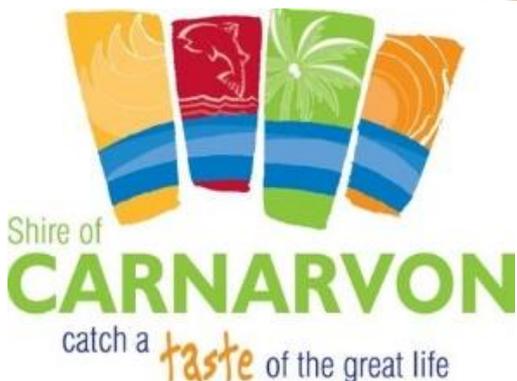


SHIRE OF CARNARVON

**MINUTES OF
ORDINARY MEETING OF
COUNCIL**

**TUESDAY 24TH SEPTEMBER
2019**

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



CONFIRMATION OF MINUTES

These minutes were confirmed by the
Council on

as a true and accurate record

.....
Chairman

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.

To be noted that, in accordance with Regulation 11 of the Local Government (Administration) Regulations 1996, the minutes of the Council Meeting are a record of the decisions of the Council, any additional officers' advice, and explanatory notes as required. The minutes contain a summary of questions asked by members of the public and the answers given. The minutes are not a transcript of the proceedings of the meetings.

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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(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 AND ELECTED MEMBER 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.)

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBERS, STUART STREET,
CARNARVON ON TUESDAY 24TH SEPTEMBER 2019**

The meeting was declared open at 8.30am

1.0 ATTENDANCES, APOLOGIES AND APPROVED LEAVE OF ABSENCE

Cr K Brandenburg	Presiding Member/Shire President
Cr E Garrett	Councillor, Town Ward
Cr K Simpson	Councillor, Coral Bay Ward
Cr E Smith.....	Councillor, Town Ward
Cr K Pinner	Councillor, Town Ward
Cr P Youd.....	Councillor, Town Ward
Cr L Skender	Councillor, Plantation Ward
Cr B Maslen.....	Councillor, Gascoyne/Minilya Ward
Mr D Burton	Chief Executive Officer
Mr D Nielsen	Executive Manager, Infrastructure Services
Ms J MacKellin	Executive Manager, Community Services
Mr M Werder.....	Executive Manager, Corporate Services
Mr P Lees	Executive Manager, Development Services
Mrs D Hill	Senior Executive Officer
Press	0
Observers	32
Leave of Absence	Nil
Apologies	Nil

2.0 PUBLIC AND ELECTED MEMBER 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.)

Public Question Time commenced at 8.30am

2.1 QUESTIONS TAKEN ON NOTICE FROM PREVIOUS MEETING – 27TH AUGUST 2019

The following questions were submitted by Mr Stan Kostanich of Carnarvon at the meeting held on 27th August 2019 and were taken on notice -

According to the Report from Water and Rivers 1996, Cyclone Bobby was the first cyclone since the Boundary Road bank and East Carnarvon levees were built.

First test case, 7.06m at the Gascoyne River Bridge, no water on my property.

2000 – 7.6m height at the bridge, approximately 1m of extra bank on top of Boundary Road bank.
DEVASTATION.

Question 1 - 2002 – Lower Gascoyne Flood Committee and Water and Rivers redefined the floodway that was east of my property onto my property. Why? What was the reason?

2009 – 1:10 year flood with a height of 7.1m at the bridge overflowed Boundary Road bank. (no additional dirt on top). No water on my property. Floodway removed from my property on 22 August 2009.

2010 – 7.8m height at the bridge, flood event at 1:100 year, with approximately 1m of dirt added to Boundary Road bank.

Question 2 - 2019 – Lower Gascoyne Floodplain Committee and reviewed by Department Waters & Rivers, proposed in Town Planning Scheme 13 for a flood control area to be placed again onto my property. Why?

Question 3 - In the correspondence with Mr Simon Rogers Supervising Engineer Floodplain Management. The Carnarvon Flood Mitigation Design Report states that my property will be affected in 1:100 flood event. That my AHD at Robinson Street is 7.5 and goes to 6.6 on the southern boundary, which is incorrect. Mr Rogers advised me that in a 1:100 year flood event, water levels on Robinson Street are 7.9 AHD and the southern boundary is 7 AHD. So does this mean my property won't be flooded again?

On Friday 17th May 2019 I emailed Mr Simon Rogers about his statement that my property is affected 1:10 is incorrect. I also stated in the front of Robinson Street that my AHD height on average is 8m AHD and down to 7.5 on the southern boundary. I phoned Mr Rogers Wednesday 15th May 2019 inquiring about the difference in the 4 AHD levels from a surveyed plan to his plan and he assured me he would take a look at it, then get back to me. I have rung him on numerous occasions, left messages. No response.

Question 4 - Since 2014 the new flood mitigation was completed and Mr Rogers also advised me that in 1:100 year flood event that water levels on my property will be reduced by 1m. In future flood events, is it correct that I understand boundary road bank will not need to be topped with 1m of soil? Hence no flooding on my property in any year flood event?

Question 5 - Prior to the new flood mitigation Boundary Road bank must have held 1m of water back, is that correct? Because the water levels on my place in the 2 x flood events was about that.

Answer - The Shire is unable to respond to why another Department has marked areas of Mr Kostanich's property for flooding in a 100 year event. This question needs to be asked of the department involved.

It is the Shire's understanding that Mr. Rogers has corresponded with Mr. Kostanich on this matter in an email dated 17 September 2019. Mr. Rogers has explained the process of floodplain mapping and the likely extent of flooding on Mr. Kostanich's land.

The Department of Water and Environmental Regulation is the appropriate Department to provide advice on floodplain mapping for Carnarvon.

In regard to the information contained on the maps associated with draft Local Planning Scheme No. 13 and the floodplain mapping information received from the Department of Water and Environmental Regulation (the Department), I refer Mr. Kostanich to the submission received from the Department on the draft Scheme, and to the Shire's response to Mr. Kostanich's submission on the draft Scheme found in the "Schedule of Submissions' Council item 8.3.1 'Draft Local Planning Scheme No. 13 – Consideration of Submissions and Adoption of Draft Scheme' in the agenda for the 24 September 2019 Council meeting. I also refer Mr. Kostanich to the 'Schedule of Modifications' associated with the item being the Shire's recommended modifications to the draft Scheme to be provided to the WA Planning Commission, should Council have a mind to pass the recommended resolution.

2.2 PUBLIC QUESTION TIME

The following question has been submitted by Ms Julee Nelson, Chairperson of Carnarvon Lotteries House Inc. –

Question - I would like some answers as to why it has taken so long to get the amalgamation and subdivision of land for Carnarvon Lotteries House put through council and processed through Landgate. Why were the plans rejected by Landgate and what is the Shire doing to rectify the issue and get this passed?

Answer -

- On 23 August 2011 Council resolved to proceed with a boundary realignment (subdivision/amalgamation) in a manner which would have extended the boundary of Lot 10 (Lotteries House) by 1.5m;
- The subdivision application was prepared and lodged with the Western Australian Planning Commission (WAPC) through the then Department of Planning offices;
- The subdivision application was approved by WAPC, however the newly created Deposited Plan was never lodged within time for registration;
- The re-approval of Council was sought on 26 June 2018 for the agreement to and funding of a new application for the amalgamation of Lots 111, 189 & 190, and the re-alignment of the boundary of Lot 10 (Lotteries House lot) by approximately 5m to the south-east to accommodate the extension Lotteries House and a new small outdoor patio area;
- Council resolved to support the request of Lotteries House Committee to re-align the boundary, for Shire officers to lodge a new application with WAPC and to fund the new application;
- Shire officers prepared the new application on the basis that Landgate verbally advised that the previously prepared draft Deposited Plan would be acceptable, however Landgate has now advised that they want a feature survey (site plan with buildings drawn to scale) included in the application;
- The feature survey is currently being prepared in-house;
- The information will be provided to Landgate by end of month.

The following questions were submitted by Mr Shane Aylmore representing the Blowholes Protection Association –

Question 1 - In accordance with section 109(2) and 107(d) and (e) of the building Act 2011 and Section 6(3) of the Criminal Investigations Act I again today reasonably request a copy of the unlawful signed warrants of entry for the blows shacks, like I did at the time of their unlawful execution (and was refused) to be produced.

Question 2 - Cr Youd Given your comments on Face book including *“Jim Lofts they are Illegal squatters shacks and have buildings that don’t meet building standards”* and your posts questioning Cr smiths votes regarding the space museum and other issues. Is this a breach of the code of conduct?

Question 3 -Can you tell me what section of the Building Act 2011 gives retrospectivity ?

Question 4 -How are they Squatters shacks given they were built on land expressly gazetted for them with the permission of the owner at the time and recognised by the state government?

Question 5 -Do you Have a Caravan licence or any exemption issued under the Caravan Parks and camping grounds Act or Regs that allow you to have multiple habited caravans on site at the Space museum for gain or reward?

The following questions were submitted by Mr David Sadecky representing the Blowholes Protection Association –

Question - On the 18th February 2019 the Shire of Carnarvon held a workshop at the Carnarvon Motel. I would like to see the receipts of what was the cost of the venue hire for all to attend the meeting, cost of the mediator to travel to Carnarvon, cost of accommodation and the security team that was needed.

Answer – The Shire President advised that the question would be taken on notice.

