
- the outbuilding's proposed 4m wall height/4.885m gable height would meet with the 4m maximum wall height/5m maximum total height as specified in Council's Outbuildings Policy for the R2.5 zone, and the shed's visual impact would be further reduced through being situated in an area of cut earthworks, lowering its overall height as measured from natural ground level;
- the proposed total outbuilding area of 120m² would comply with the 180m² maximum area requirement as specified in Council's Outbuildings Policy for the R2.5 zone;
- given that there are no windows on any of the elevations of the proposed outbuilding, and it will be situated in cut earthworks, the reduced setback would not present privacy issues for the adjoining rear/eastern or side/northern neighbours;
- the application was advertised to the surrounding landowners inviting comment and no submissions were received, this may be considered to demonstrate a general level of acceptance or indifference for the proposed development.

STATUTORY ENVIRONMENT

7 (Lot 119) Dune Vista, Buller is zoned 'Residential R2.5' under Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme').

The application has been brought before Council for its consideration as it exceeds the delegated authority of Shire staff in relation to the R-Codes side boundary setback requirements.

Table 2 of the Scheme lists the objectives of the 'Residential' zone as being:

- *To provide for a range of housing and a choice of residential densities to meet the needs of the community.*
- *To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.*
- *To provide for a range of non-residential uses, which are compatible with and complementary to residential development."*

Clause 67 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by Council in considering a development application:

- "(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(c) any approved State planning policy;...*
- ...(g) any local planning policy for the Scheme area;*
- (h) any structure plan or local development plan that relates to the development;...*
- ...(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;...*
- ...(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;...*
- ...(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) any submissions received on the application;...*
- ...(zb) any other planning consideration the local government considers appropriate."*

The applicant is seeking variation for the proposed dwelling, outbuilding and retaining walls to be sited closer than the

7.5m side/rear property boundary setbacks recommended in Section 5.1.3.C3.1 and Table 1 of the R-Codes for R2.5 zoned properties.

Section 4.2.1 of the Explanatory Guidelines for the R-Codes make the following relevant observations:

“Exceptions to basic setback provisions

Consideration of setbacks should have regard to the natural ground level, shape, development and orientation of adjoining lots.

A reduction to the R-Codes deemed-to-comply setback requirements should only be considered where it can be demonstrated this is preferable for practical or aesthetic reasons, and will not be to the detriment of the amenity of adjoining properties, particularly where the reduced setback may result in increased overshadowing, overlooking or lack of privacy. In these situations the building design would need to address the design principles of clause 5.1.3.”

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

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

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

POLICY/PROCEDURE IMPLICATIONS

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.

Council has prepared Shire of Chapman Valley Local Planning Policy 1.2 – Ancillary Dwellings and Shire of Chapman Valley Local Planning Policy 1.4 – Outbuildings to guide assessment of applications and a copy of these policies can be viewed at the following link:

<https://www.chapmanvalley.wa.gov.au/local-planning-policies.aspx>

A Local Planning Policy does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

In most circumstances the Council will adhere to the standards prescribed in a Local Planning Policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification warrants a concession and the variation granted will not set an undesirable precedent for future development.

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

- “3.1 To allow for a regional variation to Section 5.4.3 of State Planning Policy 3.1 - Residential Design Codes.*
- 3.2 To provide a clear definition of what constitutes an “outbuilding”.*
- 3.3 To ensure that outbuildings are not used for habitation, commercial or industrial purposes by controlling building size and location.*
- 3.4 To limit the visual impact of outbuildings.*

- 3.5 To encourage the use of outbuilding materials and colours that complement the landscape and amenity of the surrounding areas.
- 3.6 To ensure that the outbuilding remains an ancillary use to the main dwelling or the principle land use on the property."

The proposed outbuilding, being 120m² in area with a wall height of 4m and a total height of 4.885m would meet with the maximum 180m² floor area and maximum 4m wall height/5m total height requirements of the Shire of Chapman Valley Outbuildings Local Planning Policy.

Section 6.7.b of Council's Outbuildings Policy allows for a side boundary setback of 5m in the R2.5 zone rather than the 7.5m prescribed by the R-Codes:

"For 'Residential' lots zoned R2.5 and lower density the outbuilding is to be setback in accordance with the Residential Design Codes, or if applicable located within a defined building envelope (Variation to a 5m side and/or rear boundary setback for Outbuildings may be considered subject to prior consultation being undertaken as per Section 7.4 of this policy)."

The application is seeking a further 3m reduction to the Outbuilding Policy's side boundary setback down to 2m. It is not considered that this variation would be detrimental to the use of the surrounding properties and will not be out of character with the established built form in the Wokarena Heights Estate with their being 2 outbuildings already approved at a 2m and 2.9m side boundary setback and a further 4 comparably sized properties Redcliffe Concourse properties having 2m-2.8m side boundary outbuilding setbacks.

The proposed 158.89m² dwelling (comprising 107.09m² enclosed area and 51.8m² patio/verandah area) has been designed to meet the 160m² total roof area requirements of the Shire of Chapman Valley Ancillary Dwellings Local Planning Policy and would ultimately become the 'granny flat' at time of the construction of the future main residence.

The dwelling would ultimately be setback 18.59m behind the main residence as viewed from Dune Vista and it is considered that the location, scale and style of the proposed dwelling would enable it to meet with the objectives of the Shire of Chapman Valley Ancillary Dwellings Local Planning Policy:

- 3.1 To alter the deemed to comply provisions of the R-Codes for Ancillary Dwellings.
- 3.2 To provide a clear definition of what constitutes an 'Ancillary Dwelling'.
- 3.3 To ensure that an Ancillary Dwelling is provided, constructed and located in such a way so as to minimise their impact on the amenity of the locality by controlling building size, materials and location.
- 3.4 To ensure that ancillary dwelling is 'ancillary' or 'secondary' to the main house upon the property."

FINANCIAL IMPLICATIONS

Nil.

