



SHIRE OF CARNARVON
AGENDA
ORDINARY COUNCIL MEETING
TUESDAY 23 NOVEMBER 2021

Council Chambers, Stuart Street
CARNARVON, West Australia
Phone: (08) 9941 0000
Fax: ((08) 9941 1099
Website – www.carnarvon.wa.gov.au

NOTICE OF MEETING

Notice is hereby given
Shire of Carnarvon
Ordinary Council Meeting
will be held
on Tuesday 23 November 2021
at Bills Tavern, Robinson Street Coral Bay
commencing at 10.30am



Andrea Selvey
CHIEF EXECUTIVE OFFICER

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of Carnarvon for any act, omission or statement or intimation occurring during Council/Committee Meetings or during formal/informal conversations with Staff or Councillors. The Shire of Carnarvon 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/Committee Meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation of approval made by a member or officer of the Shire of Carnarvon during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Carnarvon. The Shire of Carnarvon warns that anyone who has an application lodged with the Shire of Carnarvon must obtain and only should rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Carnarvon in respect of the application.

INFORMATION ON PUBLIC QUESTION TIME

The following information is provided should you wish to ask a question of Council at the Ordinary Meetings held on a monthly basis.

Please note that questions that have not been filled out on the Submission Form will not be accepted.

- The Local Government Act 1995 allows members of the public to ask questions in regard to any issue relating to the Shire.
- A maximum of 15 minutes will be allowed for public question time and the Presiding Member will allow a maximum of three (3) verbal/written questions per person.
- Prior to asking a question, the speaker must state his/her name and address.
- Members of the public are discouraged from asking questions which contain defamatory remarks, offensive language or questioning the competency of staff or Council members.
- The Presiding Member may nominate a member or officer to answer the question and may also determine that any complex questions requiring research be taken on notice and answered in writing.
- No debate or discussion is allowed to take place on any question or answer.
- A summary of each question asked and the response given will be included in the minutes of the meeting –

Local Government (Administration) Regulations 1996 – Pt 2, r.11 – (in part reads -)

11. Minutes, content of (Act s.5.25(1)(f))

The content of minutes of a meeting of a council or a committee is to include –

(e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question.

Responses to questions that are taken on notice will be responded to as soon as possible.

- If you wish to ask a question, please complete the Public Question Time Submission Form at the back of this information sheet. Alternatively, questions can be submitted in writing to the Shire of Carnarvon 3 days prior to the meeting.

SPECIAL MEETINGS OF COUNCIL

Members of the public are welcome to attend a Special Meeting of Council if open, and ask questions of the Council within the allotted public question time ***subject to the questions being asked only relating to the purpose of the Special Meeting*** (s5.23 of the Act and regulation 12 (4) of the Local Government (Administration) Regulations 1996, the Department of Local Government and Communities Guide to Meetings and Governance Bulletin April 2014 and Guideline No. 3 Managing Public Question Time.)

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1.0 ATTENDANCES, APOLOGIES & APPLICATIONS FOR LEAVE OF ABSENCE

(The Local Government Act 1995 Section 2.25 provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. The leave cannot be granted retrospectively and an apology for non-attendance at a meeting is not an application for leave of absence.)

2.0 PUBLIC QUESTION TIME

(In accordance with Section 5.24 of the Local Government Act 1995, a 15 minute public question time is made available to allow members of the public the opportunity of questioning Council on matters concerning them. All questions are to be provided on the Public Question Time Submission Form.)

2.1 QUESTIONS TAKEN ON NOTICE FROM PREVIOUS MEETING

2.2 PUBLIC QUESTION TIME

3.0 DECLARATIONS OF INTEREST

(Councillors and Staff are reminded of the requirements of Section 5.65 of the Local Government Act 1995, to disclose any interest during the meeting or when the matter is to be discussed.)

4.0 QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

5.0 CONFIRMATION AND RECEIVING OF MINUTES

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9.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY A DECISION OF THE COUNCIL

11.0 DATE OF NEXT MEETING

11.1 Next meeting of Council will be held on Tuesday 21 December 2021.

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

13.0 CLOSURE

8.1.1**ACTIONS PERFORMED UNDER DELEGATED AUTHORITY FOR THE MONTHS OF OCTOBER AND NOVEMBER 2021**

File No: ADM0043
 Date of Meeting: 23 November 2021
 Location/Address: 3 Francis Street, Carnarvon
 Name of Applicant: Shire of Carnarvon
 Name of Owner: Shire of Carnarvon
 Author/s: Andrea Selvey, Chief Executive Officer
 Declaration of Interest: Nil
 Voting Requirements: Simple Majority
 Previous Report: 26 October 2021
 Schedules: Nil

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
X	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

To report on actions performed under delegated authority for the months of October and November 2021.

Background:

To increase transparency this report has been prepared for Council and includes all actions performed under delegated authority for –

- Development Approvals issued
- Building Permits issued;
- Health Approvals issued;
- Affixing of Common Seal

Consultation:

Nil

Statutory Environment:

Local Government Act 1995 - Section 9.49A
 Planning & Development Act 2005 – Part 10 Div. 2
 TPS No. 10 – Section 2.4
 Shire of Carnarvon Local Government Act Local Laws S.29
 Health Act 1911 – S.107; Health Act 1911, Part VI

Relevant Plans and Policy:

Nil

Financial Implications:

There are no financial implications arising from receiving this report.

Risk Assessment:

Consequence → **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood ↓						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A		
Health & Safety	N/A		
Reputation	Non-compliance with statutory requirements would result in reputational damage to the Shire.	Low	This agenda item aims to ensure that the Shire is compliant.
Service disruption	N/A		
Compliance	That the performed delegations are not reported to Council	Low	This agenda item aims to ensure that the Shire is compliant in reporting delegated authority actions.
Property	N/A		
Environment	N/A		
Fraud	N/A		

Community & Strategic Objectives:

Goal 5: Civic

Strong and listening Council.

ITEM	OUTCOMES AND STRATEGIES
5.2	The Shire has a high standard of governance and accountability
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations

Comment:

The following tables outline the action performed within the organisation relative to delegated authority for the months of October and November 2021 are submitted to Council for information.

DELEGATIONS**COMMON SEAL**

22.10.21	Lease Lot 1022 Rushton Street – 360 Health & Community Limited
29.10.21	Local Laws – Waste, Meeting Procedures, Cemeteries, Bush Fire Brigade

ENVIRONMENTAL HEALTH**Food**

Food Act 2008

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
18/10/21	HFO21/012	New food business registration – Small home-based food business (cakes), 40 Richardson St	Kathryn Harper	

On-site wastewater management

Health Act 1911, s.107

Health (Apparatus for treatment of sewage and disposal of effluent and liquid waste) Regulations 1974

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
20/10/2021	HOS21/010	Approval to install 2x septic systems, worker accommodation for 2 plus small office system, Lot 525 Sanctuary Rd, Coral Bay	Coral Coast Plumbing	DPIRD

PLANNING AND DEVELOPMENT

PLANNING AND DEVELOPMENT ACT 2005 - PART 10: DIVISION 2 Applications to subdivide, re-subdivide, or amalgamate land parcels					
File Ref:	WAPC Ref:	Subject Land	Purpose	Applicant/Proponent	Advice Sent
A479	161337	139 Olivia Tce, Carnarvon	Two lot re-subdivision	Hille Thompson & Delfos	20/10/2021

Planning and Development Act (Local Planning Schemes) Regulations 2015 Schedule 2 Clause 68 Applications to use/develop land					
File Ref:	Application Ref:	Subject Land (Incl. Scheme No)	Purpose	Applicant/Proponent	Date Granted
P36/21		Lot 350 on DP46687 portion of Reserve 6084	Wind measuring device	Province Resources Ltd	12/10/2021
P38/21	A1183	3 Fane Crescent, Carnarvon	Front fence	Valissa Parker	18/10/2021

P39/21	A3540	65 William Street, Carnarvon	Front fence	Sue Middleton	26/10/2021
P41/21	A1933	11 Richards Street, Carnarvon	Construction of carport	David Stewart	10/11/2021

MINING ACT 1978 - SECTION 41, 58, 70C, 74, 86,91, Reg 64

Local Government Recommendation on Mining Tenements

File Ref:	DMP Ref:	Subject Land	Purpose	Proponent	Advice Sent
	E08/3450	Northern parts of the Shire in the locality of Exmouth	Exploration licence	Firehouse WA Pty Ltd	26/10/2021
	E08/3449	Northern parts of the Shire in the locality of Exmouth	Exploration Licence	Vytas Mining Pty Ltd	26/10/2021
	E08/3422	Locality of Rabbit Hill	Exploration Licence	Polaris Metals Pty Ltd	18/10/2021
	E08/3366	Locality of Marrilla Hill	Exploration Licence	Vytas Mining Pty Ltd	26/10/2021