The following questions were submitted by Ms Glenda Sullivan representing the Blowholes Protection Association -

Question – Why has your Councillor Ed Garrett breached the Shire’s Code of Conduct Section 4.1.4 – Personal Behaviour, ie. (iv) Make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct in the performance of their official or professional duties which may cause any reasonable person unwarranted offence or embarrassment’?

Answer - The Shire President advised that the question would be taken on notice.

Public Question Time was closed at 8.39am

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.)

David Burton – (Financial Interest) - Item 10.1 – Request for Interstate Travel

Jennifer MacKellin – (Financial Interest – Item 10.1 – Request for Interstate Travel

4.0 QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION

Nil

5.0 CONFIRMATION OF MINUTES

5.1 ORDINARY MEETING OF COUNCIL – 27TH AUGUST 2019

FC 1/9/19

COUNCIL RESOLUTION

Cr Garrett/Cr Simpson

That the minutes of the Ordinary Meeting of Council held on 27th August 2019 be confirmed as a true record of proceedings.

CARRIED

F8/AO

5.2 SPECIAL MEETING OF COUNCIL – 30TH AUGUST 2019

COUNCIL RESOLUTION

Cr Garrett/Cr Smith

That the minutes of the Special Meeting of Council held on 30th August 2019 be confirmed as a true record of proceedings.

CARRIED
F8/AO

6.0 PRESENTATIONS, PETITIONS AND MEMORIALS

Nil

7.0 ANNOUNCEMENTS BY THE PRESIDENT WITHOUT DISCUSSION

Nil

8.0 DEPARTMENTAL REPORTS

8.1 GOVERNANCE

8.1.1 ACTIONS PERFORMED UNDER DELEGATED AUTHORITY FOR THE MONTHS OF AUGUST/SEPTEMBER 2019

Date of Meeting:	24 th September 2019
Location/Address:	3 Francis Street, Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	David Burton - Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

To report back to Council actions performed under delegated authority for the months of August/September 2019.

Description of Proposal:

Refer above.

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

Health (Public Buildings) Regulations 1992

Relevant Plans and Policy:

Nil

Financial Implications:

There are no financial implications.

Risk Assessment:

Reporting requirement only.

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 August/September 2019 and are submitted to Council for information.

ENVIRONMENTAL HEALTH**Food***Food Act 2008*

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
22-Aug-19	HFO19/010	New food business registration (change of ownership) - Dunnings Carnarvon (formerly Peak Roadhouse), 125 Robinson St	Dun Direct Pty Ltd	Steven Dunning
26-Aug-19	HFO19/011	Amended food business registration – Travel’s Juices, Ancillary dwelling, 105 McGlades Rd, North Plantations – (new home-based premises approved; business is approved for storage and washing of fruit and production of unpackaged low risk food products at home, and the operation of a medium-risk	Camille Hecquet & Antoine Maurin	

		market food stall including the processing and sale of fresh juices		
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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)
26/08/2019	HOS19/007	Permit to use onsite wastewater system	Dean White, Carnarvon Plumbing Service	Owner: Dale Podmore & Amanda Podmore

PLANNING & 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
A960	Nil	Lot 1146, Babbage Island Road Morgantown	Regularise land titling associated with Water Corporation Infrastructure	Water Corporation	3/09/19

BUILDING

Application No.	Owners Name	Lot & Street	Type of Building Work
B18/102	JULIE ANNE LAX & WILLIAM JAMES LAX	LOT 6 MARLIN CT CORAL BAY	ALTERATIONS TO A DWELLING
B19/051	ANGLICAN CHURCH	LOT 601 FRANCIS ST CARNARVON	REMOVE EXISTING ASBESTOS FENCE AND REPLACE WITH 1.8M COLORBOND POST & RAIL FENCE
B19/061	IAN VICTOR & LYNETTE RAE RAWLINGS	LOT 725 WHITLOCK ST SOUTH CARNARVON	SOLAR PHOTOVOLTAIC INSTALLATION ONTO EXISTING RESIDENTIAL DWELLING
B19/063	MARK AARON & TRACY LEE GLOVER	LOT 92 MORGAN WAY MORGANTOWN	SOLAR PHOTOVOLTAIC PANEL INSTALLATION ONTO EXISTING RESIDENTIAL SHED
B19/066	NOEL JAMES GAITSKELL	LOT 726 WHITLOCK ST SOUTH CARNARVON	INSTALLATION OF PHOTOVOLTAIC PANLES TO THE ROOF PF THE PATIO ATTACHED TO THE DWELLING
B19/068	DEPARTMENT FOR HOUSING	LOT 28 ACACIA WAY GREYS PLAIN	STEEL FRAMED AND CLAD DIVIDING FENCE
B19/069	DEPARTMENT FOR HOUSING	LOT 67 DAVID BRAND DR BROCKMAN	1.8M HIGH COLORBOND POST & RAIL DIVIDING FENCE

B19/070	WALLACE JAMES & CAROL JOY DALE	LOT 603 YARDI QUAYS BROCKMAN	ATTACH SOLAR ARRAY TO EXISTING DWELLING ROOF
B19/071	ANTHONY JOHN & NICOLA WALLACE	LOT 369 SNOOK CT BROCKMAN	PHOTOVOLTAIC PANLES ATTACHED TO THE ROOF OF EXISTING DWELLING
B19/072	RUSSELL PAUL UPTON	LOT 22 WAHOO CT CORAL BAY	FRONT AND REAR TERRAFORCE L16 BLOCK RETAINING WALLS AND TERRAFORCE 4X4 MULTI STEP BLOCK STEPS
B19/073	IVAN JOHN & CARLEEN TERRI RYDER	LOT 323 MEIKLEJOHN CRES BROCKMAN	SOLAR PHOTOVOLTAIC PANEL INSTALLATION ONTO EXISTING RESIDNETIAL DWELLING
B19/074	IVAN JOHN & CARLEEN TERRI RYDER	LOT 324 MEIKLEJOHN CRES BROCKMAN	SOLAR PHOTOVOLTAIC PANEL INSTALLATION ONTO EXISTING RESIDENTIAL SHED

OFFICER'S RECOMMENDATION

That Council accept the reports outlining actions performed under delegated authority for the months August/September 2019.

FC 3/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Simpson/Cr Youd

That Council accept the reports outlining actions performed under delegated authority for the months August/September 2019.

CARRIED

F8/AO

8.1.2 2019/2020 - CHRISTMAS/ NEW YEAR STAND DOWN FOR SHIRE ADMINISTRATION AND OPERATIONAL STAFF

Date of Meeting: 24th September 2019
Location/Address: 3 Francis Street, Carnarvon
Name of Applicant: Shire of Carnarvon
Name of Owner: Shire of Carnarvon
Author/s: David Burton, CEO
Declaration of Interest: Nil
Voting Requirements: Simple Majority

Summary of Item:

To seek Council's approval to observe a Christmas/New Year stand down during the period between Christmas Eve and New Year.

Description of Proposal:

To stand down the Shire administration and operations, other than essential personnel, during the Christmas/New Year Break.

Background:

In previous years the Shire administration staff have observed a Christmas/New Year stand down in which the main civic buildings/offices have been closed during the period between Christmas and New Year. In 2018 the Office was closed on 21 December 2018 and reopened on 2 January 2019. There were no complaints or other evidence of any adverse impact on the public as a result of the closure.

Consultation:

Shire of Carnarvon Staff

Statutory Environment:

Nil

Relevant Plans and Policy:

This matter relates to the Shire of Carnarvon Policy E009 – Shire of Carnarvon Operational Hours.

Financial Implications:

This proposal is accommodated within the current 2019/2020 financial budget through the salary and wages allocation to cater for the proposed closure.

Risk Assessment:

There is no perceived risk in regard to the closure of the civic buildings/offices over the Christmas/New Year Period. There is no evidence of any adverse impact on the community through the closure of the offices in previous years. This traditionally is a quiet period where there is little demand for Shire administrative services

Community & Strategic Objectives:

Nil.

Comment:

The proposal is that the Christmas stand down is advertised to the general public and that emergency contact numbers are provided in the event that urgent action needs to be undertaken by resident staff. Where the Christmas stand down is invoked, all staff will be expected to take that time off through use of accrued leave or accrued flexi time.

Due to Christmas Day falling on a Wednesday this year, it is proposed that staff will work up to Friday 20th December 2019 and resume work on Thursday 2nd January 2020. The closing of the office from Monday 22nd December will enable staff who have family in Perth or interstate to make travel arrangements.

The proposed closure will be from Monday 20th December 2019 and reopening at 8.00am Thursday 2 January 2020 (6 days in total) with 3 of these days being Public Holidays (i.e. Wednesday 25, Thursday 26 December 2019 and Wednesday 1 January 2020). Staff are entitled to a discretionary fourth Public (Government) Holiday at this time, being Thursday 2 January 2020 however this can be taken on either Monday 22nd or Tuesday 23rd December 2019.

OFFICER'S RECOMMENDATION

That Council note the observance of a Christmas/New Year stand-down for Shire administration and operational staff with the main civic buildings/offices to be closed on Monday 22nd December 2019 and re-opening at 8.00am on Thursday 2 January 2020 and that advertising of the closure on the website and in the local newspaper will be undertaken.

FC 4/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Garrett/Cr Smith

That Council note the observance of a Christmas/New Year stand-down for Shire administration and operational staff with the main civic buildings/offices to be closed on Monday 23rd December 2019 and re-opening at 8.00am on Thursday 2 January 2020 and that advertising of the closure on the website and in the local newspaper will be undertaken.