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

Lot 121 is located within the Wokarena Heights Structure Plan area. It is not considered that the proposed development is contrary to the provisions of the structure plan.

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 18 August 2022 meeting and includes the following objectives of relevance:

Ref	Strategies & Actions	Timeline	Desired Status
Community Health & Lifestyle			
Objective 1.2 Address identified ageing population issues			
Strategy: Advocate for current and future services and housing needs			

Ref	Strategies & Actions	Timeline	Desired Status
1.2.1	Review level of need and range of services or accommodation needed	Medium	People can age in place and access relevant services
<i>Environment & Sustainability</i>			
Objective 2.1: Maintain the rural identity of the Shire			
Strategy: Develop western peri-urban environment in context to rural lifestyle			
3.2.1	Ensure planning is in place to encourage peri-urban development activities.	Ongoing	Retain and improve where necessary

CONSULTATION

Sections 6.7.b & 7.4 of the Shire's Outbuildings Local Planning Policy notes that applications seeking variation require consultation by means of the Shire writing directly to the surrounding landowners inviting comment.

Section 4.1 of the R-Codes also notes that where there may be a possible impact on the amenity of adjoining landowners the local government may advertise the proposal and have regard to any expressed views prior to making its determination.

The application was advertised from 25 August 2022 until 20 September 2022 with the Shire writing to the 11 surrounding landowners inviting comment. An advisory sign was placed on-site and the application was also placed on the Shire website and made available for viewing at the Shire office.

At the conclusion of the advertising period, no submissions had been received, and this may be considered to demonstrate a general level of acceptance or indifference for the proposed development.

RISK ASSESSMENT

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

VOTING REQUIREMENTS

Simple majority required

Solataire Cameron, Community Development Officer entered the meeting at 8.53am.

MOVED: Cr Elliott-Lockhart

SECONDED: Cr Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant formal planning approval for a residence, outbuilding and retaining walls upon 7 (Lot 119) Dune Vista, Buller subject to compliance with the following conditions:

- Development shall be in accordance with the approved plan(s) as contained within Attachment 10.1.2 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 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 local government Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
- The development of the outbuilding shall not commence prior to the residence.
- 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.
- The materials, finish and use of complementary colours on the development shall be to the satisfaction of the local government.

-
- 6 All stormwater must be contained and disposed of on-site to the satisfaction of the local government.
- 7 Any soils disturbed or deposited on site shall be stabilised to the satisfaction of the local government.
- 8 The bathroom window of the residence shall be glazed in an obscure material.
- 9 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) In relation to condition 3 Council does permit the concurrent pouring of the concrete slabs for the residence and outbuilding.
- (c) In relation to condition 5 it is a requirement that ancillary dwellings and outbuildings are complementary in appearance to the residence upon the property. Therefore the prior development of this approved residence (that has ability to later be determined to become an ancillary dwelling) and outbuilding will have bearing on the colour(s) that can be used in the construction of a future main residence upon the property.
- (d) 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/A1
CARRIED
Minute Reference: 10/22-03

10.1.3 Proposed Outbuilding

PROPONENT:	Eco Building & Design for E. Watkins & J. James
SITE:	58 (Lot 276) Pitchford Crest, White Peak
FILE REFERENCE:	A1734
PREVIOUS REFERENCE:	Nil
DATE:	6 October 2022
AUTHOR:	Simon Lancaster, Deputy Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.1.3(a)	Application		✓
10.1.3(b)	Submissions		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of an application to construct an outbuilding containing a habitable compartment upon 58 (Lot 276) Pitchford Crest, White Peak. The application has been advertised for comment as the outbuilding's open-sided area triggers the Outbuilding Policy's consultation requirements. 2 submissions expressing support and 1 objection were received. This report recommends approval.

COMMENT

Lot 276 is a 1ha vacant property on the eastern side of Pitchford Crest in the Parkfalls Estate. The lot is rectangular in shape, sloping downwards along its 140m length from the 116m contour at the rear to the 111m contour in the front, south-western corner.