BUILDING SERVICES

Application No.	Owners Name	Lot & Street	Type of Building Work
B21/038	BENEDETTO & LINDA DEI GIUDICI	LOT 10 (6) BROWN ST, SOUTH CARNARVON	POST & RAIL COLORBOND FENCE
B21/051	CORAL BAY AMALGAMATED HOLDINGS PTY LTD	LOT 9500 (67) ROBINSON ST, CORAL BAY	TRANSPORTABLE DWELLING ON CONCRETE FOOTINGS
B21/054	JAMES WILLIAM & JANETTE PATRICIA CAUNT	LOT 100 (17) GLARIS ST, KINGSFORD	TIMBER FRAMED VERANDAH CARPORT AND DECK
B21/058	ROBERT GRAEME HUG	LOT 300 (65) WILLIAM ST, EAST CARNARVON	FRONT POST & RAIL COLORBOND FENCE
B21/059	SHIRE OF CARNARVON & STATE OF WA	LOT 1210 (227) SPEEDWAY RD, BROWN RANGE	SOLAR PHOTOVOLTAIC PANEL INSTALLATION ONTO WASTE FACILITY SHED
B21/060	BATAVIA HOLDINGS PTY LTD	LOT 10 (16) ROBINSON ST, CORAL BAY	STAGE 1 - RETAINING WALLS & CIVIL WORKS (FOR TOURIST DEVELOPMENT - FIVE (5) CHALETS, TWELVE (12) CARAVAN SITES, CARETAKERS DWELLING AND STORAGE SHED)
B21/061	JEREMY MICHAEL JAMES FORBES & MARGARET TYRRELL	LOT 6 (18A/B) RIDLEY PL, MORGANTOWN	POST & RAIL COLORBOND FENCE
B21/062	BRUCE DALTON WINSTON STARR & VALISSA JOAN MAREE KIMBERLEY	LOT 30 (3) FANE CRES, BROCKMAN	POST & RAIL COLORBOND FENCE

OFFICER'S RECOMMENDATION

That Council, by Simple Majority, in accordance with Section 5.46 of the Local Government Act, accept the reports outlining the actions performed under delegated authority for the months of October and November 2021.

8.1.2 COUNCIL COMMITTEES, COMMITTEE MEMBERSHIP AND NON-COUNCIL COMMITTEES AND GROUPS – ELECTION AND APPOINTMENT OF REPRESENTATIVES

File No: ADM2014
 Date of Meeting: 26 October 2021
 Location/Address: Shire of Carnarvon
 Name of Applicant: Shire of Carnarvon
 Name of Owner: Shire of Carnarvon
 Author/s: Andrea Selvey, Chief Executive Officer
 Declaration of Interest: Nil
 Voting Requirements: Absolute Majority
 Previous Report: October 2019

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person’s right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

The intent of this report is to facilitate a Council resolution for the re-instatement of six internal Council Committees and to endorse the Terms of Reference for those Committees. The report also seeks a Council resolution to appoint Council representatives to those internal Council Committees and to appoint Council delegates to the external Committees of various other agencies.

Background:

Council provides representation to two types of Committees as follows:

1. Internal Committees, established under the *Local Government Act, 1995*, to provide Council with advice, or to undertake a specified function; and
2. External Committees on which Council wishes to be represented.

Committees are required to be reviewed within three months of an ordinary local government election to determine whether they should continue and if so, whether the Terms of Reference should be modified. The Council should also consider and resolve to appoint members to committees it wishes to retain.

Consultation:

Nil.

Statutory Environment:

The establishment of a Committee of Council is conducted under Section 5.8 of the *Local Government Act*

1995.

At any given time each Elected Member is entitled to be a member of at least one Council Committee under Section 5.10 of the *Local Government Act, 1995* and where a staff member is to be appointed to a committee and the CEO indicates his or her wish to be a member or have a member as his representative then the local government is to appoint the CEO or the representative as the case may be.

Sections 7.1A. of the Local Government Act 1995 stipulates the requirement for an Audit Committee

- Bush Fires Act 1954, Section 67.

Relevant Plans and Policy:

The selection of elected member representation aligns with the following Council policies:

- Policy E010 – Conference and Meeting Attendance by Members
- Policy E012 – Members Reimbursement of Expenses Incurred

Financial Implications:

There may be financial implications in that travel costs may be incurred by Members to attend various meetings held outside the Shire of Carnarvon but these are immaterial and can be accommodated within the current budget allocation for Council expenses.

Risk Assessment:

Consequence → **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A		
Health & Safety	N/A		
Reputation	Risk is that Council is not seen to be providing input or interest into the various groups.	Low	Elected members are nominated on various committees and working groups to ensure that Council is represented and have input in discussions
Service disruption	N/A		
Compliance	Legislative requirement to establish committees and appoint members is not met.	Low	This report supports compliance.
Property	N/A		
Environment	N/A		
Fraud	N/A		

Community & Strategic Objectives:

Goal 5: Civic Strong and listening Council.

ITEM	OUTCOMES AND STRATEGIES
5.2	The Shire has a high standard of governance and accountability
5.2.1	Robust decision-making by culturally aware, well-informed and supported Councillors
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations

Comment:

The use of Council Committees to support Council functions and provide advice to Council is an important means of progressing projects and issues without the need for full Council representation.

Council representation on community and industry groups is an important link for the awareness of the Council on issues that may impact upon the community or Council business. Representation on these groups helps establish and maintain strong links with the community.

Council may at any time exercise its authority to:

- change the composition of an existing Committee or Advisory Group;
- create a new Committee or Advisory Group; or
- delete an existing Committee or Advisory Group if there is no further purpose or need to attend.

OFFICER'S RECOMMENDATION PART ONE

That Council, by Absolute Majority in accordance with Section 5.8 of the Local Government Act (1995) resolved to re-establish the following internal Council Committees, endorse their Terms of Reference as presented in Schedule 8.1.2, and appoint Elected Members to the Committees as per the table below:

	<i>Council Committee</i>	<i>Terms of Reference</i>	<i>Representation</i>	<i>Membership</i>
1	<i>Community Growth Fund Committee (Delegated Authority)</i>	<i>Evaluate and determine grant applications for community funding contributions from the Shire Community Growth Fund.</i>	<i>4 x Elected Members 1 x Elected Member (Proxy)</i>	<i>Cr Cr Cr Cr (Proxy)</i>
2	<i>Management Review Committee – CEO Recruitment (Advisory) Policy E016</i>	<i>1. To manage Council's obligations established of the Local Government Act 1995, relating to the CEO Review process. 2. To recommend to Council in regard to the CEO performance and remuneration.</i>	<i>Shire President 3 x Elected Members</i>	<i>Cr Cr Cr</i>
3	<i>Awards (Delegated Authority) (Advisory)</i>	<i>Assessing nominations and selecting appropriate community members and organisations for awards and honours.</i>	<i>4 x Elected Members 1 x Elected Member (Proxy)</i>	<i>Cr Cr Cr Cr (Proxy)</i>

4	Audit & Risk Management Committee (Delegated Authority) (Advisory)	To carry out Council's functions in relation to audits under Part 7 of the Local Government Act 1995 and the Local Government (Audit) Regulations.	5 x Elected Members	Cr Cr Cr Cr Cr
5	Emergency Management (LEMC) (Advisory)	In accordance with the Emergency Management Act 2005 to manage the community's bush fire prevention and emergency response major events including fire, flood and cyclones.	Shire President 1 x Elected Member (proxy) Shire of Carnarvon CEO, EMDS, CESM Various Gov't and Community Emergency Management Representatives	Cr (proxy)

OFFICER'S RECOMMENDATION PART TWO

That Council, by Absolute Majority, in accordance with s.5.10 of the Local Government Act 1995 resolves to appoint Elected Members to the External Committees/Groups as per the table below:

	External Committee/Group	Purpose	Representation	Member
1	Carnarvon Heritage Group Interpretive Working Group	To manage the Heritage Centre and One Mile Jetty precinct.	1 x Elected Member 1 x Elected Member (Proxy)	Cr Cr (Proxy)
2	Aviation Community Consultation Group	Department of Transport Consultation Group with the purpose of ensuring the air service to Carnarvon and Shark Bay is adhering to license conditions.	1 x Elected Member	Cr
3	Gascoyne Joint Development Assessment Panel	To determine development applications that meet set type and value thresholds (under legislation) in accordance with relevant planning instruments, such as the local planning scheme.	2 x Elected Members 2 x Proxies (Ministerial appointment)	Cr Cr Cr Cr
4	Ningaloo World Heritage Advisory Committee	To oversee the biological diversity and protection of marine species encompassed in the Ningaloo World Heritage Area inclusive of best practice in tropical marine, terrestrial and coast management.	1 x Elected Member (State appointed for 2-3 year term)	
5	Carnarvon Chamber of Commerce		1 x Elected Member	Cr
6	Ningaloo Resilient Reefs Working Group		1 x Elected Member	Cr
7	Carnarvon Liquor Accord		Shire President (Chair) CEO	Cr
8	Carnarvon Floodplain Management		Shire President CEO	

	<i>Group</i>			
<i>9</i>	<i>Ningaloo Tourism Advisory Group</i>		<i>1 x Elected Member CEO</i>	<i>Cr</i>

8.1.3 2022 ORDINARY MEETINGS OF COUNCIL– SCHEDULE OF DATES, TIMES AND VENUES

File No: ADM0308
Date of Meeting: 23 November 2021
Location/Address: Shire of Carnarvon
Name of Applicant: Shire of Carnarvon
Name of Owner: Shire of Carnarvon
Author/s: Dannielle Hill, Executive Officer
Declaration of Interest: Nil
Voting Requirements: Simple Majority
Previous Report: Nil

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
X	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

This report is to seek Council approval for the Shire of Carnarvon Ordinary Council Meeting dates for the 2022 calendar year.

Background:

As a requirement under the Local Government Administration Regulations 1996, Council is required to set its Ordinary and Committee meeting dates for the upcoming calendar year and accordingly provide local public notice to this effect.