CARRIED
F8/AO

(Note to minute – the “officer recommendation” stated that the office close on Monday 20th - this is a typographical error was amended to Monday 23rd December 2019).

8.1.3 ORDINARY COUNCIL MEETINGS OCTOBER/NOVEMBER – 2019 CHANGE OF VENUES

Date of Meeting:	24 TH September 2019
Location/Address:	N/A
Name of Applicant:	Shire of Carnarvon
Name of Owner:	N/A
Author/s:	David Burton, CEO
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

To seek Council endorsement to change the meeting venues of the 22nd October 2019 and 26th November 2019 Council Meeting.

Description of Proposal:

To change the meeting venue schedule for Coral Bay to Council Chambers for the 22nd October 2019 Ordinary Meeting of Council.

Background:

As a requirement under the Local Government Administration Regulations 1995, 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.

As per the Local Government Act 1995, the meeting dates and venue locations for the 2019 Ordinary Meetings of Council were adopted by Council at its meeting held on 18th December 2018 with the October 2019 Council Meeting to be held in Coral Bay.

Furthermore, Council “Policy E017 - Monthly Ordinary Council Meetings, Chief Executive Officer Briefing Sessions and other 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.

The October Council Meeting is schedule for Tuesday 22nd October in Coral Bay with a possible overnight stay however it is thought that Council may wish to consider changing the Coral Bay meeting until November 2019. This will enable the newly elected President and Councillors the opportunity to settle in to their new roles with their first meeting being held in Council Chambers rather than travelling.

Consultation:

Executive Management Shire of Carnarvon
Councillors – Shire of Carnarvon

Statutory Environment:

Local Government Act Administration Regulations 1996, Reg. 12

Relevant Plans and Policy:

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

Financial Implications:

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

Risk Assessment:

There is no perceived risk to changing the venue of the 2019 October/November Ordinary Meeting of Council.

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:

Albeit that the scheduled Coral Bay meeting is a proposed overnight stay and enables Councillors and Executive Staff the opportunity to meet with local residents and to inspect the area, it is considered that this would be better suited to the scheduled 26th November 2019 Ordinary Meeting of Council.

As mentioned previously, it is considered that the newly Elected President and Councillors would benefit by attending their first Council Meeting in Carnarvon to enable them to settle in to their new roles and to also become conversant in their roles and responsibilities including meeting protocol. It is also to be noted that at the October 2019 Council Meeting the President elect and Councillors elect are to be sworn in by the Chief Executive Officer.

If Council approves with the proposed venue changes, a public notice to this effect will be placed in the local newspaper and on Council's website.

OFFICER'S RECOMMENDATION

1. *That the venues for the October and November 2019 Ordinary Meetings of Council be amended as follows –*
22nd October 2019 Council Chambers commencing at 8.30am
26th November 2019 Coral Bay, Bills Bar commencing at 10.30am
2. *That a public notice advising of the venue changes for the October and November 2019 Ordinary Meetings of Council be placed in the local newspaper and Council's website.*

FC 5/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Maslen/Cr Pinner

1. *That the venues for the October and November 2019 Ordinary Meetings of Council be amended as follows –*
22nd October 2019 Council Chambers commencing at 8.30am
26th November 2019 Coral Bay, Bills Bar commencing at 10.30am
2. *That a public notice advising of the venue changes for the October and November 2019 Ordinary Meetings of Council be placed in the local newspaper and Council's website.*

CARRIED
F8/AO

8.2 CORPORATE & COMMUNITY SERVICES

8.2.1 ACCOUNTS FOR PAYMENT 31 AUGUST 2019

File No:	ADM0186
Date of Meeting:	24 September 2019
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Bianca Ferreira – Creditors Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

To present the listing of accounts paid from the Municipal Fund and Trust Fund in accordance with the requirements of the Local Government (Financial Management) Regulations 1996.

Description of Proposal:

N/A

Background:

Council has previously delegated to the CEO the exercise of its power under Financial Management Regulation 12 to make payments from Municipal Fund and Trust Fund.

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:

All accounts are paid as per the Shire of Carnarvon's 2019/2020 Budget.

Financial Implications:

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

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:

Accounts paid to 31 August 2019 are listed in *Schedules 8.2.1.(a) and 8.2.1.(b)*.

OFFICER'S RECOMMENDATION

That Council

- a) Receive the list of payments, as per Schedule 8.2.1 (a) totalling \$1,552,072.03 as presented for the month of August 2019 incorporating;

<i>Payment Reference from:</i>	<i>Payment Reference to:</i>	<i>Payment Type</i>	<i>Payment Amount</i>
DD36824	DD36892	Bank Direct	\$83,418.68
47001	47015	Muni Cheques	\$67,421.95
7452	7459	Trust Cheques	\$8,949.94
EFT28569	EFT28815	Muni EFT	\$1,324,974.75
EFT28665	EFT28836	Trust EFT	\$67,306.71

- b) Receive the list of credit card payments, as per Schedule 8.2.1 (b), totalling \$4,563.17 as presented.
c) Note Sundry Creditors as at 31 August 2019 \$507,192.98.

FC 6/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Maslen/Cr Youd

That Council

- a) Receive the list of payments, as per Schedule 8.2.1 (a) totalling \$1,552,072.03 as presented for the month of August 2019 incorporating;

<i>Payment Reference from:</i>	<i>Payment Reference to:</i>	<i>Payment Type</i>	<i>Payment Amount</i>
DD36824	DD36892	Bank Direct	\$83,418.68
47001	47015	Muni Cheques	\$67,421.95
7452	7459	Trust Cheques	\$8,949.94
EFT28569	EFT28815	Muni EFT	\$1,324,974.75
EFT28665	EFT28836	Trust EFT	\$67,306.71

- b) Receive the list of credit card payments, as per Schedule 8.2.1 (b), totalling \$4,563.17 as presented.
c) Note Sundry Creditors as at 31 August 2019 - \$507,192.98.

CARRIED
F8/AO

8.2.2

FINANCIAL ACTIVITY STATEMENT 31 AUGUST 2019

File No: ADM0186
Date of Meeting: 24 September 2019
Location/Address: Shire of Carnarvon
Name of Applicant: Shire of Carnarvon
Name of Owner: Shire of Carnarvon
Author/s: Sa Toomalatai, Manager Finance
Declaration of Interest: Nil
Voting Requirements: Simple Majority

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.

Description of Proposal:

N/A

Background:

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.

Consultation:

Nil

Statutory Environment:

Local Government (Financial Management) Regulation 34.

34. Financial activity statement required each month (Act s. 6.4)

- (1A) In this regulation —
committed assets means revenue unspent but set aside under the annual budget for a specific purpose.
- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
- (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
- (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown —
- (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.

- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Relevant Plans and Policy:

Corporate Business Plan 2018 - 2022

Financial Implications:

Nil.

Risk Assessment:

Council would be contravening the Local Government Act should these statements not be received.

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 completed Statement of Financial Activity for the period ended 31 August 2019.

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, in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, receive the Statement of Financial Activity for the period ended 31 August 2019 as per Schedule 8.2.2.

FC 7/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Garrett/Cr Simpson

That Council, in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, receive the Statement of Financial Activity for the period ended 31 August 2019 as per Schedule 8.2.2.

CARRIED
F8/AO

File No:	ADM0186
Date of Meeting:	24 September 2019
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Jodie Anderson, Senior Finance Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

To report the Council details of surplus funds invested to 31 August 2019.

Description of Proposal:

N/A

Background:

Nil.

Consultation:

Takes place with Financial institutions prior to renewal of investments.

Statutory Environment:

Section 6.14 of the *Local Government Act 1995* grants Council the power to invest surplus funds.

Relevant Plans and Policy:

The investment report is produced in accordance with Council's investment policy.

Financial Implications:

Nil.

Risk Assessment:

No risk identified.

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:

The attached monthly report on investments (*Schedule 8.2.3*) has been compiled in accordance with the reporting framework included as part of Council's investment policy.

OFFICER'S RECOMMENDATION

That Council receive the investments report, as at 31 August 2019 as per Schedule 8.2.3.

FC 8/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Pinner/Cr Skender

That Council receive the investments report, as at 31 August 2019 as per Schedule 8.2.3.

CARRIED
F8/AO

8.3 DEVELOPMENT SERVICES

8.3.1 DRAFT LOCAL PLANNING SCHEME NO. 13 - CONSIDERATION OF SUBMISSIONS, MODIFICATIONS AND ADOPTION OF DRAFT SCHEME

File No:	ADM1757
Date of Meeting:	24 September 2019
Location/Address:	District of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Paul Lees, Executive Manager Development Services
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Previous Reports:	28 February 2012, 26 September 2017, 27 November 2018

Summary of Item:

The Shire of Carnarvon has engaged planning consultant Pam Baskind to prepare a new draft local planning scheme titled Local Planning Scheme No. 13.

The draft Scheme will supersede the current schemes that are in force being Local Planning Scheme No. 10 (principally the area of the town of Carnarvon), and Local Planning Scheme No. 11 (covering the remainder of land within the District). Previous reports were provided to Council on 28 February 2012, 26 September 2017, and 27 November 2018 that covered matters associated with the initiation of the new Scheme, engagement of the Shire's consultant and advertising of the draft Scheme.

The public advertising of draft Local Planning Scheme 13 commenced on 13 March 2019 with the formal submission period closing on 14 June 2019; Shire officers continued to accept submissions during the 'Consideration Period' with the final submission received on 15 July 2019.