Figure 10.1.3(a) – Location Map for 58 (Lot 276) Pitchford Crest, White Peak

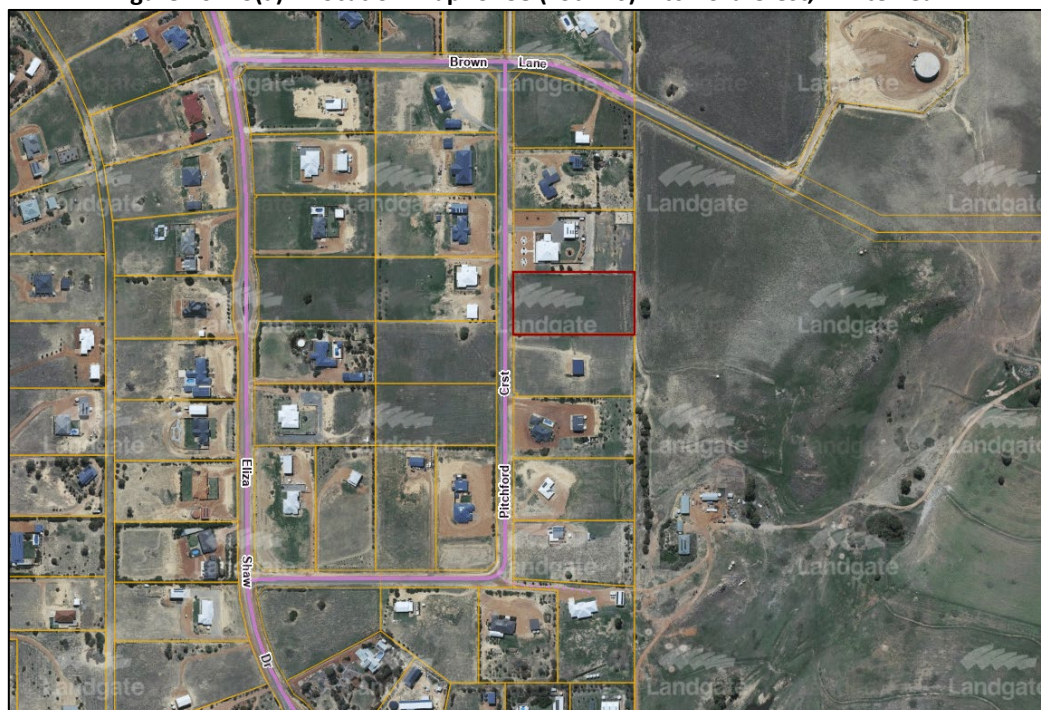


Figure 10.1.3(b) – Aerial photo of 58 (Lot 276) Pitchford Crest, White Peak



The application is for a 272.228m² outbuilding (comprising 200m² enclosed & 72.228m² open-sided floor area) upon 58 (Lot 276) Pitchford Crest, White Peak. The proposed outbuilding would have a 4.5m wall height and 5.384m gable height for the enclosed section and a 2.7m height for the unenclosed/verandah section. The outbuilding would have Surfmist custom orb wall cladding and Deep Ocean custom orb roof sheeting.



The proposed building would be located to the rear/east of the property with a 20m setback from the rear boundary and a 20m side boundary setback to the closest (northern) side boundary. The building would be set upon cut and fill earthworks with the highest point of fill being approximately 0.2m above natural ground level in the south-western verandah corner, and the rear/north-eastern corner of the building would be set into the deepest point of cut at approximately -0.6m.

The Shire of Chapman Valley 'Outbuildings' Local Planning Policy sets the maximum total area for outbuildings that can be approved by Shire staff under delegated authority in the 'Rural Residential' zone as being 240m². However, the policy also allows for consideration of an additional 120m² unenclosed area, subject to the advertising of the application for comment.

The applicant is also seeking to construct a 2 bedroom, 1 bathroom Class 1A (habitable) compartment within the outbuilding, that could either be removed, or become an ancillary dwelling (more commonly known as a 'granny flat'), upon completion of the main residence at a later time.

The proposed 272.228m² development would be comprised of the following aspects:

- 120m² enclosed shed area (i.e. Class 10/non-habitable component);
- 80m² enclosed ancillary dwelling area (with 61.82m² of this 80m² being habitable floor area, this being floor area that does not include areas such as bathroom, laundry, water closet, food storage pantry, walk-in wardrobe, corridor, hallway, lobby, clothes drying room);
- 72.228m² verandah area (i.e. unenclosed component).

Figure 10.1.3(c) – View of 58 (Lot 276) Pitchford Crest, White Peak looking east from north-west front corner



Figure 10.1.3(d) – View of 58 (Lot 276) Pitchford Crest, White Peak looking east from south-west front corner

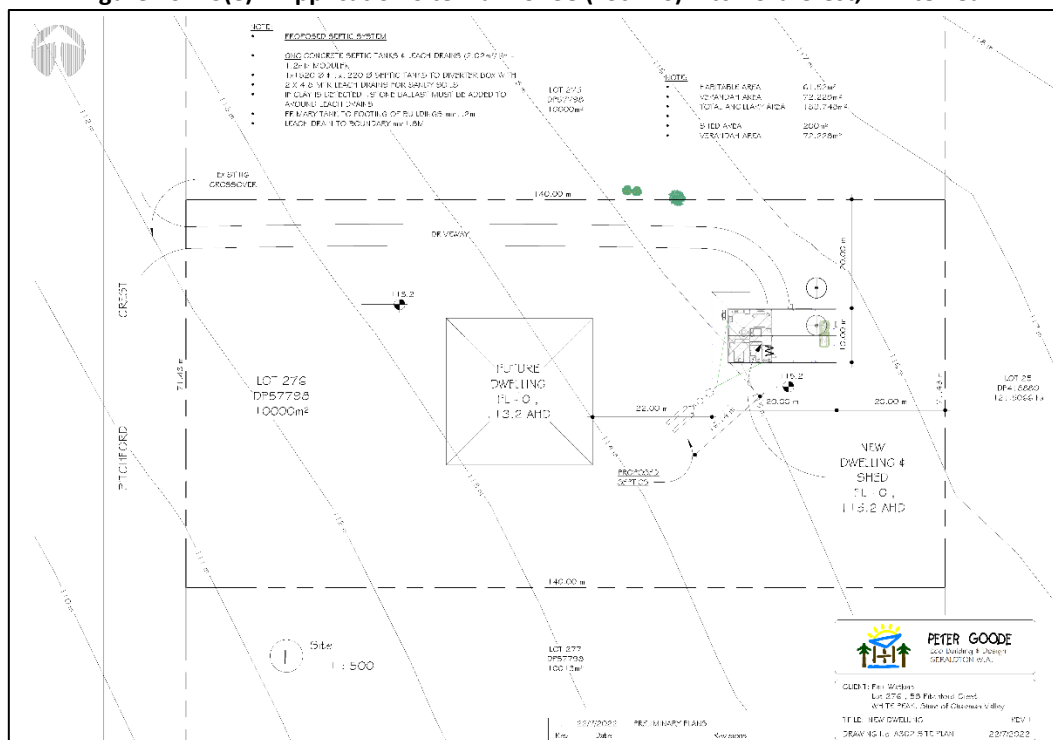


The Shire of Chapman Valley Ancillary Dwellings Local Planning Policy sets the maximum area for ancillary dwellings that can be approved by Shire staff under delegated authority in the 'Rural Residential' zone as being 90m² habitable floor area and 200m² total roofed area. However, the policy also allows for ancillary accommodation that is proposed to be constructed within a Class 10 Outbuilding to be included within the total outbuilding area of a property.

Due to the unenclosed portion of the application triggering the requirement for advertising under Section 7.3 of the Outbuildings Local Planning Policy, the application was advertised to the surrounding landowners inviting comment, with 2 supporting submissions being received from the immediately neighbouring side landowners to the south and north of Lot 276 and one objection being received from a Pitchford Crest landowner. Due to an objection being received the application is required to be presented to Council for determination.