Furthermore, Council "Policy E017 - Monthly Ordinary Council Meetings, Briefing Sessions and Corporate Information Sessions", also states that Ordinary Meetings of Council are to be held on the fourth Tuesday of each month, with at least two Ordinary Meetings of Council to be held in Coral Bay, and the date and time to be determined by Council.

It should also be noted that with Christmas falling close to the scheduled fourth Tuesday in December, it has been normal practice to bring this meeting forward by one week.

Accordingly, the following is a proposed schedule of dates and times for the 2022 Ordinary Meetings of Council, incorporating the suggested changes as previously mentioned, for Council's consideration –

Date	Meeting	Time	Venue
Tuesday 25 January 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers
Tuesday 22 February 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers
Tuesday 22 March 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers
Tuesday 26 April 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers
Tuesday 24 May 2022	Council Meeting	10.30am	Coral Bay Tavern
Tuesday 28 June 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers
Tuesday 26 July 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers
Tuesday 23 August 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers
Tuesday 27 September 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers
Tuesday 25 October 2022	Council Meeting	10.30am	Coral Bay Tavern
Tuesday 22 November 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers
Tuesday 20 December 2022	Agenda Forum Council Meeting	8.30am 1.00pm	Council Chambers

Stakeholder and Public Consultation:

Nil

Statutory Environment:

Local Government Administration Regulations, 1996 Regulation 12

Relevant Plans and Policy:

This item relates to Council “Policy E017 - Monthly Ordinary Council Meetings, Briefing Sessions and Corporate Information Sessions” and aligns with this document.

Financial Implications:

The proposed meeting schedule that may include an optional overnight stay in Coral Bay which is accommodated in the current year budget.

Risk Assessment:

Consequence → **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood	Almost certain	High	High	Extreme	Extreme	Extreme
	Likely	Moderate	High	High	Extreme	Extreme
	Possible	Low	Moderate	High	Extreme	Extreme
	Unlikely	Low	Low	Moderate	High	Extreme
	Rare	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A		
Health & Safety	N/A		
Reputation	Non-compliance with statutory requirements would result in reputational damage to the Shire.		This agenda item aims to ensure that the Shire is compliant.
Service disruption	N/A		
Compliance	That the proposed meetings dates are not reported to Council.	Low	This agenda item aims to ensure that the Shire is compliant in reporting proposed Council Meeting dates for 2022.
Property	N/A		
Environment	N/A		
Fraud	N/A		

There is no perceived risk by endorsing the recommended scheduled Ordinary Meeting Council dates for the 2022 calendar year, other than the Council would be in breach of the legislation if was not to do so.

Community & Strategic Objectives:

Goal 5: Civic

Strong and listening Council.

ITEM	OUTCOMES AND STRATEGIES
5.1	A well engaged and informed community and a high standard of customer service
5.1.1	Community members have access to information on their community through a range of different media
5.1.2	The community is engaged in planning for the future and other matters that affect them
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations
5.6	The Shire advocates on behalf of its community

Comment:

In consideration of the proposed meeting dates, the May and October 2021 Ordinary Meetings have been tagged for Coral Bay to reflect an increased presence by the Shire, and greater representation for this part of the community.

With Council in agreeance to the proposed scheduled dates for the Ordinary Meetings for the 2021 calendar year, local public notice will need to be given in the local newspaper, Shire of Carnarvon website and Shire public notice boards.

OFFICER'S RECOMMENDATION

That Council, by Simple Majority in accordance with Regulation 12 of the Local Government Administration Regulations, 1996:

1. Endorse the following Ordinary Council Meeting dates, times and venues for the 2022 calendar year –

<i>Date</i>	<i>Meeting</i>	<i>Time</i>	<i>Venue</i>
<i>Tuesday 25 January 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>
<i>Tuesday 22 February 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>
<i>Tuesday 22 March 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>
<i>Tuesday 26 April 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>
<i>Tuesday 24 May 2022</i>	<i>Council Meeting</i>	<i>10.30am</i>	<i>Coral Bay Tavern</i>
<i>Tuesday 28 June 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>
<i>Tuesday 26 July 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>
<i>Tuesday 23 August 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>
<i>Tuesday 27 September 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>
<i>Tuesday 25 October 2022</i>	<i>Council Meeting</i>	<i>10.30am</i>	<i>Coral Bay Tavern</i>
<i>Tuesday 22 November 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>
<i>Tuesday 20 December 2022</i>	<i>Agenda Forum Council Meeting</i>	<i>8.30am 1.00pm</i>	<i>Council Chambers</i>

2. Give local public notice advising of the meeting dates and times for the 2022 Ordinary Meetings of Council.

File No:	
Date of Meeting:	26 October 2021
Location/Address:	Reserve 11076 Lot 254 North West Coastal Highway, Yaringa
Name of Applicant:	Richard McMillan Brown and Francine Brown (Lessee)
Name of Owner:	Shire of Carnarvon
Author/s:	Amanda Leighton, Manager People, Culture & Systems
Declaration of Interest:	N/A
Voting Requirements:	Simple Majority
Schedules:	Letter of Request – R&F Brown Griffin Valuation Advisory

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
X	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

This report details a request from Richard McMillan Brown and Francine Brown seeking to renew the lease for Recreational Reserve 11076 located at Lot 254 on Plan 92298 North West Coast Highway, Yaringa. This lease is located at Gladstone Bay within the Shark Bay Marine Park approximately 140 kilometres south of Carnarvon and approximately 340 kilometres North of Geraldton accessed via the Great Northern Highway. The officer's recommendation is that Council supports the lease renewal.

Background:

An initial lease of the above-mentioned property was granted to Mr Richard McMillan Brown and Ms Francine Brown to commence on 1 December 2014 for an initial term of 7 years expiring on 30 November 2021. Item 3 of the lease indicates further terms for lease renewals and the Lessee is requesting execute their option to renew the lease the first further term of 7 years expiring on 30 November 2028.

During the initial term of the lease the Lessee was requested to create a Management Plan for the property which has not been completed. Whilst the documentation has not been formally completed it is clear that the Lessee is actively working toward completion of this document and are managing the property to high standard. The Lessee has taken several actions for the overall improvement of the property by installing a defibrillator and assisting in the management of road closures during weather events. The property was recently inspected the Environmental Health Officer (EHO) who reported that the camping ground has some

attractive and rustic style common facilities including a communal fire pit, wood fired pizza oven, open-sided shade seated area two recently installed bush-style outdoor showers utilizing solar heated hot water, an on-site caravan for communal food preparation, toilet blocks, LPG gas refill tanks, mini golf facility, sullage dump point and camp host to assist the management of the property. The EHO reported that the Lessee is passionate about protecting the biodiversity of the area and agreed to plant more trees to actively protect and promote the local ecosystems.

In order to assist Council in their decision in relation to renewal of the lease, Item 8 of the lease agreement has been exercised and a desk top market valuation was completed by Griffin Valuation Advisory on 11 October 2021. The methodology used by Griffin Valuation Advisory has considered the market rental comparison approach on a per annum and per square meter basis, taking into consideration the location and permitted use.

Griffin Valuation Advisory attempted to locate comparable rental evidence to apply a rate per annum to the subject leased area. Their investigation indicate that the subject facility is unique, in that it comprises of 580ha of land of which approximately only 10ha is used for camping facility with coastal access in and around the old timber jetty. The two of comparable properties used as market rental evidence were traditional type caravan and camping sites that provide full amenities and located within town boundaries, these two properties indicted a ground rental rate of between \$.0.86- \$ 1.04/m² per annum. These types of properties are generally held in Fee Simple or Crown Lease.

In discussions with prominent caravan park brokers we have been advised that majority of land leased from the Crown for this type of activity generally commences at 5% of turnover increasing to 10% of turnover. The subject property is Crown land and is leased from the Shire of Carnarvon for 3 terms of 7 years, commencing 1 December 2014 to 30 November 2035, total 21 years. Given the lack of directly comparable rental evidence Griffin Valuation Advisory have chosen to apply the income approach based on turnover to establish the current market rental value. Information on the property turnover and occupancy has been supplied to us by the current Lessees. The Lessee have advised that approximately 80% of the income is from concession and 20% from full paying fees, that has been reflected in the estimated turnover figures below.

Rental Value Calculations: As stated above, the valuer was unable to source directly comparable Market Rental Evidence for the subject leased area from within the Shire of Carnarvon and environs. Therefore, they have chosen an income approach based on the following information supplied to us by the Lessee. The Lessee has confirmed that included in their lease are the Shire ablution building and improvements. A rate of 8% of turnover was used to arrive at the assessed market rental.

Estimated Turnover figures:

Year 2018

Occupancy 12,373 persons

Average daily fee ranged from \$ 5.50 to \$ 10 per person adopt \$ 7/person

Estimated turnover \$ 86,611 per annum

Year 2019

Occupancy 11,564 persons

Average daily fee ranged from \$ 8 to \$ 11 per person adopt \$ 9/ person

Estimated turnover \$ 104,076 per annum.

Year 2020

Occupancy 13,383 persons

Average daily fee ranged from \$ 10 to \$ 13 per person adopt \$ 11/ person

Estimated turnover \$ 147,213 per annum.