Sixty-five (65) submissions were received, with many focusing on concerns about the ongoing keeping of horses and the importance of "lifestyle blocks" in Kingsford and East Carnarvon. A number of submissions were also received from Coral Bay residents about the provision of workers' accommodation in Coral Bay, and the need for greater flexibility in planning outcomes for Coral Bay. The Schedule of Submissions, and the officers/Shire consultants' comments/recommended modifications can be found at Schedule 8.3.1(b).

It should be noted that every submission has been given serious consideration. In many cases it has been within the scope of the new Scheme (and the Regulations) to accommodate the proposed changes, however in some instances (e.g. the provision of workers accommodation in Coral Bay) it has not been possible to accommodate the suggested changes due to the constraints imposed by previously approved planning documents such as the Coral Bay Settlement Structure Plan 2014. The full list of comments received from the community and suggested responses can be found in the 'Schedule of Submissions' (Schedule 8.3.1(a)).

proposed changes to the draft Scheme as advertised can be found in the 'Schedule of Modifications' found at Schedule 8.3.1(b).

Councillors are advised that Item 25. Consideration of submissions of the *Planning and Development (Local Planning Schemes) Regulations 2015* is specific in the way in which a Council must deal with a draft Scheme during the 'Consideration Period'. Item 25(3) states:

"Before the end of the consideration period for a draft local planning scheme, or a later date approved by the Commission, the local government must pass a resolution -

- a) to support the draft scheme without modification; or*
- b) to support the draft scheme with proposed modifications to address issues raised in the submissions; or*
- c) not to support the draft scheme."*

Should Council accept the officer's recommendation and support the draft Scheme with the proposed modifications as outlined in Schedule of Modification (Schedule 8.3.1(b)), Council must also resolve to provide the Western Australian Planning Commission with:

- the advertised draft Local Planning Scheme No. 13 documents (written text and maps);
- the Schedule of Submissions (particulars of modifications to the draft Scheme in response to the submissions), and
- a copy of Council's resolution passed under Regulation 25(3).

Note that a copy of draft Local Planning Scheme No. 13 (text and associated maps) can be found at Schedules 8.3.1(c) and Schedule 8.3.1(d) respectively.

Description of Proposal:

As noted above the Shire of Carnarvon has engaged planning consultant Pam Baskind to prepare a new draft local planning scheme. The proposed scheme will supersede the current schemes that are in force, being Local Planning Scheme No. 10 (gazetted in 1988), and Local Planning Scheme No. 11 (gazetted in 1996).

Local Planning Scheme No. 13 proposes to consolidate the provisions of the above current schemes, adopts contemporary standards for the zoning and classification of land, applies the model provisions for local planning schemes that form part of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the *Regulations*), and updates scheme-based development requirements.

As noted above, the draft Scheme was advertised in accordance with *Regulation Item 22* and sixty-five (65) submissions were received from landowners, business operators, community groups and government agencies. All submissions have been considered and a number of modifications are proposed to the draft scheme to address issues of concern; to clarify provisions as needed, and to correct textual and mapping errors/anomalies.

In accordance with *Regulation Item 25(3)* it is requested that Council consider the individual responses to submissions (refer to Schedule 8.3.1(a)), resolve to support the proposed scheme with modifications as recommended, and provide the advertised draft scheme documents along with the 'Schedule of Submissions' and the 'Schedule of Modifications' to the Western Australian Planning Commission for their consideration.

Background:

Council considered draft Local Planning Scheme No. 13 on 27 November 2018 and resolved to advertise the scheme, submit the document to the Western Australian Planning Commission for examination, and to refer the draft scheme to the Western Australian Environmental Protection Authority (EPA). The EPA advised the Shire on 11 January 2019 that the proposed scheme would not be assessed under Part IV of the *Environmental Protection Act 1986* and "no advice was given" (no further assessment was required). On the 15 February 2019 the Western Australian Planning Commission advised that the draft scheme was suitable for public advertising provided a small number of modifications were made; these minor corrections to the document were undertaken as directed.

The draft scheme was advertised from 13 March 2019 to 14 June 2019 being a submission period of 94 days. A notice setting out the purpose of the draft scheme and how to make submissions was published in the Mid-West Times, displayed in the Shire's Francis Street Carnarvon office, and on the noticeboards at the Coral Bay Arcade, and Coral Bay News and Gifts Newsagent. The draft scheme was also published on the Shire's website. A copy of the notice was also sent to all public authorities likely to be affected by the scheme, and a letter of notification was sent to all land owners in East Carnarvon and Kingsford areas.

During the formal submission period 44 submissions were received. A further 20 submissions were received during the consideration period (15 June 2019 to 15 July 2019) and one submission was late but was accepted. A summary of the submissions can be found at Schedule 8.3.1(a), including the proposed response to each submission. Proposed modifications to the scheme text and maps arising from the submissions are set out in Schedule 8.3.1(b) being the 'Schedule of Modifications'.

A breakdown of the sixty-five (65) submissions received on the draft scheme shows that forty-five (45) submissions were received from individual landholders and residents of the town of Carnarvon. Eight (8) submissions were received from companies (often through their consultants); and seven (7) submissions were received from government agencies/authorities. Five (5) submissions were received from other organisations including clubs.

In summary the key issues raised in submissions were:

- Permissibility for the continuance of rural pursuits particularly horses and stables (44 submissions);
- Matters relating to industrial area (3 submissions);
- Representation of flood prone areas on scheme maps (4 submissions);
- Planning matters in Coral Bay (6 submissions);
- Planning matters on the Ningaloo Coast (4 submissions).

Consultation:

As noted above, in addition to the draft scheme being publicly advertised in accordance with *Regulation 22*, a letter was sent to all landowners in East Carnarvon and Kingsford providing some background to the scheme changes and encouraging recipients to lodge a submission.

Also, Shire officers conducted an open forum for the public on the afternoon/evening of 13 August 2019. Individuals were able to speak to the Shire's planning officers' and consultant about specific issues such as the stabling of horses and mapping representation of flood prone areas.

Statutory Environment:

The *Planning and Development Act 2005* provides for the preparation of a local planning schemes by local government. The *Planning and Development (Local Planning Schemes) Regulations 2015* includes the process for advertising a local planning scheme and consideration of submissions on a scheme.

Financial Implications:

Shire officers have included the costs associated with the preparation and gazettal of the new scheme in the 2019/2020 Council approved budget.

Risk Assessment:

There are no risks associated with the officer's recommendation. There is a risk to the reputation of the Shire should the proposed scheme not be approved as the Act requires local governments to update their schemes on a regular basis, and also requires schemes to be consistent with the State's model scheme format.

Community & Strategic Objectives:

The proposed scheme accords with the following Shire desired outcomes as expressed in the Carnarvon Strategic Community 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
2.1	Valued natural environment, for use and enjoyment by current and future generations
2.7	Regulated land use to meet the current and future needs of the community
2.7.1	Incorporate appropriate planning controls for land use planning and development
2.7.2	Adopt appropriate land use planning and building regulation practices

Objective 5: Civic

Strong and listening Council.

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

Comment:

It should be noted that the scheme text and associated maps as proposed are generally consistent with the model scheme text/format as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* and required as the standard for the State of Western Australia. The format is also consistent with the guidance and direction established by relevant approved structure plans and strategies covering land within the District.

The draft scheme represents a considerable amount of work by Shire planning staff and their consultant, including regular meetings with officers of the Department of Planning, Lands and Heritage. The modifications as proposed represent careful consideration of the issues raised, options available to ensure rural lifestyle activities may be continued in East Carnarvon and Kingsford, and careful consideration of the currently approved planning instruments within the district including the Coral Bay Settlement Structure Plan 2014.

The key matters outlined in submissions and the proposed responses (scheme modifications) are set out below:

Rural pursuits:

Many residents of the town of Carnarvon who have an interest in the riding and stabling of horses expressed concern about the impact of the draft scheme on these activities and their lifestyle; and in particular how the rezoning of Kingsford from 'Special Residential R2.5' to 'Residential R2.5', and East Carnarvon from 'Residential Development' to 'Residential' affected the permissibility of 'Rural pursuits' on their land.

The rezoning in these areas was based on the "District Structure Plan Report, East Carnarvon and Kingsford, Shire of Carnarvon, October 2015". The Structure Plan was prepared on the assumption that the town would continue to experience sustained population growth, however based on the latest information (WA Tomorrow 2016-2031, Population Report No. 11, WAPC, August 2019) the median forecast (Band C) indicates a limited decline in population over the next 15 years.

It is recognised that Kingsford area is, and will continue to be in the foreseeable future, an area where horses can be kept and stabled, and where other rural pursuits can and should occur. To explicitly allow for this, modifications to the draft scheme are recommended that retain the 'Special Residential R2.5' zoning and permit (as a 'P' activity status) the land use of 'Rural pursuits'. In addition, other permissibilities for the 'Special residential' zone as shown in Local Planning Scheme No. 10 are recommended to be retained. These recommendations also apply to lots in the Greys Plain and Brown Range area currently zoned 'Special Residential'.

In East Carnarvon there has been some redevelopment of the area under the 'Residential Development' zone. The 'Residential Development' zone is transitional in nature and provides for detailed structure planning which has now occurred. Given that the pace of residential development within the area is slower than anticipated in the 2015 Structure Plan, and that there is support for the continuation of 'Rural pursuits' on larger lots, modifications to the draft scheme are recommended; the proposed modifications will allow for the establishment of new stables as a Discretionary use ('D' activity status) consistent with the provisions of Local Planning Scheme No. 10.