A copy of the received application that includes the site, elevation and floor plans has been provided as **separate Attachment 10.1.3(a)**.

Figure 10.1.3(e) – Application Site Plan for 58 (Lot 276) Pitchford Crest, White Peak



It is considered that the application should be supported based upon the following:

- the proposed floor area of the 272.228m² outbuilding (comprising 200m² enclosed & 72.228m² open-sided floor area) meets with the requirements of the Outbuildings Policy which allows for outbuildings in the 'Rural Residential' zone of up to 360m² (comprising 240m² enclosed & 120m² open-sided floor area);
- the outbuilding's proposed 4.5m wall height/5.384m gable height would meet with the 4.5m maximum wall height/5.5m maximum total height as specified in Outbuildings Policy for the 'Rural Residential' zone;
- the outbuilding's proposed side and rear boundary setbacks of 20m meet with the minimum 5m side and rear boundary setbacks set by the Shire of Chapman Valley Local Planning Scheme for the 'Rural Residential' zone;
- the proposed external cladding colours of Surfmist walls and Deep Ocean roof are commonplace in the surrounding area and do not represent a departure from the colour palette used in the built form of the White Peak locality;
- given that the proposed building would setback 93m from the front property boundary of Lot 276 its impact upon the Pitchford Crest streetscape would be reduced, and in time with the planting of landscaping and the subsequent construction of a main residence in front of the outbuilding it would be further screened;
- the application was advertised to the surrounding landowners inviting comment and both immediately adjoining side neighbours to the north and south expressed support for the proposed development and it can be considered that these parties would be the most likely to be impacted by the development. One objection to the development was received, although the objector's property is 300m from the proposed development and there are a number of lots, structures and an elevation change between the 2 properties that will soften its visual impact.
- the proposed development of a Class 1A (i.e. habitable) compartment within a Class 10 building (i.e. a shed) is a commonplace feature of the surrounding White Peak 'Rural Residential' zone, where landowners have sought to live upon their property to better enable them to establish landscaping, undertake general maintenance and control weeds and fuel loads and prepare ultimately to build a main residence upon the property.
- Council in the formulation of its Outbuildings Policy made allowance for applications of this type considering them a reasonable stepping-stone to provide to its 'Rural Residential' residents as they seek to save towards building the main residence rather than have a mortgage on 2 properties or rent elsewhere. It is considered likely that developments of this type as an interim option will continue to be sought by the community. Particularly given the continuing pressures and delays on local home builders arising from the economic stimulus measures introduced at both Federal and State Government levels in late 2020, along with workloads from the ongoing Cyclone Seroja recovery, the shortage of incoming tradespeople due to immigration delays in Western Australia over a 2 year pandemic period, and ongoing uncertainties relating to materials supply chains due to international and interstate factors.

STATUTORY ENVIRONMENT

58 (Lot 276) Pitchford Crest, White Peak is zoned 'Rural Residential 1' under Shire of Chapman Valley Local Planning Scheme No.3 ('the Scheme').

Table 2 of the Scheme lists the objectives of the 'Rural Residential' zone as being:

- “• To provide for lot sizes in the range of 1 ha to 4 ha.
- To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.
- To set aside areas for the retention of vegetation and landform or other features which distinguish the land.”

'Ancillary Dwelling' is listed as a 'D' use in the 'Rural Residential' zone, that is a land use that is not permitted unless the local government has exercised its discretion by granting development approval.

Section 37(1) of the Scheme notes the following in relation to the 'Appearance of land and buildings' generally for the Scheme area:

“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.”

Schedule 5(2) of the Scheme notes the following of relevance to this application that applies more specifically to buildings in the 'Rural Residential' zone:

- “(a) 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...*
- ...(d) Only one dwelling is permitted on any lot within the Rural Residential and Rural Smallholding zone, although the local government may, at its discretion, also approve one ancillary accommodation unit.”*

Schedule 6(RR1)(5) of the Scheme notes the following relating to landscaping specific to the 'Rural Residential 1' zone:

“Prior to the commencement of any development on any lot, the local government may require each lot owner to prepare a tree planting and maintenance program with the intention of screening building structures and rehabilitating and revegetating the land without restricting approved activities/operations.

Clause 67 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by Council in considering a development application:

- “(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(g) any local planning policy for the Scheme area;*
- (h) any structure plan or local development plan that relates to the development;...*
- ...(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;...*
- ...(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;...*
 - ...(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."*

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.

Council has prepared Shire of Chapman Valley Local Planning Policy 1.2 – Ancillary Dwellings and Shire of Chapman Valley Local Planning Policy 1.4 – Outbuildings to guide assessment of applications and a copy of these policies can be viewed at the following link:

<https://www.chapmanvalley.wa.gov.au/local-planning-policies.aspx>

A Local Planning Policy does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

In most circumstances the Council will adhere to the standards prescribed in a Local Planning Policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification warrants a concession and the variation granted will not set an undesirable precedent for future development.

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

- "3.1 To allow for a regional variation to Section 5.4.3 of State Planning Policy 3.1 - Residential Design Codes.*
- 3.2 To provide a clear definition of what constitutes an "outbuilding".*
- 3.3 To ensure that outbuildings are not used for habitation, commercial or industrial purposes by controlling building size and location.*
- 3.4 To limit the visual impact of outbuildings.*
- 3.5 To encourage the use of outbuilding materials and colours that complement the landscape and amenity of the surrounding areas.*
- 3.6 To ensure that the outbuilding remains an ancillary use to the main dwelling or the principle land use on the property."*

The proposed outbuilding, being 272.228m² (comprising 200m² enclosed & 72.228m² open-sided) in area with a wall height of 4.5m and a total height of 5.384m would meet with the maximum 360m² (comprising 240m² enclosed & 120m² open-sided floor area) and maximum 4.5m wall height/5.5m total height requirements of the Shire of Chapman Valley Outbuildings Local Planning Policy.