Calculations for market value arrived at

2018 - \$ 86,611 Pa @ 8% \$ 6,928 per annum

2019 - \$ 104,076 Pa @ 8% \$ 8,326 per annum
 2020 - \$ 147,213 Pa @ 8% \$ 11,777 per annum

A previous valuation completed by Opteon in 2014 concluded that the market value for the property was between \$6,000 and \$12,000 per annum (GST inclusive) and that the commercial viability of the property at that point in time was marginal.

The webpage for Gladstone Bay Wilderness Camping advertises the following rates:

Camping
 Adults \$13 per person per night
 Pensioner \$10 per person per night
 Children over 8yrs \$5 per person
 Day Visits \$7 per vehicle

Stakeholder and Public Consultation:

Mr Richard McMillan Brown and Ms Francine Brown
 Griffin Valuation Advisory

Statutory Environment:

Local Government Act 1995 section 3.58 *Disposal of Property*

Relevant Plans and Policy:

C016 Lease and Licensing Classification.

Financial Implications:

Following the Opteon valuation between \$6,000 and \$12,000 per annum (GST inclusive) the property was initially leased for an amount of \$7,700 (GST inclusive) which was recommended based on the low occupancy rate of the property. The most recent valuation completed by Griffin Valuation Advisory has found an increase in occupancy rate and found the property to be valued between \$6,928 and \$11,777 (GST inclusive). Therefore, the officer's recommendation is that Council consider increasing the lease fee for the property to \$11,500 (GST inclusive).

Risk Assessment:

Consequence  **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood 						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	As it has been 7 years since the last market	Low	Granting a commercial lease based on an independent commercial valuation

	valuation was performed, should the Shire renew the lease at the current rate, the Shire may risk loss of income. Should the lease not be renewed, clause 23.1 of the lease states that the Lessor (Shire) may agree to purchase any or all of the Lessee property at an agreed upon price.	Medium	will provide a fair market price for consideration when renewing the lease. By granting a commercial lease, the Shire can avoid incurring additional unbudgeted expenses.
Health & Safety	N/A		
Reputation	N/A		
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	Should the lease not be renewed, the site will either require ongoing maintenance or remediation work including revegetation to restore the site to its natural state.	Medium	By granting a commercial lease the Shire can mitigate this risk.
Fraud	N/A		

Community & Strategic Objectives:

Goal 1: Economic

A strong and growing economy, with a thriving regional center, abundant business opportunities and jobs.

ITEM	OUTCOMES AND STRATEGIES
1.1	Local business growth

Goal 2: Natural and built environment

A sustainable natural and built environment that meets current and future community needs

ITEM	OUTCOMES AND STRATEGIES
2.8	Preservation of local heritage buildings and places of interest

Goal 5: Civic

Strong and listening Council.

ITEM	OUTCOMES AND STRATEGIES
5.2	The Shire has a high standard of governance and accountability
5.4	Sound financial and asset management
5.6	The Shire advocates on behalf of its community

Comment:

The current management of the property indicates that the Lessee is maintaining the property to a high standard and are dedicated to continuous improvement of the area and facilities to provide a niche holiday spot for travelers.

It is worth noting that the current lease states under clause 15.3(2) Keep Camping Ground Open to the Public, specifically *“The Lessee agrees to permit free and unimpeded pedestrian and vehicular access by the public at all times across and through the access way of the gates of the Premises and to permit parking by the public on the parking areas of the Premises”*. The Lessee is charging a day fee for access which contradicts the current lease conditions. There are two options for consideration:

1. Enforce the current clause
2. Amend the lease to allow the Lessee to charge day fees

The author of this report met with the Lessee and discussed their requirement to charge a day fee for access to Gladstone. The Lessee cited that they have many people who visit for the day and utilize the facilities and dump waste, this results in higher costs to maintain the facilities and removal of the waste. The introduction of the day fee per vehicle was to recoup some the costs involved. The officer’s recommendation is that clause 15.3(2) is retained but amended to grant the Lessee permission to charge for use of facilities such as the showers but not for access to the beach.

With consideration of the management of the property by the Lessee and in accordance with the current lease condition, specifically Item 3 (a) Further Terms it is recommended that Council renew the lease for a further 7-year term commencing 1 December 2021 and expiring on 30 November 2028 with the following conditions written into the lease:

- The Lessee will adjust their public liability insurance to \$20,000,000.
- The Lessee will provide the Shire with a copy of their insurance certificate of currency on an annual basis as requested by the Lessor.
- The Lessee will provide the Shire with a Management Plan within 6 months of the lease being executed.
- Clause 15.3 Keep Camping Ground Open to the Public to be updated to allow the Lessee to charge day fees

OFFICER’S RECOMMENDATION PART 1

That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, resolves to:

1. *Exercise the option and renew the lease portion of Reserve 11076 (known as Gladstone Camping Area) in accordance with Item 3 of the current lease subject to:*
 - a) *An annual lease fee of \$11,500 (GST inclusive) per annum;*
 - b) *For a term of 7 years expiring on 30 November 2028 with a further option for a term of 7 years as per the original lease;*
 - c) *Conformity with the statutory provisions for ‘Disposal of Property’ under Section 3.58 of the Local Government Act, 1995 and any other relevant legislative requirements, including the Caravan Parks and Camping Grounds Act 1995 and subsidiary regulations for nature-based camping;*
 - d) *The lease documentation prepared at the Lessee’s cost (to be invoiced to the Lessee upon the lease being executed);*
 - e) *The lease incorporating (amongst other requirements) provision for:*
 - i. *The Lessee will adjust their public liability insurance to \$20,000,000.*

- ii. *The Lessee will provide the Shire with a copy of their insurance certificate of currency on an annual basis as requested by the Lessor.*
- iii. *The Lessee will provide the Shire with a Management Plan within 6 months of the lease being executed.*
- iv. *Recurrent maintenance of the camping area (including road access) by Lessee to ensure functionality, safety and a high standard of presentation at all times.*
- v. *Amend clause 15.3(2) to be updated to allow the lessee to charge day fees for accessing facilities only.*

2. *Authorise the CEO to negotiate the details of the lease with the lessor as outlined above.*

File No:
 Date of Meeting: 18 November 2021
 Location/Address: 7-11 George Street, Carnarvon
 Name of Applicant: Gascoyne Memorial Foundation Inc.
 Name of Owner: Shire of Carnarvon
 Author/s: Andrea Selvey Chief Executive Officer
 Declaration of Interest: Nil
 Voting Requirements: Simple Majority
 Previous Report: Nil

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

This report formally presents a request from the Gascoyne Memorial Foundation Inc. (GMF) for Council to consider assisting the GMF in their application for funding under the Social Housing Economic Recovery Package (SHERP). Specifically, the GMF is ineligible to apply and therefore is requesting that the Shire apply for this funding on their behalf.

Background:

The Western Australian Government recently announced a housing stimulus package with an estimated value of \$444 million to aid the state's COVID-19 economic recovery. As part of this stimulus, the Department of Communities (Communities) is leading the delivery of a \$319 million Social Housing Economic Recovery Package (SHERP). The SHERP represents a significant government investment in a pipeline of works, targeted at construction of new assets, refurbishment, and maintenance of existing assets to improve the lifespan and quality of the assets available for social housing.

The Department of Communities is delivering the SHERP across three workstreams:

Workstream 1: \$97 million to build or buy (off-the-plan) up to 250 new social housing properties across metropolitan and regional areas. A portion of the homes purchased off the plan may be offered for sale through Communities' affordable housing program.

Workstream 2: \$142 million to refurbish up to 1500 existing public and supported residential houses and community housing properties.

Workstream 3: \$80 million for targeted maintenance programs for up to 3800 regional social housing

properties—including within remote Aboriginal communities—and subsidised housing for regional government workers.

The GMF has already submitted an application for workstream 3 (maintenance of their existing property on George Street) and have commenced an application for workstream 1 (new buildings). The intention is to develop vacant land the GMF owns at 7-11 George Street, Carnarvon, to increase their current capacity with a further 12 to 15 one-bedroom and two-bedroom dwellings. *See Schedule 8.1.3 for the concepts.* This development is based on their current demand for such housing.

The GMF has been advised that only registered housing providers and local governments are eligible for funding under this stream and that they are not currently a registered housing provider. They have applied to become a registered housing provider but have been advised that the process is likely to take approximately three months. Given that the GMF would not have received their registered housing provider approval at the time that applications for workstream 1 of the SHERP funding closes on 30 November 2021, the GMF would not be eligible to apply for this funding. The GMF has therefore approached the Shire to submit the application on their behalf. *See Schedule 8.1.3.*

The Department of Communities has confirmed that the Shire can apply for this funding in partnership with the GMF, and that the Shire would be required to sign the grant agreement should the application be successful. The Shire would be able to transfer the asset to the GMF once the project is completed whether they have received their registration as a housing provider or not. Therefore, any risk during the construction period would be carried by the Shire but once the asset is transfer to the GMF, they would own the asset and be responsible for the ongoing management and maintenance.

Consultation:

GMF
Department of Communities, SHERP

Statutory Environment:

Nil

Relevant Plans and Policy:

C030 External Grants has been reviewed but does not provide guidance on applying for funding on behalf of a third party.

Financial Implications:

There are no financial implications arising from applying for the funding on behalf of the GMF. No cash or in-kind contribution has been requested from the GMF. At this stage, the GMF is still developing the project, including the financial details and cost estimates. Costs are expected to exceed \$5million. No cash co-contribution from the applicant is required.

Over the coming months, Shire officers can work with the GMF to develop an agreement that ensures that all financial and management responsibility rests with the GMF during construction and for ownership to transfer once the construction is completed.