It is also proposed that the general development provisions for stabling of animals be amended to clarify when stabling may occur; the proposed modifications mean that when land is subdivided down to 1000m² lots, new stables on these smaller residential lots will not be permitted. However, the proposed modifications allow for approvals to be given for the keeping of horses and stabling (and other rural pursuits) in East Carnarvon on lots larger than 1000m² provided the requirements of the Health Local Laws can be achieved.

Modifications to the permissibility of 'Rural pursuits' in the General Industry zone ('A' activity status) and the Priority Agriculture zone ('P' activity status) are also recommended. In both these zones the general development conditions must be met, and in the industrial area notice of the proposed use or works needs to be given as is currently the case in Local Planning Scheme No. 10. Schedule 8.3.1(b) references: Modification numbers 1, 2, 3, 18, 20, 24, 41, 42, 43.

Flood prone areas:

Three (3) submissions were received from residents regarding the Special Control Area for flood prone areas (Schedule 7, SCA3) and its representation on the scheme maps. On this matter formal advice was received from the Supervising Engineer, Floodplain Management at the Department of Water and Environmental Regulation (DWER).

In response to the submissions, modifications are recommended to make a much clearer distinction between the "floodway" (land at high risk of flooding to a depth of greater than 1 metre) and "floodplain areas" at pre and post Stage 2 levee construction. The proposed modifications also clarify the requirement for all habitable buildings to have a minimum floor level of 0.5m above the adjacent 1% Annual Exceedance Probability (AEP) flood event, while retaining consistency with Clause 61 of the Deemed Provisions and the Schedule A supplemental provisions. Clause 61 (and the supplemental provisions) stipulates the works and uses for which development approval is not required – including a single house.

The proposed modifications are summarised below:

- Transfer clauses within SCA3 that refer to minimum habitable floor levels and onsite finished development levels to a 'Floodplain management' clause within Schedule 5 Additional site, and the development requirements for all zones;
- Insert additional text into the 'Floodplain management' clause that indicates the need to refer to the provisions of SCA3 if proposed new development may impede floodwater flows;
- For clarity and ease of reference, insert a new Schedule into the draft Scheme (Schedule 8) that links the provisions of SCA3 with the latest floodway and floodplain mapping available i.e. from DWER or from the endorsed Shire of Carnarvon Local Planning Strategy (March 2017);
- Show the location of designated floodway areas within which no new development is permitted other than relocatable irrigation systems in a new schedule - Schedule 8 figure for ease of reference;
- Amend the SCA3 text on the Scheme maps to clarify that the special control area as reflected on the scheme maps identifies land at higher risk from flooding to a depth greater than one metre, and insert a figure showing the SCA3 boundary with flood levels into new Schedule 8. Schedule 8.3.1(b) references: Modification numbers 15, 27, 33.

Coral Bay:

The Coral Bay Settlement Structure Plan 2014 (CBSSP 2014) was approved by local government, the WAPC and endorsed by Cabinet in 2015. A structure plan '*means a plan for the coordination of future subdivision and zoning of an area of land*' (Regulations Schedule 2 Part 4, Clause 14). In preparing the draft scheme, the intent has been to maintain consistency with the planning framework established through the CBSSP.

Proposed modifications in response to the six (6) submissions received on Coral Bay focus on providing greater flexibility within the existing planning framework. The main issues raised in submissions include:

- The provision of workforce accommodation – availability, affordability, viability, housing choice, location, servicing costs, land value, permissibility, economies of scale, constraints on access eligibility, and reluctance to relocate from existing accommodation;
- The cap on and distribution of overnight visitor numbers;
- Options for mixed use development on Commercial land;
- Permissibilities of various land uses on land zoned Tourism and Commercial.

A summary of the submissions received, and proposed responses can be found in Schedule 8.3.1(b) - Submission Nos. 7, 48, 54, 58, 59 and 61.

The complexities of providing suitable workforce accommodation (previously “workers’ accommodation”) in Coral Bay are acknowledged. Many of the matters raised in submissions regarding workforce accommodation mirror issues considered during the preparation of the Coral Bay Settlement Plan (2004) and the CBSSP 2014.

Lot 308 was identified in the 2004 Structure Plan as a suitable location for ‘workers’ accommodation’ based on ‘input from the working community at Coral Bay’ and reflecting a desire for ‘a level of privacy’. The location of workforce accommodation solely on Lot 308 was retained in the CBSSP (2014) with the added ability to subdivide in fee simple to 4000m² super lots, and to create survey-strata lots, thereby providing an opportunity for the diversification of land and housing ownership.

It is considered that any change to the planning framework for Coral Bay that could identify other areas for workforce accommodation would best be undertaken through a targeted and comprehensive review of the CBSSP 2014, through the powers of Clause 29 of the Deemed Provisions. This process would allow for an open examination of the public and private benefits of such a proposal and would investigate the costs and benefits of retaining the current approach relative to an alternative planning outcome such as those referred to in submissions received.

To ensure that the modernisation and unification of the existing planning scheme can be achieved in a timely manner, many of the significant matters outlined above have not been addressed in the review of Local Planning Scheme No. 11 and the preparation of the new Scheme.

Similarly, the cap on overnight visitor numbers in Coral Bay adopted in the CBSSP 2014 was based on modelling undertaken by the CSIRO (InVitro Ningaloo Destination Model) and represented an increase of approximately 18% from the 2004 Structure Plan. Any consideration of a change in overnight visitor numbers or a reallocation of these numbers is best considered in a structured, measurable and fully transparent way, including consultation with all affected parties.

The modifications to the draft scheme as proposed seek to clarify terminologies, correct anomalies, and provide some flexibility for workforce accommodation within the designated zone (options for affordable ‘workforce accommodation’). More substantive issues that are inconsistent with the planning framework established in the CBSSP 2014 will need to be resolved through a review of CBSSP 2014 and a subsequent amendment to Local Planning Scheme 13.

Therefore, the proposed modifications are as follows:

- Permit ‘Recreation – private’ in the ‘Commercial’ zone;
- Insert an entry into Schedule 1 (Additional uses for land in reserves) that provides for a caretaker and researcher accommodation on Lot 305 Banksia Drive, be a reserve for education purposes;
- Adjust the term ‘Workforce Accommodation’ in Schedule 7, Special Control Area 5 to provide for premises that include permanent, modular and relocatable dwellings and park homes; allow for the accommodation of a dependant family; and provide for workers engaged in construction;
- Replace the term “Workers’ accommodation” with the term “Workforce Accommodation” to correct

inconsistencies of the use of the term throughout the draft Scheme. Refer Schedule 8.3.1(b) references: Modification numbers 4, 6, 8, 10, 28, 29, 30, 32.

Ningaloo Coast:

Submissions were received from two of the pastoral stations that hold tourism leases along the Ningaloo Coast (Submissions 62 & 63); a submission was received from the Ningaloo Coast World Heritage Advisory Committee (NCWHAC, Submission 55) and also from the Department of Biodiversity, Conservation and Attractions (DBCA, Submission 60). The main issues raised in the submissions and responses are summarised in the table below:

The relevant scheme maps do not take account of tenure negotiations that are progressing through the State Government's administrative processes.	The most recent cadastre will apply to the final scheme maps. Zoning (as distinct from tenure changes) require consideration of a broad range of land use planning matters and cannot include what may or will occur in the future.
Workforce accommodation should be a permitted land use at tourism nodes along the Ningaloo Coast.	The consideration of the need for workforce accommodation at station tourism nodes is acknowledged and a modification is proposed to permit workforce accommodation in these locations.
The Local Planning Policy (LPP) – Ningaloo Coast referred to in the scheme should be adopted prior to LPS 13 being finalised.	The Ningaloo Coast Regional Strategy's environmental and planning guidelines remain in place and may be updated as part of the review of the Strategy in future.
Particular consideration should be given to the potential impacts on visual amenity and from lighting in and adjacent to the Shark Bay and Ningaloo World Heritage areas.	Modifications are proposed to strengthen the application of general development provisions relating to visual amenity and light overspill.

Refer Schedule 8.3.1(b) references: Modification numbers 9, 11, 16, 19, 36.

Other submissions:

Several other modifications are proposed in response to individual submissions. These include:

- Reservation of Lot 1196 (100) Speedway Road Brown Range (Carnarvon Motorcycle Club) for 'Recreation' (Submission 5, Modification 44);
- Identification of the proposed Northwater Stage 4 as a Special Use zone for residential uses subject to the preparation of a Local Development Plan including supporting information (Submission 23, Modifications 12, 40);
- Correction of the classification of various roads in accordance with Main Roads hierarchy (Submission 64, Modifications 45, 46);
- Update to reflect the recent approval on Lot 250 Bibbawarra Road (Modification 7);
- Minor text and mapping changes in response to aspects of the submissions from the Department of Biodiversity, Conservation and Attractions, and the Department of Primary Industries and Regional Development (Modifications 13, 14, 22, 25, 35, 37, 38);
- Correction of errors and minor omissions (Modifications 5, 14, 17, 21, 23, 26, 31, 34, 39, 47).

Summary:

As noted above, the preparation of draft Local Planning Scheme 13 has occurred in consultation with the Department of Planning, Land and Heritage, Shire Councillors, Carnarvon residents, and other land owners within the District; and in response to information received from a range of stakeholders within State government and across the District.

The advertising (public notification) of the draft scheme provided the opportunity for individuals and organisations to make submissions on the scheme. The final proposed modifications as outlined in this report represent careful consideration (analysis) of the matters raised by submitters in the context of the existing schemes, and the structure plans/strategies that are in force across the District.