The outbuilding would ultimately be setback 22m behind the main residence as viewed from Pitchford Crest and this would meet with Section 6.5 of the Outbuildings Policy:

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

Given that the application is not for a free standing, entirely Class 1A/habitable structure then Section 6.9 of the Outbuildings Policy (and duplicating Section 6.6 of the Ancillary Dwellings Policy) becomes relevant i.e. approval of this application would form part of the calculation of the total outbuilding area upon Lot 276. It would not be considered that approval of this development would enable the landowner to then seek assessment for further outbuilding(s) upon the property with the approved structure being 'ancillary dwelling' i.e. approval of the development would constitute an existing outbuilding area of 272.228m² for Lot 276.

“6.9 Should Ancillary Accommodation be constructed within a Class 10 Outbuilding (i.e. a box or rectangular shaped structure constructed of coated or uncoated metal sheeting which does not include additional features such as eaves, verandahs, windows and other ‘house’ like features) the Ancillary Accommodation will be considered to be included within the total outbuilding area of a property. However, should the Ancillary Accommodation structure be purposely constructed as a Class 1A building and incorporate design features such as eaves, verandahs, windows and other ‘house’ like features the building would not be considered within the aggregate outbuilding area permitted upon a property.”

The application should also be assessed against the objectives of the Shire of Chapman Valley Ancillary Dwellings Local Planning Policy:

- “3.1 To alter the deemed to comply provisions of the R-Codes for Ancillary Dwellings.*
- 3.2 To provide a clear definition of what constitutes an ‘Ancillary Dwelling’.*
- 3.3 To ensure that an Ancillary Dwelling is provided, constructed and located in such a way so as to minimise their impact on the amenity of the locality by controlling building size, materials and location.*
- 3.4 To ensure that ancillary dwelling is ‘ancillary’ or ‘secondary’ to the main house upon the property.”*

FINANCIAL IMPLICATIONS

Nil.

Long Term Financial Plan (LTFP):

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

STRATEGIC IMPLICATIONS

Lot 276 is located within the Parkfalls Estate Structure Plan area. It is not considered that the proposed development is contrary to the provisions of the structure plan.

Strategic Community Plan/Corporate Business Plan:

The Shire of Chapman Valley Strategic Community Plan was endorsed by Council at its 18 August 2022 meeting and includes the following objectives of relevance:

Ref	Strategies & Actions	Timeline	2022 Status	Desired Status
<i>Community Health & Lifestyle</i>				
Objective 1.1 Nurture the sense of community throughout the Shire while maintaining / supporting the differing residential groups and volunteers				
Strategy: Development of plans and strategies relevant to emerging population needs				
1.1.1	Review existing plans and develop new plans as required	Ongoing	Monitor existing plans to ensure they remain current and pursue funding opportunities should they arise	Policies & Plans remain current and relevant and implemented as funding becomes available
Objective 1.2 Address identified ageing population issues				
Strategy: Advocate for current and future services and housing needs				
1.2.1	Review level of need and range of services or accommodation needed	Medium	Ageing population in parts and availability of suitable accommodation limited.	People can age in place and access relevant services
<i>Environment & Sustainability</i>				
Objective 2.1: Maintain the rural identity of the Shire				
Strategy: Develop western peri-urban environment in context to rural lifestyle				
3.2.1	Ensure planning is in place to encourage peri-urban development activities.	Ongoing	Solid and appropriate Planning is in place.	Retain and improve where necessary

CONSULTATION

Section 7.3 of the Shire’s Outbuildings Local Planning Policy notes that applications seeking variation require consultation as follows:

“7.3 Applications within the ‘Rural Residential’, ‘Rural Smallholding’ and ‘Rural’ zone (where the lots are less than 4ha) that propose a total outbuilding area comprising not more than 240m² enclosed aggregate area and an additional 120m² unenclosed aggregate area will require consultation with surrounding landowners, by means of the Shire writing directly to the surrounding landowners inviting comment, and placement of an advisory sign on-site for a period of not less than 21 days. In the event that at the conclusion of the consultation period no written, author-identified objections have been received then the application may be determined by Shire staff under delegated authority. In the event that a written, author-identified objection is received then the application and the received submission(s) will be placed before a meeting of Council for consideration.”

The application was advertised from 6 September 2022 until 30 September 2022 with the Shire writing to the 9 surrounding landowners inviting comment. An advisory sign was placed on-site and the application was also placed on the Shire website and made available for viewing at the Shire office.

At the conclusion of the advertising period, 3 submissions had been received, with 2 of these being submissions expressing support for the proposed development and these being from the neighbours on both sides (south and north) of the Lot 276. 1 objection was received from a Pitchford Crest landowner.

A copy of the received submissions, with the identity of the respondents redacted as per standard local government procedure has been provided as **separate Attachment 10.1.3(b)**.

Given that an objection was received the application is unable to be determined by Shire staff under delegated authority and is therefore presented to Council for deliberation.

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 Humphrey

SECONDED: Cr Forth

COUNCIL RESOLUTION

That Cr Low be permitted to remain in Chambers during discussion on the item.

Voting F6/A0

CARRIED

Minute Reference: 10/22-04

Councilor Low declared a proximity interest and left the meeting at 9:24am

MOVED: Cr Elliott-Lockhart

SECONDED: Cr Forth

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council grant formal planning approval for an outbuilding (incorporating a habitable compartment) upon 58 (Lot 276) Pitchford Crest, White Peak subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plan(s) as contained within Attachment 10.1.3(a) 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 buildings or land (not the subject of this consent/approval) considered by the local government Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
 - 3 The outbuilding must not be used for commercial or industrial purposes.
 - 4 The outbuilding shall utilise materials, colours and be to a finish to the satisfaction of the local government.
 - 5 All stormwater must be contained and disposed of on-site to the satisfaction of the local government.
 - 6 Any soils disturbed or deposited on site shall be stabilised to the satisfaction of the local government.
 - 7 The laying of all water pipes under ground to a minimum depth of 300mm to better withstand the effects of a bush fire.
 - 8 Installation of crossing place/s to the standards and specifications of the local government.
 - 9 Landscaping is required to be installed and maintained by the landowner for the purpose of softening the visual impact of the development to the approval of the local government.
 - 10 The development shall not be occupied until the necessary building and health (including effluent disposal system) approvals have been obtained and the associated building and health requirements have been complied with.
 - 11 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) It is a requirement that outbuildings are complementary in appearance to the residence upon the property. Therefore the prior development of this approved outbuilding will have bearing on the colour(s) that can be used in the construction of a future main residence upon the property.
- (c) The applicant is advised that Schedule 6(RR1)(1) of Shire of Chapman Valley Local Planning Scheme No.3 requires within the 'Rural Residential 1' zone (this including Lot 276 Pitchford Crest, White Peak) that:

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

Therefore the siting of the outbuilding will determine the future location for the construction of a residence upon the property (i.e. the future main residence must be not further than 22m from the previously approved outbuilding upon the property).

- (d) The applicant is advised that as the development is for a Class 1/habitable compartment within a shed structure (and not a free standing, entirely Class 1A/habitable structure) the 272.228m² total floor area forms part of the approved outbuilding area for Lot 276 and this would be given due regard in the assessment of any further/future applications for outbuilding(s) upon the property as per Section 6.9 of the Shire of Chapman Valley Outbuildings Local Planning Policy and Section 6.6 of the Shire of Chapman Valley Ancillary Dwellings Local Planning Policy.
- (e) If an applicant is aggrieved by this determination there is a right pursuant to the *Planning and Development Act 2005* to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

Voting F3/A3
CARRIED ON CASTING VOTE OF PRESIDING MEMBER
Minute Reference: 10/22-05

Councilor Low returned to the meeting at 9:27am

10.2

Manager of Finance & Corporate Services

10.2 AGENDA ITEMS

10.2.1 Financial Management Report

10.2.1 Financial Management Report

PROPONENT:	Shire of Chapman Valley
SITE:	Shire of Chapman Valley
FILE REFERENCE:	307.00
PREVIOUS REFERENCE:	Nil
DATE:	20 October 2022
AUTHOR:	Dianne Raymond, Manager Finance & Corporate Services

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.2.1(a)	August & September 2022 Financial Management Reports		✓
10.2.1(b)	Confidential List of Accounts August & September 2022		✓

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 & September 2022 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 & September 2022

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 Forth

SECONDED: Cr Elliott- Lockhart

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council receives the financial management report supplied under separate cover for the month of August & September 2022 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/A1

CARRIED

Minute Reference: 10/22-06

10.3

Chief Executive Officer

10.3 AGENDA ITEMS

- 10.3.1 - Local Government Reform – Election Transition Arrangements
- 10.3.2 - Covid-19 Policy Amendment

10.1.4

Local Government Reform – Election Transition Arrangements

PROPOSER:	Shire of Chapman Valley
SITE:	Whole of Shire
FILE REFERENCE:	404.03
PREVIOUS REFERENCE:	Nil
DATE:	11 October 2022
AUTHOR:	Jamie Criddle, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
10.3.1	Category 5 - Reduce Size of Council		✓

DISCLOSURE OF INTEREST

Nil

BACKGROUND

On 20 September 2022 the Minister for Local Government released an instruction to all Western Australian local governments relating to proposed amendments to the *Local Government Act 1995* expected to be considered by Parliament in early 2023.

The new requirements proposed to be introduced provide for:

- 1) The introduction of preferential voting;
- 2) Directly elected Mayors and Presidents for band 1 and 2 local governments;
- 3) Councillor numbers based on population; and
- 4) The removal of wards for band 3 and 4 local governments.

The Shire of Chapman Valley is a band 4 local government and the instruction point 3) applies, must be determined by Council, and the outcome advised to the Department of Local Government, Sport and Cultural Industries (DLGSC) by 28 October 2022. Point 1) can be considered in the future as part of the next election process in 2023 and point 2) and 4) do not apply. The instruction also makes it abundantly clear that there will be no time extensions to any of the processes due to the need to enact all changes in the Government Gazette by 30 June 2023 in preparation for the 2023 local government elections to be held on 21 October 2023.

The instruction provides two pathways for Council's consideration in dealing with point 3) by 28 October 2022:

- 1) Advise the DLGSC of its intention to undertake a voluntary process. This advice should include a high-level plan outlining the potential changes to be implemented for the ordinary elections to be held in 2023 (and 2025, if applicable); and
- 2) Initiate a Ward and Representation Review to determine the specific changes to the structure of the council for the 2023 and 2035 ordinary elections, to be completed by 14 February 2023.

Council should also note that if the voluntary pathway is taken but is not adequately completed before 14 February 2023 the reform election pathway will be applied.

The purpose of this report is to consider which election transition pathway Council wishes to follow.

COMMENT (Includes Options):

Existing Council Arrangements

The current Councillor positions are as follows:

Councillor	Position	Expiry of Term	Ward
Kirree Warr	PRESIDENT	October 2025	Shire
Darrell Forth	DEPUTY PRESIDENT	October 2025	Shire
Nicole Batten	COUNCILLOR	October 2025	Shire

Beverley Davidson	COUNCILLOR	October 2023	Shire
Elizabeth Elliott-Lockhart	COUNCILLOR	October 2025	Shire
Peter Humphrey	COUNCILLOR	October 2023	Shire
Catherine Low	COUNCILLOR	October 2023	Shire
Trevor Royce	COUNCILLOR	October 2023	Shire

Voluntary Pathway

Under the voluntary pathway Council will have the opportunity to select between five and seven Councillor positions. This pathway will require the council to make the steps outlined below, and could involve staging any larger changes in the number of Councillors over two ordinary elections (not required in this case). This pathway provides the greatest possible lead time to plan for next year's ordinary elections.