Risk Assessment:

Consequence

STEP 3 – Risk Tolerance Chart Used to Determine Risk

Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
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Likelihood

Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	The project construction exceeds grant funding.	High	The GMF is seeking a firm quote from a builder for the project as part of their application. In addition, the Shire can develop an agreement with the GMF that ensures that they assume responsibility for any cost overruns. The GMF has provided financial statements that show that they have over \$2.2million cash assets. See schedule 8.1.3
Health & Safety	N/A		
Reputation	N/A		
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

Community & Strategic Objectives:

Comment:

The officer’s recommendation to Council that the Shire supports the GMF in their application for funding is based on the following:

1. This funding would provide a significant social and economic return for Carnarvon and not applying for the funding would be an opportunity lost.
2. Applying for funding does not commit the Shire. Should the application be successful, the Shire would be invited to sign a funding agreement which it could choose not to sign if the risks are too high. In the intervening period, the Shire can carry out a detailed assessment of the risks to present to Council along with the draft funding agreement.

Gasco

OFFICER’S RECOMMENDATION PART ONE

That Council, by Simple Majority pursuant to Section 3.18 of the Local Government Act 1995, resolves to:

1. *Support the Gascoyne Memorial Foundation Inc. by applying for funding under the Social Housing Economic Recovery Package (SHERP) on their behalf;*

2. *Develop a partnership agreement between the Shire and Gascoyne Memorial Foundation which includes details on the project and risk management; and*
3. *Consider the partnership agreement and funding agreement (should the application be successful) prior to accepting the funding to ensure that all risks to the Shire have been appropriately considered and mitigated.*

File No:	ADM0186
Date of Meeting:	23 November 2021
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Author/s:	SONJA HOWARD – SENIOR FINANCE OFFICER
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Reports:	Presented every month
Schedules:	Schedule 8.2.1

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting, and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

To present the listing of accounts paid from the Municipal Fund, Visitor Centre Account and Trust Fund, in accordance with the requirements of the Local Government (Financial Management) Regulations 1996, for the month of October 2021.

Background:

Council has previously delegated to the CEO the exercise of its power under Financial Management Regulation 12 to make payments from Municipal Fund, Visitor Centre Account and Trust Fund. A list of all payments is provided in *Schedule 8.2.1*

Stakeholder and Public Consultation: Nil

Statutory Environment:

Local Government Act 1995 – Section 5.42

Local Government (Financial Management) Regulations 1996 – Regulations 12 and 13

Relevant Plans and Policy:

N/A

Financial Implications:

Ongoing management of Council funds by providing Council with sufficient information to monitor and review payments made.

Risk Assessment:

Consequence → **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Slow payment of creditors	Low	Can impact financial statements. Set proper close off dates
Health & Safety	NA	NA	
Reputation	NA	NA	
Service disruption	NA	NA	
Compliance	NA	NA	
Property	NA	NA	
Environment	NA	NA	
Fraud	Accounting Fraud	Moderate	Regular background check and regular updates of Sundry Creditors. Sign off by SFO of any Creditor changes (Bank Accounts)

OFFICER'S RECOMMENDATION

That Council, by Simple Majority, pursuant to S5.42 of the Local Government Act 1995 resolves to:

- a) Receive the list of payments made under delegation, as per Schedule 8.2.1 (a) totalling \$2,314,062.86 as presented for the month of October 2021 incorporating.

Payment Reference from:	Payment Reference to:	Payment Type	Payment Amount
<i>EFT34153</i>	<i>EFT34153</i>	<i>Bank Direct- Muni</i>	<i>\$626.40</i>
<i>DD39019.2</i>	<i>DD39019.2</i>	<i>Bank Direct- Muni</i>	<i>\$687.96</i>
<i>DD39019.3</i>	<i>DD39019.3</i>	<i>Bank Direct -Muni</i>	<i>\$8681.50</i>
<i>DD39019.4</i>	<i>DD39019.4</i>	<i>Bank Direct- Muni</i>	<i>\$5194.35</i>
<i>DD39019.5</i>	<i>DD39019.5</i>	<i>Bank Direct- Muni</i>	<i>\$9506.00</i>
<i>DD39020.2</i>	<i>DD39020.2</i>	<i>Bank Direct- Muni</i>	<i>\$14.04</i>
<i>DD39020.3</i>	<i>DD39020.3</i>	<i>Bank Direct- Muni</i>	<i>\$294.00</i>
<i>DD39020.4</i>	<i>DD39020.4</i>	<i>Bank Direct- Muni</i>	<i>\$268.50</i>
<i>DD39020.5</i>	<i>DD39020.5</i>	<i>Bank Direct- Muni</i>	<i>\$160.65</i>
<i>DD39020.6</i>	<i>DD39020.6</i>	<i>Bank Direct- Muni</i>	<i>\$447.00</i>
<i>DD39028.1</i>	<i>DD39028.1</i>	<i>Bank Direct- Muni</i>	<i>\$14153.00</i>
<i>DD39031.1</i>	<i>DD39031.1</i>	<i>Bank Direct- Muni</i>	<i>\$11687.29</i>
<i>EFT33499</i>	<i>EFT33690</i>	<i>Muni EFT</i>	<i>\$ 2,237,439.30</i>
<i>EFT33888</i>	<i>EFT33890</i>	<i>Trust EFT</i>	<i>\$4,858.90</i>
		TOTAL	\$2,314,062.86

- b) Note Sundry Creditors as of 31 October 2021 - \$73,467.89

File No:	ADM0186
Date of Meeting:	23 November 2021
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Susan Mizen Manager Finance
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report	Nil
Schedules	Schedule 8.2.2

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

In accordance with Regulation 34 of the Local Government (Financial Management) Regulations, the Shire Administration is required to prepare a monthly Statement of Financial Activity for approval by Council.

Background:

Each month a local government is to prepare a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d).

The statements should show the following:

- annual budget, and the estimated year to date budget end of that month,
- the actual amount for expenditure and income,
- any variance between the actual income and expenditure, as compared to the estimated year to date budget,
- the net current assets at the end of that month.

The statements are accompanied by notes that explain the statements and any supporting information. Further, comments are to be made where variances are higher than the materiality thresholds set by Council which are the higher of 10% or \$10,000.

The financial statements presented as an attachment to this item are in excess to the minimum requirements to portray a fuller financial picture of the Shire at this point in time.

This report provides elected members with information about operating and capital revenues and expenditures. It also links operating results with balance sheet items and reconciles with the end of month balances. The Audited Financial Statements for 30 June 2021 are currently being audited, and the closing surplus figure, which will become the opening surplus figure for 2022, will be finalised. Until the end of year Audit is finalised, the opening surplus is subject to change and the accounts remain in draft.

Consultation:

Nil

Statutory Environment:

Local Government (Financial Management) Regulation 34.

Relevant Plans and Policy:

Corporate Business Plan 2018 - 2022

Financial Implications:

Nil.

Risk Assessment:

Consequence → **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Stakeholders may withdraw funding if the statements are not prepared according to the regulatory framework	Low	Financial Statements are prepared on time and according to the applicable Legislation and Regulations
Health & Safety	NA	NA	
Reputation	NA	NA	
Service disruption	NA	NA	
Compliance	Local Government Act requires Council receive these statements within 2 months of the end of the applicable month	NA	Financial Statements are prepared on time and according to the applicable Legislation and Regulations
Property	NA	NA	
Environment	NA	NA	

Community & Strategic Objectives:

ITEM	OUTCOMES AND STRATEGIES
5.2	The Shire has a high standard of governance and accountability
5.2.1	Robust decision-making by culturally aware, well-informed and supported Councillors
5.2.3	Risks are well managed
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations
5.4	Sound financial and asset management
5.4.4	Financial transactions are accurate and timely

Comment:

Attached as **Schedule 8.2.2** for consideration is the draft Statement of Financial Activity for the period ended 30 September 2021.

The accounts are listed as draft accounts as they do not become final until Statements for 30 June 2021 have been Audited and a final carry forward surplus is verified. Auditors were onsite at the beginning of October 2021 and the final Financial Statements for June 2021 are expected mid December 2021. It is expected that some figures may change, due to audit opinions of the treatment of certain transactions. The closing surplus/deficit will not be known until the Audited figures are released.

In accordance with the Local Government (Financial Management) Regulations, a report must be compiled on variances greater than the percentage agreed by Council which is currently plus (+) or minus (-) of 10%, or \$10,000, whichever is the higher.

OFFICER'S RECOMMENDATION

That Council, by Simple Majority, and in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, resolves to receive the Draft Statement of Financial Activity for the month 30 September 2021 as per Schedule 8.2.2.

File No:	ADM2087
Date of Meeting:	23 November 2021
Location/Address:	Shire of Carnarvon
Name of Applicant:	N/A
Name of Owner:	Shire of Carnarvon
Author/s:	Trish Ouellette, Development Support Officer
Declaration of Interest:	Nil
Previous Report:	Nil
Voting Requirements:	Simple Majority
Schedules:	8.3.1 <i>Proposed Shire of Carnarvon Public Places And Local Government Property Local Law Draft</i>

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
X	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

The Shire is in the process of reviewing its local laws, including those that relate to property owned by, or under its care control and management. A draft new local law regulating property under the care, control and management of the Shire was adopted for the purpose of giving public notice by Council at its meeting held on 15 December 2020.