It should be noted that should Council agree with the officer's recommendation below, the proposed modifications as outlined in Schedule 8.3.1(b) of this report are referred to the Western Australian Planning Commission (WAPC) along with the draft scheme as advertised, for their consideration. It is within the power of the WAPC to include or not include the proposed modifications; the final scheme text and mapping outcomes rest with the Commission and the Minister.

OFFICER'S RECOMMENDATION

That Council:

1. *Note the submissions received and considered pursuant to Regulation 24 and Regulation 25 of the Planning and Development (Local Planning Schemes) Regulations 2015 as shown in the Schedule of Submissions (included as Schedule 8.3.1(a));*
2. *Resolve pursuant to Section 87 of the Planning and Development Act 2005 and Regulation 25(3)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 to support the draft Shire of Carnarvon Local Planning Scheme No. 13 (text included as Schedule 8.3.1(c) and maps as Schedule 8.3.1(d)) with proposed modifications (included as Schedule 8.3.1(b) to address issues raised in submissions;*
3. *Resolve pursuant to Regulation 28 of the Planning and Development (Local Planning Schemes) Regulations 2015 to provide the advertised draft local planning scheme documents to the Western Australian Planning Commission together with the following:*
 - a) *the schedule of submissions made on the draft scheme and response to each submission;*
 - b) *the schedule of modifications to the draft scheme; and*
 - c) *a copy of the resolution passed under regulation 25(3).*
4. *Following approval of the Scheme by the Minister, notify each person who made a submission that Local Planning Scheme No. 13 has been approved and advise where a copy of the document can be obtained.*

Advice Notes:

- i. *The Minister may, in relation to the local planning scheme:*
 - a) *Approve the local planning scheme; or*
 - b) *Require the local government concerned to modify the local planning scheme in such manner as the Minister specifies before the local planning scheme is resubmitted for the Minister's approval; or*
 - c) *Refuse to approve the local planning scheme.*

FC 9/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Smith/Cr Simpson

That Council:

1. *Note the submissions received and considered pursuant to Regulation 24 and Regulation 25 of the Planning and Development (Local Planning Schemes) Regulations 2015 as shown in the Schedule of Submissions (included as Schedule 8.3.1(a));*
2. *Resolve pursuant to Section 87 of the Planning and Development Act 2005 and Regulation 25(3)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 to support the draft Shire of Carnarvon Local Planning Scheme No. 13 (text included as Schedule 8.3.1(c) and maps as Schedule 8.3.1(d)) with proposed modifications (included as Schedule 8.3.1(b) to address issues raised in submissions;*
3. *Resolve pursuant to Regulation 28 of the Planning and Development (Local Planning Schemes) Regulations 2015 to provide the advertised draft local planning scheme documents to the Western Australian Planning Commission together with the following:*
 - d) *the schedule of submissions made on the draft scheme and response to each submission;*

- e) the schedule of modifications to the draft scheme; and
 - f) a copy of the resolution passed under regulation 25(3).
4. Following approval of the Scheme by the Minister, notify each person who made a submission that Local Planning Scheme No. 13 has been approved and advise where a copy of the document can be obtained.
 5. CEO to write letter to Minister for Planning requesting the WAPC to conduct a review of the Coral Bay Structure Settlement Plan 2014.

Advice Notes:

- i. The Minister may, in relation to the local planning scheme:
 - d) Approve the local planning scheme; or
 - e) Require the local government concerned to modify the local planning scheme in such manner as the Minister specifies before the local planning scheme is resubmitted for the Minister's approval; or
 - f) Refuse to approve the local planning scheme.

CARRIED BY ABSOLUTE MAJORITY

F8/AO

8.3.2 TELSTRA TELECOMMUNICATIONS TOWER

File No:	A1655; P32/19; ADM1951
Date of Meeting:	24 September 2019
Location/Address:	Lot 181 Diagram P204553, (No. 736) South River Road, South Plantations
Name of Applicant:	Planning Solutions (Aust) Pty Ltd
Name of Owner	John Kearney
Author/s:	John Meggitt, Principal Planner
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Date of Previous Report:	28 May 2019

Summary of Item:

This report relates to a Development Application lodged with the Shire for the installation of a Telstra telecommunications tower on Lot 181 (736) South River Road, South Plantations. Under the Federal Government's Mobile Black Spot Program, Telstra is contracted to deliver mobile, voice, and high-speed wireless data.

Prior to this application being submitted the Shire undertook Local Planning Scheme 10 Amendment 77 which amended Table 1 – Zoning Table by:

*Amending the permissibility of the following use in the Intensive Horticulture zone:
Radio / TV Installation – from 'X' to 'SA'*

The amendment was adopted by the Council on 28 May 2019 and on 4 September 2019 the Shire was advised that the amendment was approved by the Minister for Planning, Lands and Heritage. The amendment was Gazetted on 10 September 2019.

Planning Solutions (Aust) Pty Ltd acting on behalf of John Kearney, the landowner of the subject site, has lodged the current development application for Telecommunications Infrastructure being a mobile phone tower and base station within the area subject to the scheme amendment. The application was advertised for a period of two weeks over the period and no submissions have been received.

The proposal is consistent with objectives of the Scheme amendment and the general provisions of Local Planning Scheme No. 10, and as such it is recommended that the proposal be supported.

Description of Proposal:

The site is located approximately 13km north-east of the Carnarvon town centre. The subject lot has an area of 9.77ha and is zoned 'Intensive Horticulture'. The application being a 'SA' use in the Intensive Horticulture zone is required to be referred to Council for determination. The subject site is located within the area highlighted on Figure 1 below.

The site for the proposed tower abuts the Gascoyne River; the North West Coastal Highway runs along the eastern boundary. The plans included with the application can be found at Schedule 8.3.2(a).

The development proposal consists of a 60m tall lattice telecommunications tower topped with radio antennas and a lightning finial, and associated equipment shelter. The tower and ground infrastructure will be located within a 286 m² fenced compound.



Figure 1: Subject Site

Background:

The landowner has been approached by Telstra to lease a portion of Lot 181 for the purposes of constructing the telecommunications facility.

Previously "Table 1 – Zoning Table" lists 'Radio/ Television Installation' as an "X" use within the Intensive Horticulture zone, with "X" identifying uses that are not permitted under the Scheme. However, Amendment 77 provided for the zoning table (Table 1) to be amended whereby Intensive Horticulture zone: Radio / TV Installation – is an 'SA' use on the subject land.

The proponent has advised that the infrastructure is part of a broader telecommunications network which will support the plantation areas. The telecommunications tower is located within an enclosed compound with sufficient land to accommodate the tower structure and ancillary ground infrastructure, as well as providing for vehicle access.

Consultation:

As required for an "SA" use, the application was advertised for a period of 14 days with a sign on the frontage of the site and a notice placed in the Shire's website. No submissions were received as a result of the public notification of this proposal.

Statutory Environment:

Planning and Development (Local Planning Schemes) Regulations 2015

The application has been advertised in accordance with cl. 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Shire of Carnarvon Local Planning Scheme No. 10

LPS No. 10 provides the statutory framework for the planned future development of land within Carnarvon. Prior to Scheme amendment 77 taking effect 'Table 1 – Zoning Table' identified 'Radio/Television Installation' as an 'x' use within the 'Intensive Horticulture zone'. However, Scheme amendment No. 77 provides for 'Radio/ Television Installation' to be a use which may be permitted by the Council, being determined to be an "SA" use.

The Development Standards for uses within the Intensive Agricultural zone specify setbacks of 15m from the front boundary and 7.5m from side and rear boundaries. The proposal satisfies the front setback requirement however the side setbacks from the east boundary and south-west boundaries are 2.6m and 2.9m respectively. Clause 4.14 of the Scheme allows for the Council to relax development standards if the proposed development will not establish an undesirable precedent or will not detract from the amenity of the locality. The tower will be visible from the NW Coastal Highway however it is considered that infrastructure of this scale is acceptable in a non-urban environment and the reduced setbacks will have little bearing on the visual impact of the development.

The site is located within the 1:100-year flood impact area. It is not anticipated that the development would increase the adverse impact of the flooding on adjoining properties however in accordance with the Department of Water and Environmental Regulation's recommendations the equipment shelter containing the electronic equipment associated with the tower has been raised 1.0 metre above natural ground level.

Draft Shire of Carnarvon Town Planning Scheme No. 13

Under the draft scheme telecommunications infrastructure is identified as an "A" use within 'Priority Agricultural' areas. As such the use is not permitted unless the local government has exercised its discretion by granting development approval after the proposal has been advertised. (Note that identifiers have been changed under the State's model scheme text).

State Planning Policy 5.2 - Telecommunications Infrastructure

The policy aims to balance the need for effective telecommunications services with the community interest in protecting the visual character of local areas. The policy objectives include:

- a) *facilitate the provision of telecommunications infrastructure in an efficient and environmentally responsible manner to meet community needs;*
- b) *manage the environmental, cultural heritage, visual and social impacts of telecommunications infrastructure;*
- c) *ensure that telecommunications infrastructure is included in relevant planning processes as essential infrastructure for business, personal and emergency reasons; and,*
- d) *promote a consistent approach in the preparation, assessment and determination of planning decisions for telecommunications infrastructure.*

When considering development applications for telecommunications, the policy guides the decision maker when assessing applications. It should be noted that whilst Local Planning Scheme No. 10 has been amended to reflect the requirements of the 'deemed provisions', the underlying policy within the Scheme predates *State Planning Policy 5.2 - Telecommunications Infrastructure*.