If the Council wishes to undertake this process, it should, by 28 October 2022:

- Advise the DLGSC of its intentions to undertake a voluntary process. This should include a high-level plan outlining the potential changes to be implemented for the ordinary elections to be held in 2023 (and 2025, if applicable); and
- Initiate a Ward and Representation Review to determine the specific changes to the structure of the council for the 2023 and 2035 ordinary elections, to be completed by 14 February 2023

Reform Election Pathway

Alternatively, it is intended that the Amendment Act will provide for all changes to be implemented through reform elections in 2023. This pathway would provide that all of the council's offices can be declared vacant, all wards can be abolished (if applicable) and the number of council officers would be set on the reform proposals.

Elections would then be held to fill all council offices, with a split between two and four year terms as might be necessary to re-establish an ordinary election cycle. For local governments in band 1 and 2, the newly elected council would then be able to consider whether to establish new wards through a future Ward and representation review.

If this pathway is considered, the DLGSC must be advised by 28 October 2022.

On the basis above it is not recommended that Council opt for the reform election pathway and instead take the voluntary pathway as the most suitable option.

Part 2) above states that Council "should" initiate a Ward and Representation Review to determine the specific changes to the structure of the council for the 2023 and 2035 ordinary elections.

If there was an indication of a Councillor resigning (not re-nominating) in 2023 our path seems secure. We would simply reduce from 8 to 7 Councillors, with a Councillor representation of approx. 187 per Councillor to 214 per Councillor as we do not have wards. The Chief Executive Officer is currently seeking clarification from the Ministers office & Local Government Advisory Board as the Ministers letter did state that we "**should**" initiate a ward and representation review, not "**must**".

Management do not see the need to expend the time, energy & expense to conduct a review when all that is changing is the Councillor representation.

STATUTORY ENVIRONMENT

Reforms to the Local Government Act 1995 are proposed early in 2023. Given the current makeup of Parliament it is extremely likely that amendments to the Local Government Act 1995 will occur as per the timeframes indicated by the Minister for Local Government.

POLICY/PROCEDURE IMPLICATIONS

With reforms to the Local Government Act 1995 appearing inevitable, it is considered essential that Council retains some decision making ability during the process. Council has been kept informed and has made previous consultative submissions to the Local Government Act 1995 reform process over the past three years.

FINANCIAL IMPLICATIONS

Whatever pathway is taken there will be some cost savings for the Shire of Chapman Valley resulting from the reduction in numbers of Councillors. Until Council makes a decision on the pathway and the other processes play out, savings are not quantifiable.

Long Term Financial Plan (LTFP):

Nil

STRATEGIC IMPLICATIONS

Strategic Community Plan/Corporate Business Plan:

Nil

CONSULTATION

Nil

RISK ASSESSMENT

If the Shire of Chapman Valley does not act on this matter the default position will be the reform election pathway and any decision making control of the outcome will be taken away from Council. The risk of this could lead to undesirable consequences including reputational damage for the Shire of Chapman Valley.

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

VOTING REQUIREMENTS

Simple Majority

MOVED: Cr Royce

SECONDED: Cr Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council:

- 1) Adopt the “voluntary pathway” for the election transition arrangements as part of the Local Government reform process;
- 2) Comply with the Minister for Local Government’s instruction for the “voluntary pathway” as outlined in Attachment: 10.3.1;
- 3) Subject to adoption of point 1), agree to initiate a Ward and Representation Review for the Shire of Chapman Valley.

Voting F7/A0

CARRIED

Minute Reference: 10/22-07

10.3.2 Covid-19 Policy Amendment

PROPONENT:	Shire of Chapman Valley
SITE:	Whole Shire
FILE REFERENCE:	901.00
PREVIOUS REFERENCE:	03/20-18
DATE:	12 October 2022
AUTHOR:	Jamie Criddle, Chief Executive Officer

SUPPORTING DOCUMENTS:

Ref	Title	Attached to Report	Under Separate Cover
Nil			

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Over the past couple of years COVID-19 has become a significant public health issue, leading Australian Government employers to take the lead in preventing and managing its spread in the community and workplaces. The State Government responded to the issue by introducing a policy that allocates an additional 20 days sick/personal leave to all public servants. Local Governments are following the State Governments initiative with many seeking to develop and implement similar leave policies across our sector.

Council discussed this issue in March 2020 knowing that Covid-19 may have a significant impact on sick leave entitlements available to staff. This resulted in Council resolving to deal with the emerging health issue by introducing a fourteen 14 day additional Covid-19 leave allocation to Council employees.

OCM 20 March 2020

MOVED: Cr Farrell

SECONDED: Cr Warr

Council introduce a maximum of up to 14 working days paid personal and/or carers leave for staff in the event of absence for imposed isolation due to the COVID-19 virus. To be implemented at the discretion of the CEO.

Voting F8/A0

CARRIED

Minute Reference: 03/20-18

While Council did not introduce a policy per say, it did resolve (above) to introduce additional leave and is included on staff files as a reference.

CONSULTATION

- Internal
- State Government WA
- Other Local Governments

STATUTORY ENVIRONMENT

- Local Government Industry Award 2010
- National Employment Standards

COMMENT

On 30 September, National Cabinet met in Canberra with Ministers agreeing to end mandatory isolation requirements for COVID-19 effective from 14 October. It is up to each State/Territory to give effect to the National Cabinet decision and implement the change via the relevant public health legislation.

It is anticipated that there will still be restrictions in place for high-risk settings such as aged care, health care and correctional facilities.

Both WA and NT Governments have issued publications to this effect (noting that the WA Government has not published a media release yet). For WA, please see [here](#).

What does this mean for employees?

From 14 October, employees who test positive for COVID-19 will no longer be legally required to self-isolate. The legal requirement to self-isolate will be replaced by public health messaging encouraging people to stay at home if unwell. Employees will therefore have the responsibility to manage their own health and well-being and stay at home if they feel unwell.

The removal of the requirement to self-isolate then raises the probability that some employees may seek to attend work even if they are COVID-19 positive (whether symptomatic or not).