Subject to some minor amendments as noted below, the local law can now be 'made' under s3.12(4) of the Local Government Act 1995 (the Act) and will come into effect 14 days after publication in the *Government Gazette*.

Background:

At its meeting held on 15 December 2020 Council adopted a draft *Shire of Carnarvon Public Places and Local Government Property Local Law* for the purpose of giving public notice.

The proposed local law replaces:

- Parts of the *Shire of Carnarvon Local Laws Relating to Local Government Act Local Laws 1998* that deal with (amongst other things) the use of property under the Shire's care, control and management such as swimming pools, reserves, libraries, and the like; and
- The *Municipality of the Shire of Carnarvon Carnarvon Airport By-laws 1993* were published in the Government gazette on 22 January 1993 and dealt with the Carnarvon airport only.

The draft local law was advertised for public comment, and a copy sent to the Minister for Local Government as required by Section 3.12(3) of the Act.

The WA Department of Local Government, Sporting and Cultural Industries (DLG) responded on behalf of the Minister and (amongst other things) suggested it may be appropriate to seek the State Governors approval to extend application of the local law outside the district boundary to allow the Shire to regulate activities on any jetties that may be under its care, control and management in future.

As such, at its meeting held on 22 June 2021 Council resolved to seek the suggested approval, which was given by way of a notice published in the *Government Gazette* on 26 October 2021.

Section 3.6(1) of the Act provides that ‘if the Governor’s approval has been first obtained, a local government may make a local law under this Act that applies outside its district’. The local law may now be finally made.

Stakeholder and Public Consultation:

Local laws are made using the process set out in Section 3.12 of the Local Government Act 1995. Amongst other things this requires a local government to give local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears. A copy is also to be given to the Minister for Local Government.

A copy of the draft local law was sent to the Minister and local public notice duly given. Submissions closed on 25 February 2021. No comments were received from the public, but as well as suggesting that the Shire make application for approval to apply the proposed local law outside the district, the DLG recommended a number of other changes:

Comment	Recommended response
<p>Assistance Animals Clause 6.12(4) and 9.2(4) relates to assistance animals. The Parliament’s Delegated Legislation Committee are strict on the wording of clauses relating to the use of assistance animals. We suggest changing the wording of clause 9.2(4) to represent the Committee’s preferred wording as follows: <i>“This clause is subject to any written law and law of the Commonwealth about assistance animals as defined in the Disability Discrimination Act 1992 (Commonwealth) section 9(2).”</i></p>	<p>Agreed.</p>
<p>Reversing onus of proof – Shopping trolleys Clause 9.6 provides that a shopping trolley is presumed to belong to whoever’s name is marked on the trolley. The Delegated Legislation Committee has not objected to this clause. However, it has concluded that the clause is unlikely to be upheld in court since it reverses the onus of proof in a way the Act doesn’t explicitly authorise. The Committee’s findings can be found in item 4 of their 16th Report. The Shire should keep this mind when relying on the clause.</p>	<p>Noted. This provision is in a large number of similar local laws administered by other local governments. It is highly unlikely that any prosecutions will be undertaken under this provision, the objective being to provide the Shire with means to request removal of shopping trolleys by their owner(s). The risk is minimal.</p>

The DLG also made a number of recommendations in relation to the appearance of the local law, formatting and clause numbers.

In addition, in clause 7.1 references to legislation have been corrected, and reference to ‘CEO’ instead of ‘local government’ made in the definition of ‘authorised person’ in clause 1.5 to reflect recent amendments to the Act. These are shown ‘marked’ or highlighted on the attached updated version of the local law and are considered minor. The draft local law should be amended accordingly.

Statutory Environment:

Local laws are made using the procedure set out by Section 3.12 of the Act. The Shire has followed the requirements of that section, as well as obtaining the Governors approval to extend its application outside the district under Section 3.6.

Council may now ‘make’ the local law under Section 3.12(4) of the Act, following which it will be published in the Government Gazette and come into effect 14 days later.

Being subsidiary legislation, local laws are also subject to scrutiny by the WA Parliamentary Joint Standing Committee on Delegated Legislation, which can request amendments to them failing which it can recommend disallowance to Parliament. The Shire must also make a submission to the JSCDL as recommended below.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

Consequence → **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Out of date local laws that do not reflect current legislative requirements	Low	The local law and associated provisions is brought up to date.
Service disruption	N/A	N/A	N/A
Compliance	Local governments are required to review local laws at least once every 8 years after their Gazettal.	Low	The local law is reviewed.

Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	N/A

Community & Strategic Objectives:

The proposal accords with the following Shire desired outcomes as expressed in the *Community Strategic Plan 2018-2028*:

Objective 5: Civic

Strong and listening Council.

5.2	The Shire has a high standard of governance and accountability
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations

Comment:

This is a significant local law which covers a wide range of issues relating to the use of property under the Shire's care, control and management. It replaces two local laws that are outdated.

OFFICER'S RECOMMENDATION

OFFICER'S RECOMMENDATION PART ONE:

That Council by Simple Majority, pursuant to section 3.12(4) of the Local Government Act 1995 resolves that the Shire of Carnarvon Public Places and Local Government Property Local Law 2021 be adopted, subject to:

- a. Various minor amendments as 'marked up' on the attachment to the report to Council; and*
- b. Deletion of text boxes, page numbers in the index and notes in the version to be officially Gazetted;*

OFFICER'S RECOMMENDATION PART TWO:

In accordance with Section 3.12(5) of the Local Government Act 1995 the local law be published in the Government Gazette and a copy sent to the Minister for Local Government;

OFFICER'S RECOMMENDATION PART THREE:

In accordance with Section 3.12(6) of the Local Government Act 1995, after Gazetted local public notice be given:

- a. Stating the title of the local law;*
- b. Summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and*
- c. Advise that copies of the local law may be inspected or obtained from the Shire offices and its website.*

OFFICER'S RECOMMENDATION PART FOUR:

In accordance with the Local Laws Explanatory Memoranda Directions as issued by the Minister for Local Government on 12 November 2010, a copy of the local law and a duly completed explanatory memorandum signed by the Shire President and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.

File No:	
Date of Meeting:	23 November 2021
Location/Address:	N/A
Name of Applicant:	The Shire of Carnarvon
Name of Owner:	N/A
Author/s:	Stephanie Leca – Tourism & Economic Development Manager Kate Russell – Executive Assistant – Development & Community
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority – Officers Recommendation Part 1 /Absolute Majority – Officers Recommendation Part Two
Previous Reports:	Nil
Schedules:	Nil

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

This report relates to a request for Council to:

1. Provide approval for the acceptance of funding from Horizon Power – Community Partnerships fund for the Carnarvon Performing Arts and Culture Program (Civic Centre).
2. Approve a budget variation under the existing 21/2022 budget – Adding an additional \$10,000 to the existing program budget.

Background:

The Shire of Carnarvon identified an opportunity to apply for funding through the Horizon Power Community Partnerships fund. It was identified that the community would like to activate the main street to provide a vibrant community. Due to timing of the funding round, it was not possible to present this matter to Council prior to the application being submitted.

The funding of \$10,000 will supplement Council's budget for the Performing Arts and Culture Program which will see a delivery of a series of community outcomes and initiatives. The program aims to deliver up to ten projects within the Carnarvon community, which includes a series of different art forms – dance which supports health and wellbeing, visual art workshops which empowers local and aboriginal artists and offers the opportunity to learn new skills, performing arts which offers theatre and music performances for the community.

Stakeholder and Public Consultation:

N/A

Statutory Environment:

Local Government Act 1995 Section 6.8 Expenditure from municipal fund not included in annual budget

Relevant Plans and Policy:

C030 – External Grants – Procurement and Management
 Shire of Carnarvon Community Strategic Plan 2018 – 2028
 Shire of Carnarvon Corporate Business Plan 2018 – 2022

Financial Implications:

The following budget variation, which has no net impact on the original budget, is proposed:

Program & Sub-Program	GL Account Code	Description	Classification	Job No.	Original Budget	Budget Variation	Current Budget
Recreation and Culture – Public Halls & Civic Centre	3163	Grants – Civic Centre	Operating income	N/A	\$0.00	\$10,000	\$10,000
Recreation and Culture – Other Culture	3092	Live Shows Expenses	Operating Expenditure	3092	\$ 65,000	\$10,000	\$75,000

Risk Assessment:

Consequence → **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood ↓						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Expenditure exceeds grant	Low	The program will be carefully managed to stay within the grant allocation.
Health & Safety	N/A		
Reputation	N/A		
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

Community & Strategic Objectives:

The proposal accords with the following Shire desired outcomes as expressed in the *Community Strategic Plan 2018-2028*:

ITEM	OUTCOMES AND STRATEGIES
3.2	Strong community identity and spirit through arts, culture and events
3.2.1	Provide and promote visual arts facilities and exhibitions/activities
3.2.2	Provide and promote performing arts and entertainment facilities and performances/activities
3.2.3	Provide and promote other opportunities for participation in social and cultural events and activities
3.2.4	Support the delivery of public art initiatives

Comment:

Due to the short timeframe that the grant application was open, as it had no net impact on the budget and that no financial co-contribution was required, the CEO authorised the application to be submitted and for officers to seek Council's approval to accept this grant should the application be successful.

OFFICER'S RECOMMENDATION PART 1

That Council, by Simple Majority, pursuant to Section 6.8 of the Local Government Act 1995, resolves to accept funding of \$10,000 from Horizon Power – Community Partnership Fund for Carnarvon Performing Arts and Culture Program (Civic Centre).