State Planning Policy 2.5 – Rural Planning

The purpose of this policy is to preserve rural land assets in the State. The policy objectives relating to this application include:

- a) support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food;
- b) provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses;
- e) avoid and minimise land use conflicts;
- f) promote sustainable settlement in, and adjacent to, existing urban areas; and
- g) protect and sustainably manage environmental, landscape and water resource assets.

The policy objectives seek to protect and preserve rural land for rural productive purposes. At face value it would appear that Policy 2.5 and Policy 5.2 are inconsistent with each other, however it is recognized that telecommunications facilities do not generally result in the “sterilization” of significant areas of land. In this instance the proposal does not designate a significant area of land for removal from cropping when considering the overall land production area.

That said, ‘Clause 5.8 Intensive Agriculture’ identifies Carnarvon as one of several localities within the State that are important contributors to the State’s economy by way of intensive agricultural produce being sold to domestic and export markets. The policy regarding intensive agriculture is that sites of State significance should be protected from encroachment, and intensive agriculture is generally supported and encouraged on rural land, and environmental impacts are to be effectively managed.

It is therefore an important consideration that telecommunications facilities within plantation areas does not result in the loss of significant areas of cropable land.

In summary, in this instance the area lost to crop production is relatively small and the telecommunication networks increased capability will benefit the Districts agricultural producers and the wider Carnarvon community.

Telecommunications Act 1997

The installation and operation of telecommunications infrastructure is regulated by the *Telecommunications Act 1997* and the Telecommunications Code of Practice 1997. The Code of Practice requires carriers to comply with the Communications Alliance Industry Code C564:2011 - Mobile Phone Base Station Deployment (the Code). The Code imposes site specific obligations on carriers, including the requirement to have regard to guidelines established within the Code to take a Precautionary Approach to site selection and infrastructure design. In accordance with the conditions of its license, Optus in selection of the subject site and design of the proposed infrastructure, has applied the Precautionary Approach mandated by Sections 4.1 and 4.2 of the Code.

The proposed infrastructure will operate in compliance with the Australian Communication and Media Authority (ACMA) Electromagnetic Emissions (EME) regulatory arrangements. The summary report of the predicted Radiofrequency EME Levels for the proposed facility has been undertaken in accordance with the ARPANSA prediction methodology and report format. The assessment confirms that the proposed installation operating at full power complies with the Radiocommunications (Electromagnetic Radiation- Human Exposure) Standard 2003. A copy of the EME report can be found at Schedule 8.3.2(b).

Relevant Plans and Policy:

Shire of Carnarvon Policy Statement No. 1 – Intensive Horticulture & Plantations

The policy encompasses all land within the Intensive Horticulture Zone. The policy objective aims to preserve and maintain land within the horticulture zone:

‘To preserve and maintain the effected land as viable units for horticulture and plantation which will include resistance, by recommendation for refusal, to proposals for subdivision and refusal of any land use or development proposals which would operate in conflict with this objective’.

This policy must be considered in the context of the above State planning policies and associated discussion.

Financial Implications:

There are no identified financial implications associated with the approval of the proposal.

Risk Assessment:

The Radio Frequency Electromagnetic Energy (RF EME) emissions from mobile phone base stations and other communications installations are regulated by the Australian Communications and Media Authority (ACMA). The ACMA's regulatory arrangements require base stations to comply with the exposure limits in the ARPANSA RF Standard. The EME report can be found at Schedule 8.3.2(b).

Community & Strategic Objectives:

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

Objective 1: Economic

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

ITEM	Outcomes and Strategies
1.1	Local business growth
1.1.1	Work with the Gascoyne Development Commission, Chamber of Commerce, Aboriginal Corporations and local businesses to identify opportunities for business growth
1.1.2	Work with the agriculture, aquaculture and fishing industries to improve their viability and profile

Objective 2: Natural and built environment

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

ITEM	Outcomes and Strategies
2.7	Regulated land use to meet the current and future needs of the community
2.7.1	Incorporate appropriate planning controls for land use planning and development
2.7.2	Adopt appropriate land use planning and building regulation practices

Voting Requirements

Simple majority.

Comment:

In summary, the proposal is consistent with Scheme Amendment No. 77 which provides for telecommunication facilities to be accommodated on the subject land. The amendment was adopted by the Council on 28 May 2019 and approved by the Minister for Planning in 4 September 2019 and Gazetted on 10 September 2019. The development of the telecommunications tower and associated infrastructure is consistent with the zoning of the site and will provide additional capacity to the existing telecommunications network, thereby providing benefits to the Carnarvon community.

OFFICER'S RECOMMENDATION

That Council,

Pursuant to Clause 68(2)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 and Clause 68 of the Shire of Carnarvon Local Planning Scheme No. 10 Deemed Provisions grant development approval for application P26/19 for development of land at Lot 181 (736) South River Road, South Plantations, Carnarvon for the use Radio/TV Installation – Mobile Phone Base Station subject to the following conditions:

- 1. The development is to be in accordance with plans W109108-S1, W109108-S1-1, W109108-S1-2, W109108-S3 and W109108-S3-1 all dated 11.12.18 (attached at Schedule 8.3.2 (a)) as submitted to Council and lodged with the application, and approved by this decision, except as modified by conditions of approval.*

Advice Notes:

- a) *If the development, the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.*
- b) *If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 part 14. An application must be made within 28 days of the determination.*
- c) *This approval does not confer approval under other relevant legislation, including but not limited to, the Building Act 2011. It is the responsibility of the applicant to determine any necessary approvals required and obtain such approvals prior to the commencement of development and use. However, to assist in understanding the necessary requirements and approvals, further information can be obtained by contacting the Shire of Carnarvon Building Services on (08) 9941 0000.*

FC 10/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Skender/Cr Garrett

That Council,

Pursuant to Clause 68(2)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 and Clause 68 of the Shire of Carnarvon Local Planning Scheme No. 10 Deemed Provisions grant development approval for application P26/19 for development of land at Lot 181 (736) South River Road, South Plantations, Carnarvon for the use Radio/TV Installation – Mobile Phone Base Station subject to the following conditions:

- 1. The development is to be in accordance with plans W109108-S1, W109108-S1-1, W109108-S1-2, W109108-S3 and W109108-S3-1 all dated 11.12.18 (attached at Schedule 8.3.2 (a)) as submitted to Council and lodged with the application, and approved by this decision, except as modified by conditions of approval.**

Advice Notes:

- a) *If the development, the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.*
- b) *If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 part 14. An application must be made within 28 days of the determination.*
- c) *This approval does not confer approval under other relevant legislation, including but not limited to, the Building Act 2011. It is the responsibility of the applicant to determine any necessary approvals required and obtain such approvals prior to the commencement of development and use. However, to assist in understanding the necessary requirements and approvals, further information can be obtained by contacting the Shire of Carnarvon Building Services on (08) 9941 0000.*

CARRIED
F8/AO

8.4 INFRASTRUCTURE SERVICES

9.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

9.1 NOTICE OF MOTION – REMOVAL OF BLOWHOLES SHACKS ASSESSED AS BEING IN A DANGEROUS CONDITION

Date of Meeting:	24 September 2019
Location/Address:	R37457 MacLeod WA 6701
Name of Applicant:	Councillor Garrett
Name of Owner:	State of WA vested to the Shire of Carnarvon
Author/s:	David Burton, Chief Executive Officer Paul Lees, Executive Manager Development Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report:	Nil

Summary of Item:

A notice of motion has been received from Councillor Garrett as outlined below. This report provides information to Councillors regarding background and issues associated with the motion.

Description of Proposal:

A notice of motion has been received and is hereby put to Council for their consideration. The motion seeks to gain Council approval for the removal of those shacks at the Blowholes identified by the Shire's Contract Building Surveyor (Mr. Dave Gibson, City of Greater Geraldton) as being in a dangerous state and needing to be urgently demolished; an inspection of all shacks was undertaken on 8 October 2018 - refer to Schedule 9.1(a) Summary of Blowholes Shacks Conditions Report No. 2 (8 October 2018).

The shacks identified as requiring immediate removal have suffered significant deterioration since the inspection carried out on 4 May 2016 and contain a level of corrosion that results in the structures either being in a potentially dangerous state of repair or containing structural elements that present a risk to occupiers and the community.

The stated reason for the motion is as follows:

"Background"

The issue of removal of the squatter's shacks at the Blowholes has been an ongoing drain on the resources of the community of Carnarvon for close to 30 years. Negotiations with the Blowholes Preservation Association (BPA) have been problematic and unproductive at best and totally hostile at worst. The BPA has sought every legal opportunity to forestall a resolution to the issue even in the face of SAT rulings, legal opinion and building surveyor's reports. The stance taken by the BPA has always reverted to an intention to retain the existing shacks in their current location and any valid attempts by the Shire staff to enforce the demolition orders has been stalled by sheer bloody mindedness on the part of a very small number of shack "owners" who thumb their noses at the Shire and community of Carnarvon with an attitude of entitlement and privilege that disadvantages both other community members and visitors alike who would make use of the proposed facilities mooted under the Blowholes Management Plan. This area could and should be updated and restructured to allow all visitors to the area to enjoy the benefits and amenity of such a beautiful setting without the eyesore of the existing shacks which have been identified as a hazard to the health and well being of anyone unfortunate enough to be caught in the area during a storm.