What does this mean for Local Governments?

Local Governments still have an obligation to provide a safe and healthy working environment for its employees and ensure others are also not put at risk. Local Governments are encouraged to conduct a safety risk assessment and think about the approach that will be adopted when mandatory isolation ends. Local Governments should consider implementing or amending an existing policy for managing employees who test positive to COVID-19 whilst meeting any applicable consultation obligations under Work Health and Safety legislation, enterprise/industrial agreements, and the relevant award(s).

This is similar to the approach taken by other countries that have removed legal self-isolation requirements. For example guidance from the UK Advisory, Conciliation and Arbitration Service advises employers to agree on a policy with staff on self-isolation.

For an employee who tests positive to COVID-19 and does not want to attend the workplace as they are unfit for work, normal leave arrangements would apply (i.e. the employee could access personal leave).

For an employee who tests positive to COVID-19 and wants to attend the workplace if they have no symptoms and/or have no accrued leave available, you could consider asking the employee to work from home where possible. If it is not possible for the employee to work from home, the Local Government could consider measures such as asking the employee to wear a mask or physical distance at work (i.e. moving them to duties where they work alone). If an employee works remotely and alone and there is no risk to themselves or others, then the employee could attend work as usual.

If an employee tests positive to COVID-19 and is displaying symptoms and attends work, then the Local Government may wish to direct them to go home and leave the workplace, noting the question of payment may arise.

Do employees need to be paid if they are directed to stay home?

The answer to this question will vary depending on the circumstances of the case and so a case-by-case assessment will be needed each time it arises. Generally speaking, employees who are ready, willing and able to work and attend work cannot be sent home without pay unless there is a contract, agreement or provision in an enterprise/industrial agreement that provides otherwise.

Conclusion

No one is really sure how the COVID-19 virus will continue to affect the Shire over the coming weeks and months. The measures outlined above are designed to ensure the impact of the virus is managed within the organisation through this unprecedented time.

Planning ahead now and adopting a position in consultation with employees will assist in managing employee expectations and mitigating industrial risk.

As explained above, Local Governments should undertake safety risk assessments and consider the implementation of a policy (in consultation with employees) which deals with the management of COVID-19 positive employees and also the allocation of Covid Leave, currently allocated via Council resolution.

STRATEGIC IMPLICATIONS

Strategic Community Plan/Corporate Business Plan:

COVID-19 was not identified or planned for in the Shire's Strategic Community Plan or Corporate Business Plan.

The Shire is currently reviewing its Corporate Business Plan, which is expected to be completed in the coming months prior to June 2023.

FINANCIAL IMPLICATIONS

The provision of additional sick leave proposed in the COVID-19 Leave policy, will amount to the cost of two weeks salary for the organization, which is approximately \$50,000. This is not an additional cost for Shire but is the value of the potential lost productivity if all staff access the maximum leave provisions of the policy.

RISK ASSESSMENT

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

VOTING REQUIREMENTS

Simple Majority

MOVED: Cr Humphrey

SECONDED: Cr Batten

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council instructs the Chief Executive Officer to:

- 1) Conduct a safety risk assessment of the current Covid-19 status in the thought of formulating a Draft Policy (in consultation with staff);
- 2) Formulate a draft position statement in relation to current Covid-19 status, in light of recent State & Federal Government announcements;
- 3) Present a draft Covid-19 Policy to the November OCM for discussion, including financial allocation to draft policy.

Voting F7/A0

CARRIED

Minute Reference: 10/22-08

11.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Nil

13.0 DELEGATES REPORTS

Delegate	Reports
Cr Warr	19 September 2022 - CWA 90 th Celebration 21 September 2022 - Yuna Primary School 60 th Celebration 2-4 October 2022 - Local Government Convention 10 October 2022 - DFES State Recovery Coordinator visit 11 October 2022 - RDA Local Leadership Reference group meeting
Cr Batten	19 September 2022 - Yuna 90 th Celebration 21 September 2022 - Northern Biosecurity Group AGM
Cr Elliott-Lockhart	19 September 2022 - Yuna 90 th Celebration
Cr Forth	17 October 2022 - Alannah MacTiernan re improvements to Chapman Valley Road
Cr Humphrey	2-4 October 2022 - Local Government Convention
Cr Royce	Mayor Lismore re disaster recovery

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 Humphrey

SECONDED: Cr Royce

COUNCIL RESOLUTION

Council close the meeting to the public for Agenda Items 15.1 in accordance with the *Local Government Act, 1995* due to a contract(s) being entered into, or which may be entered into, by the local government as per Section 5.23(2)(c) and a matter affecting an employee or employees as per Section 5.23(2)(a) which relate to matters to be discussed at the meeting.

Voting F7/A0

CARRIED

Minute Reference: 10/22-09

10.06am – Meeting closed to the public.

15.1 Regional Waste Services

MOVED: Cr Forth

SECONDED: Cr Humphrey

COUNCIL RESOLUTION

That Council accept the additional information provided by the CEO during the meeting (hardcopy provided to Councillors and inserted into the minutes).

Voting F7/A0

CARRIED

Minute Reference: 10/22-10

MOVED: Cr Forth

SECONDED: Cr Humphrey

COUNCIL RESOLUTION/STAFF RECOMMENDATION

That Council Adopt RFQ 2122 (revised) – 4 Midwest Regional Group Waste Collection & Processing for the provision of waste management services to the Shire of Chapman Valley and on a regional basis with the local governments of Greater Geraldton, Irwin and Northampton for 8 years + 2 years (extension on mutual agreement basis) as presented.

Voting F7/A0

CARRIED

Minute Reference: 10/22-11

MOVED: Cr Humphrey

SECONDED: Cr Elliott-Lockhart

COUNCIL RESOLUTION

That Council reopen the meeting to the public at 10.13am.

Voting F7/A0

CARRIED

Minute Reference: 10/22-12

16.0 CLOSURE

The President thanked Elected Members and Staff for their attendance and closed the meeting at 10:14am.