OFFICER'S RECOMMENDATION PART 2

That Council, by Absolute Majority, pursuant to Section 6.8 of the Local Government Act 1995, approves a budget variation under the existing 21/2022 budget, adding an additional \$10,000 to the income budget and a corresponding \$10,000 to the expenditure budget for the Civic Centre program budget.

COA	Description	Job	Classification	Existing Budget	Amendment	Revised Budget
131630	Grants – Civic Centre	N/A	Operating Income	\$0.00	\$10,000	\$10,000
130921	Live Show Expenses	3092	Operating Expenditure	\$65,000	\$10,000	\$75,000

File No.	ADM0048
Date of Meeting:	23 November 2021
Location/Address:	Various
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Carolien Claassens – Projects Contracts Manager
Declaration of Interest:	Nil
Schedules:	N/A
Previous Reports:	N/A
Voting Requirements:	Absolute Majority

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

Council's retrospective approval is sought for an amendment and a budget variation of the Roads to Recovery funding allocation of \$30,000 for the 2021/22 financial year.

Background:

Roads to Recovery (R2R) funding of \$807,225 was allocated in 2020/21 to construct and seal the unsealed portion of Harbour Road. A portion of this funding was received upfront:

- \$ 30,000 – March 2021
- \$ 747,255 – June 2021
- \$ 777,255 Total

Delays in the delivery of this project have occurred. Project completion is scheduled for April/May 2022.

In accordance with Roads to Recovery Funding Conditions 2019, Section 2.3:

'A funding recipient must ensure that each Roads to Recovery payment is spent within six months of receipt of the payment'.

As a result, the first payment listed above should have been fully expended by September 2021. The Shire has not been able to meet this requirement. This would have resulted in a breach of the funding conditions.

To avoid this breach, the Department recommended submission of a new R2R 2021/22 project for which the Shire has incurred expenditure of at least \$30,000 up until 30th of September 2021.

In August and September 2021 Shire staff removed four redundant cattle grids on Carnarvon Mullewa Road. This resulted in a total expenditure of \$49,760.99. No external funding was initially allocated to these works.

Removal of the four cattle grids was submitted as a new Road Project for the 2021/22 R2R funding on

29 October with a funding allocation of \$30,000. The new project has been accepted by R2R. Roads to Recovery funding conditions have been met. A progress report, including the expenditure of up to 31 September 2021 was submitted by the due date of 30 October 2021.

Prior approval from Council to allocate the R2R funding to a new project was not possible. By way of this item, retrospective approval from Council is requested.

Inclusion of the new project has not changed the total R2R funding allocation for 2021/22. It does impact on the project budget for the Harbour Road project. The allocation of \$30,000 to the new project will need to be deducted from the Harbour Road R2R project allocation.

Stakeholder and Public Consultation:

Department of Infrastructure, Transport, Regional Development and Communications.

Statutory Environment:

Local Government Act 1995 - Section 6.8 Expenditure from municipal fund not included in annual budget

Relevant Plans and Policy:

Policy C030 - External Grants – Procurement and Management

Financial Implications:

The total original project budget for the Harbour Road project was \$2,000,000. The project budget consists of contributions from several different sources, being:

Funding Sources	Project Allocation
Regional Roads Group	\$ 647,640
Council contribution – part of Regional Roads Group funding ¹	\$ 323,820
Additional Council contribution	\$ 221,315
Roads to Recovery (R2R)	\$ 807,225
Total original budget	\$2,000,000
Deduction on Roads to Recovery (R2R)	- \$ 30,000
New project budget	\$ 1,970,000

Reduction in the Harbour Road project budget and introduction of the new R2R project requires the following budget variation:

COA	Job	Description	Current budget	Budget variation	Revised budget
137400	R2R242	Carnarvon Mullewa Road	\$0.00	\$49,760.99	\$49,760.99
137400	R2R209	Harbour Road – Roads to Recovery	\$807,225.00	-\$30,000	\$ 777,225.00
137600	C702	Grid Construction and Approaches	\$266,017.10	-\$19,760.99	246,256.11

Risk Assessment:

		STEP 3 – Risk Tolerance Chart Used to Determine Risk				
Consequence		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

¹ Regional Roads Group funding requires a third of the project cost to be funded by the relevant Local Government.

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Insufficient budget to complete the Harbour Road Project	D1 - Low	The deducted funding amount of \$30,000, for the Harbour Road project is minor in comparison with the total project budget.
Health & Safety	N/A		
Reputation	N/A		
Service disruption	N/A		
Compliance	A breach of the R2R funding conditions and possible jeopardising ongoing Road funding.	B3 - High	The Shire mitigated this risk by allocating an additional project within the 2021/22 funding allocation.
Property	N/A		
Environment	N/A		
Fraud	N/A		

Community & Strategic Objectives:

The proposal accords with the following Shire desired outcomes as expressed in the *Community Strategic Plan 2018-2028*:

Objective 2: Natural and built environment

A sustainable natural and built environment that meets current and future community needs

ITEM	OUTCOMES AND STRATEGIES
2.6	Shire assets and facilities that support services and meet community need
2.6.1	Roads are appropriately managed according to their need and use

Objective 5: Civic

Strong and listening Council

ITEM	OUTCOMES AND STRATEGIES
5.2	The Shire has a high standard of governance and accountability
5.2.1	Robust decision-making by culturally aware, well-informed and supported Councillors

Comment:

Nil applicable.

OFFICER'S RECOMMENDATION

That Council, by Absolute Majority and in accordance with Section 6.8 (1) (b) of the Local Government Act 1995, approves budget variations as follows to retrospectively approve reallocation of Roads to Recovery funding toward removal of four grids on Carnarvon Mullewa Road:

COA	Job	Description	Current budget	Budget variation	Revised budget
137400	R2R242	Carnarvon Mullewa Road	\$0.00	\$49,760.99	\$49,760.99
137400	R2R209	Harbour Road – Roads to Recovery	\$807,225.00	-\$30,000	\$ 777,225.00
137600	C702	Grid Construction and Approaches	\$266,017.10	-\$19,760.99	246,256.11

8.4.2 RFT 06/2021 – SUPPLY & DELIVERY OF BASECOURSE PAVEMENT MATERIAL HARBOUR ROAD

File No: ADM1665
 Date of Meeting: 23 November 2021
 Location/Address: Harbour Road, Carnarvon
 Name of Applicant: Shire of Carnarvon
 Name of Owner: Shire of Carnarvon
 Author/s: David Nielsen – Executive Manager Infrastructure Services
 Gloria Quinn – Executive Administrator
 Declaration of Interest: Nil
 Voting Requirements: Simple Majority
 Previous Reports: FC 20/10/21
 Schedules: Nil

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person’s right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item:

This report seeks a Council decision on the submission received for RFT06/2021 – Supply and Delivery of Basecourse Pavement Material – Harbour Road. That decision was deferred at the October 2021 Ordinary Meeting. It is recommended Council accepts no submission and does not award Tender RFT06/2021.

Background:

At its Ordinary Council Meeting (OCM) held on 26 October 2021, Council resolved as follows:

FC 20/10/21

COUNCIL RESOLUTION & OFFICER’S RECOMMENDATION

Cr Skender/Cr Maslen

That Council, by Simple Majority pursuant to Section 3.18 of the Local Government Act, 1995, defers a decision on the award of a contract for Tender RFT06/2021 – Supply and Delivery of Basecourse Pavement Material – Harbour Road until its November ordinary meeting to be able to consider the value for money of the submission received when weighed against submissions received for RFT07/2021 – Harbour Road Construction.

CARRIED
F7/AO

Request for tender RFT07/2021 – Harbour Road Construction has subsequently been completed with two submissions received. This tender is considered in detail under **Agenda Item 8.4.3**.

Evaluation of the single submission received under RFT06/2021 – Supply and Delivery of Basecourse Pavement Material – Harbour Road against the Harbour Road construction tender as per Council resolution

FC20/10/2021 has been completed. Rates offered in the Harbour Road construction tender offer a saving of approximately \$132,000.

Stakeholder and Public Consultation:

Nil applicable.

Statutory Environment:

Local Government Act, 1995 – Section 3.57 *Tenders for providing goods or services.*

Local Government (Functions and General) Regulations, 1996 – Division 2 *Requirements for Tendering.*

Relevant Plans and Policy:

Policy C013 – Tender Selection Criteria Policy.

Policy C002 – Purchasing Policy.

Financial Implications:

There are no direct financial implications associated with the recommendation.

Risk Assessment:

Consequence  **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood 						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Not achieving value for money for the supply of the major project material risks having sufficient budget to complete the project.		A 15% cost reduction will be achieved by not accepting the submission under RFT06/2021 opting instead for supply and delivery by the construction tenderer under RFT07/2021.
Health & Safety			
Reputation			
Service disruption			
Compliance			
Property			
Environment			
Fraud			

Community & Strategic Objectives:

The proposal accords with the following Shire desired outcomes as expressed in the *Community Strategic Plan 2018-2028*:

Goal 2: Natural and built environment

A sustainable natural and built environment that meets current and future community needs

ITEM	OUTCOMES AND STRATEGIES
2.6	Shire assets and facilities that support services and meet community need
2.6.1	Roads are appropriately managed according to their need and use

Comment:

The supply and delivery of basecourse materials for Harbour Road under tender RFT06/2021 is some 15% higher than the amount offered in the construction tender RFT07/2021.

This is the fundamental reason for recommending Council accept no tender submission for RFT06/2021. Instead, it has been recommended to include supply and delivery of basecourse material supply in the construction tender considered at **Agenda Item 8.4.3**.

OFFICER'S RECOMMENDATION

That Council, by Simple Majority pursuant to Section 3.57 of the Local Government Act, 1995 and Division 2 of the Local Government (Functions and General) Regulations, 1996, accepts no tender submission for RFT06/2021 – Supply and Delivery of Basecourse Pavement Material – Harbour Road.

File No:	ADM2132
Date of Meeting:	23 November 2021
Location/Address:	Harbour Road, Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	David Nielsen – Executive Manager Infrastructure Services Gloria Quinn – Executive Administrator
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Reports:	August 2018
Schedules:	Confidential Schedule 8.4.3 – Recommendation Report RFT 07/2021 – Harbour Road Construction

Authority / Discretion

	Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	Executive	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	Legislative	Includes adopting local laws, town planning schemes and policies.
	Quasi-Judicial	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	Information	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

Summary of Item

That Council accept a tender submission from Tremor – The Earth's Moving Company Pty Ltd for Request for Tender (RFT) 07/2021 – Harbour Road Construction. Acceptance of provisional items for the supply and delivery of basecourse materials and for sprayed seal intersection treatments is also recommended.

The award of the above-mentioned Tender require Council's approval of a budget variation to allow for sufficient project budget.

Background

The project proposes to upgrade a 1.8km unsealed section of Harbour Road to a sealed standard with a minimum RAV 8 network rating.

MainRoads WA plan to install a roundabout at the intersection of Robinson and Cornish Street. Once installed, truck movements into and out of the industrial precinct via that intersection will be more restricted.

The Harbour Road project will provide the preferred route for heavy vehicles eliminating a requirement for heavy vehicles to negotiate the roundabout. It will also reduce and/or eliminate heavy vehicle movements on Robinson Street between Cornish Street and the North West Coastal Highway.

In August 2018, RFT 04/2018 Harbour Road construction project was conducted. Council resolved not to accept any submission at the time due to budget constraints. The project was deferred until adequate funding could be secured. Current project funding is discussed under Financial Implications of this report.

Greenfield Technical Services (Greenfield), acting on instruction from the Shire, prepared Tender and specification documentation. RFT 07/2021 closed on Wednesday 10 November two submissions received, being:

1. Tremor - the Earth's Moving Company Pty Ltd (Tremor)
2. Roadline Holdings Pty Ltd (Roadline)

A Panel evaluated the submissions based upon the selection criteria as per policy C013 – Tender Selection Criteria. The evaluation has resulted in a recommendation to award RFT 07/2021 to Tremor.

A copy of the evaluation report is provided at **Confidential Schedule 8.4.3**.

Stakeholder and Public Consultation:

Nil applicable.

Statutory Environment:

Local Government Act, 1995 – Section 3.57 *Tenders for providing goods or services*.

Local Government (Functions and General) Regulations, 1996 – Division 2 *Requirements for Tendering*.

Local Government Act 1995 - Section 3.18 Performing executive functions.

Local Government Act 1995 – Section 6.8 Expenditure from municipal fund not included in annual budget.

Relevant Plans and Policy:

Policy C013 – Tender Selection Criteria Policy.

Policy C002 – Purchasing Policy.

Financial Implications:

There are direct financial implications associated with the recommendation. The 2021/22 project budget comprises of the following elements:

Funding Source	Value
Roads to Recovery (Federal)	\$777,225
Main Roads WA (State)	\$647,640
Shire of Carnarvon	\$545,135
TOTAL	\$1,970,000¹

Provisional items were included in the tender schedules to maximise flexibility in relation to the available budget as follows:

- Supply and delivery of basecourse materials – tendered initially under RFT06/2021. Refer to **Agenda Item 8.4.2** for additional information;
- An option for asphalt intersection treatments at the Cornish Street and Hudson Street intersections;
or
- An option for sprayed seal intersection treatments at the Cornish Street and Hudson St intersections.

Upon review of the submissions, it has become apparent the Shire would not be able to afford asphalt intersection treatments. A detailed pricing schedule, including the cost of asphalt vs. sprayed seal intersections has been provided in **Confidential Schedule 8.4.3**.

The total estimated project cost, for the recommended tenderer is estimated at **\$2,324,300** which includes the following elements:

- Project management, with on-site construction supervision;
- Award of RFT 07/2021 to Tremor, including the following provisional items:
 - Supply and delivery of basecourse material
 - Sprayed seal intersection treatments.

¹ Assumes Council adopting Agenda item 8.4.1 recommendation.

- An allowance for slurry sealing of the intersections of \$130,000. (This is a viable lower cost alternative to an asphalt intersection treatment and would be used to supplement the sprayed seal intersections.)
- A project contingency allocation of approximately 8% of the project cost.

To award the contract, a budget variation is required. It is proposed to utilise funding for the Quobba-Gnarloo Road works funded under the Regional Roads Group (RRG) Program. This project has a remaining available budget of \$354,300.

It should be noted that work on Quobba Gnarloo Road under the \$500,000 State Initiatives program is nearing completion. Utilising the additional RRG Quobba Gnarloo works funds will mean additional resheeting proposed for Quobba Gnarloo road will not be completed in 21/22. This reallocation will require approval from the RRG. This is not anticipated as problematic. Maintenance grading of Quobba Gnarloo road will not be affected.

Council previously resolved at its September meeting to allocate approximately \$340,000 in 2022/23 toward the ongoing resheeting and reconstruction of Quobba Gnarloo Road.

Allocating the additional funding to the Harbour Road Construction project results in a total project budget of \$2,324,300.

Risk Assessment:

Consequence 

STEP 3 – Risk Tolerance Chart Used to Determine Risk

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood 						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Insufficient project budget to award the Tender	A2 – High	A budget variation is proposed to ensure sufficient budget for the Harbour Road construction works.
	Insufficient budget availability to cover project contingency.	C2 – Moderate	A source for contingency funds has been identified in the budget if required.
	Insufficient time to complete project by 30 June 2022 risks funding program allocations	C2 - Moderate	Roads to Recovery funding will be utilised for the supply of basecourse material. Recommended contractor has advised this component of the works can be completed and invoiced by Jan 2022 as required. Construction completion by 30 June 2022 is largely beyond Shire control and is an acknowledged risk.
Health & Safety	N/A		
Reputation	N/A		

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Service disruption	N/A		
Compliance	N/A		
Property	Quobba-Gnarloo Road – not completing upgrade works due to the withdrawal of its RRG project funding.	C2 - Moderate	\$500,000 will be expended on widening of Quobba-Gnarloo road in the current financial year. It seems most appropriate to re-allocate Quobba-Gnarloo road funding instead of other road project funding.
Environment	N/A		
Fraud	N/A		

Community & Strategic Objectives:

The proposal accords with the following Shire desired outcomes as expressed in the *Community Strategic Plan 2018-2028*:

Goal 2: Natural and built environment

A sustainable natural and built environment that meets current and future community needs

ITEM	OUTCOMES AND STRATEGIES
2.6	Shire assets and facilities that support services and meet community need
2.6.1	Roads are appropriately managed according to their need and use

Comment:

The Recommendation Report provided in **Confidential Schedule 8.4.3** details the tender evaluation process undertaken.

The report recommends the award of the tender to Tremor with inclusion of the following provisional items:

- Supply and delivery of basecourse materials;
- Sprayed seal intersection treatments at the Cornish Street and Hudson St intersections.

The Tremor submission received the highest overall scoring from the panel. The panel considered that the Tremor submission represented the best value for money to the Shire of Carnarvon.

Tremor are a local contractor employing a largely local workforce. This project requires utilisation of subcontract services for portions of the works not locally available. Coordination of multiple subcontractors being onsite at the required work stage is the highest risk associated with the project. The current high demand marketplace for contract services is largely beyond the ability of the Shire to reasonably mitigate.

OFFICER'S RECOMMENDATION PART 1

That Council, by Absolute Majority pursuant to Section 6.8 of the Local Government Act, resolves to adopt budget variations as follows:

COA	Description	Job	Description	Existing Budget	Amendment	Revised Budget
137470	REGIONAL ROADS GROUP	RRG0209	Harbour Road	\$1,192,775	\$354,300	\$1,547,075
137470	REGIONAL ROADS GROUP	RRG121	Quobba Gnaraloo Road	\$ 854,300	-\$354,300	\$500,000

OFFICER'S RECOMMENDATION PART TWO

That Council, by Simple Majority pursuant to Section 3.57 of the Local Government Act, 1995 and Division 2 of the Local Government (Functions and General) Regulations, 1996 accepts the submission from Tremor -

the Earth's Moving Company Pty Ltd for Tender 07/2021 – Harbour Road Construction for the tendered price provided in Confidential Schedule 8.4.3 of \$1,906,614 (ex GST) being inclusive of the provisional items for supply and delivery of basecourse materials and construction of sprayed seal intersection treatments.

OFFICER'S RECOMMENDATION PART THREE

That Council, pursuant to Section 3.18 of the Local Government Act, 1995 authorises the CEO to make any necessary non-material amendments and finalise execution of a contract between the Shire of Carnarvon and Tremor - the Earth's Moving Company Pty Ltd for Tender 07/2021 – Harbour Road Construction.