It is now almost three years since the initial demolition orders were issued and it would be probable that the Shire would have difficulty in sustaining an insurance claim if such were lodged due to the fact that the Shire has known of the danger presented by the shacks and has done nothing to effectively resolve the situation.

Until the issue of the shacks can be resolved, the potential source of revenue to the community through camping fees etc will never be fully realised and the privileged few will continue to act in total disregard of the wider community.

Elected Member Comment:

While Shire staff are to be commended on the manner in which they have conducted themselves over a very long period of time, it is apparent that tact and diplomacy will never result in a reasonable resolution to this vexatious problem. The time has come for firm and definitive action to be taken by enforcing the current demolition orders and resolving the issue of tenure of the remaining shacks.

Elected Member's Motion:

1. *That Council resolve to direct the CEO to immediately implement the Demolition Orders on the following shacks that have been identified as being in a dangerous state:*

- *Shack no. 6*
- *Shack no. 7*
- *Shack no. 8*
- *Shack no. 10*
- *Shack no. 12*
- *Shack no. 16*
- *Shack no. 21*
- *Shack no. 23*
- *Shack no. 24*
- *Shack no. 26*
- *Shack no. 28*
- *Shack no. 30*
- *Shack no. 41*
- *Shack no. 43.*

Note: The identifiers above have been sourced from information previously provided to Councillors by the CEO, and the specific shacks are identified in the photos contained in the condition report at Schedule 9.1(a).

The shacks, or remains of shacks, as identified above and assessed by the Shire's Building Surveyor as being in a dangerous state and/or needing urgent removal shall be removed in totality (including any underground works) by the shack owner(s) or their representative within 28 days of the date of this resolution.

2. *That should any or all of the shacks identified above not be removed by the date specified above (within 28 days of the date of this resolution), Council resolves to direct the CEO to contract through the Shire's established procurement policy a suitably qualified and experienced person(s) to demolish and remove all materials associated with the shacks, including any underground works, as soon as possible after the final demolition date as specified above.*
3. *Council also resolves to authorise the CEO to identify funds to meet the full costs associated with the contract for the removal of shacks as identified in resolution 2 above.*
4. *That Council resolve to direct the CEO to advise all other shack owners (that is owners of shacks not identified in resolution 1 above) that the shacks or remains of shacks (including any underground works) shall be removed by the shack owner(s) or their representative by 30 June 2020 as required by the*

previously issued demolition orders.

5. *That should any or all of the shacks identified in item 4 above not be removed within the date specified, Council resolve to direct the CEO to contract through the Shire's established procurement policy a suitably qualified and experienced person(s) to demolish and remove all materials associated with the shacks, including material below ground, as soon as possible after the final demolition date as specified above, subject to funding approved in the 2020/21 budget.*

Background:

On 16 September 2016 Shire officers issued a 'Notice of Intent' to issue a building order to the owners of shacks located at the Blowholes. Shire records indicate that no works were undertaken as a result of that 'Notice of Intent'.

On 13 October 2016 Shire officers issued a formal building order giving shack owners sixty (60) days to remove all shack structure(s) and to leave the site in a tidy state. The formal building orders were issued because no action had been undertaken as a result of the 'Notice of Intent' provided to shack owners.

Following the issue of the formal building order to demolish, twenty-one (21) of the shack owners responded by lodging an appeal against the orders with the Western Australian State Administration Tribunal (SAT). Under the direction of SAT building experts were engaged to assess the condition of the shacks; the findings being that most of the shacks needed to be demolished. However, a small number were assessed as potentially being able to be brought up to standard. The matter never went to a full hearing as the shack owners withdrew their application to SAT. It should be noted that the building orders are considered to remain in force.

As it has been several years since the formal inspection of the shacks, and because of the harsh corrosive environment at the Blowholes, Shire officers requested the Shire's Contract Building Surveyor to undertake a further inspection of the shacks to ascertain their current condition. The inspection revealed further significant corrosion of many of the shacks, with fourteen (14) of the shacks (or remaining structures) being reported as being in a dangerous state with a recommendation that they be removed for safety reasons. As noted above a summary of the inspection report can be found at Schedule 9.1(a).

Consultation:

It should be noted that Shire officers have had several meetings with representatives of the Blowholes Preservation Association (BPA) over the last couple of years, with recent community meetings on the future of the Blowholes area.

Whilst there have been overall discussions about the pathway required to progress the development of the Blowholes in a way consistent with the Blowholes Reserves Management Plan 2014 – 2036, the Shire's CEO and officers have made it clear that those shacks identified as being in a dangerous condition need to be removed for reasons of public safety; there has been very little voluntary action by shack owners in this regard, however some owners have removed shacks that have been substantially damaged by wind and vandalism.

Statutory Environment:

Building Act 2011 (WA)

Building Regulations 2012 (WA)

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Relevant Plans and Policy:

Blowholes Reserves Management Plan 2014 – 2036

Ningaloo Coast Regional Strategy Carnarvon to Exmouth, August 2004.

Shire of Carnarvon Local Planning Strategy 2017

Shire of Carnarvon Corporate Business Plan 2018 – 2022

Shire of Carnarvon Strategic Community Plan 2018 - 2028

Financial Implications:

There will be financial implications to the Shire should the shack owners decide not to remove their structures from the subject land. It has been calculated from previous quotations for demolition work at the Blowholes that the likely cost of the demolition of the shacks nominated for removal in the 2019/20 financial year will be less than \$150,000. It should be noted that there have been significant previous costs to the Shire in legal fees and staff time associated with the ongoing Blowholes shack matters.

The overall condition of the area and constraints on overnight camping and the overall development of the area have resulted in financial loss to the Shire. There is also a potential financial risk to the Shire should a community member or visitor to the area may be injured by windblown or poorly secured materials associated with the shacks.

Risk Assessment:

There is a significant reputational risk to the Shire in continuing to allow the shacks to remain in place in such a poor condition, including the risks associated with the current tourism experience and future tourism opportunities.

As outlined above, there are also potential risks to the Shire should a community member, or visitor to the area, be injured by windblown or poorly secured materials associated with the shacks.

Community & Strategic Objectives:

The following matters contained in the Strategic Community Plan 2018 – 2028 are relevant to this item:

Objective 1: Economic

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

ITEM	Outcomes and Strategies
1.2	Thriving tourism industry within the district/region
1.2.1	Promote the district of the Shire of Carnarvon as a tourism destination within the wider Coral Coast tourism region
1.2.2	Support the development and promotion of tourism attractions in the district of the Shire of Carnarvon
1.3	Transport hubs that support a thriving region
1.3.1	Provide and maintain airports at Carnarvon and Coral Bay
1.3.2	Develop industry and logistics precincts around the airports

Objective 2: Natural and built environment

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

ITEM	Outcomes and Strategies
2.1	Valued natural environment, for use and enjoyment by current and future generations
2.1.1	Work with other government and non-government organisations to control weeds and pests, and undertake other conservation measures
2.2	Open, accessible, healthy foreshore and waterways
2.2.3	Monitoring water quality
2.4	Waste management practices that are efficient and sustainable
2.7	Regulated land use to meet the current and future needs of the community
2.7.1	Incorporate appropriate planning controls for land use planning and development
2.7.2	Adopt appropriate land use planning and building regulation practices

Objective 5: Civic

Strong and listening Council.

5.1	A well engaged and informed community and a high standard of customer service
5.1.2	The community is engaged in planning for the future and other matters that affect them
5.6	The Shire advocates on behalf of its community
5.6.1	The Shire develops partnerships with government and non-government organisations to achieve positive outcomes for the region

Comment:

The matters as outlined in this report are relevant to the notice of motion brought to Council by the Deputy President, Councillor Garrett.

ELECTED MEMBER MOTION:

1. *That Council resolve to direct the CEO to immediately implement the Demolition Orders on the following shacks that have been identified as being in a dangerous state:*

- *Shack no. 6*
- *Shack no. 7*
- *Shack no. 8*
- *Shack no. 10*
- *Shack no. 12*
- *Shack no. 16*
- *Shack no. 21*
- *Shack no. 23*
- *Shack no. 24*
- *Shack no. 26*
- *Shack no. 28*
- *Shack no. 30*
- *Shack no. 41*
- *Shack no. 43.*

Note: The identifiers above have been sourced from information previously provided to Councillors by the CEO, and the specific shacks are identified in the photos contained in the condition report at Schedule 9.1(a).

The shacks, or remains of shacks, as identified above and assessed by the Shire's Building Surveyor as being in a dangerous state and/or needing urgent removal shall be removed in totality (including any underground works) by the shack owner(s) or their representative within 28 days of the date of this resolution.

2. *That should any or all of the shacks identified above not be removed by the date specified above (within 28 days of the date of this resolution), Council resolves to direct the CEO to contract through the Shire's established procurement policy a suitably qualified and experienced person(s) to demolish and remove all materials associated with the shacks, including any underground works, as soon as possible after the final demolition date as specified above.*
3. *Council also resolves to authorise the CEO to identify funds to meet the full costs associated with the contract for the removal of shacks as identified in resolution 2 above.*
4. *That Council resolve to direct the CEO to advise all other shack owners (that is owners of shacks not identified in resolution 1 above) that the shacks or remains of shacks (including any underground works) shall be removed by the shack owner(s) or their representative by 30 June 2020 as required by the*

previously issued demolition orders.

5. *That should any or all of the shacks identified in item 4 above not be removed within the date specified, Council resolve to direct the CEO to contract through the Shire's established procurement policy a suitably qualified and experienced person(s) to demolish and remove all materials associated with the shacks, including material below ground, as soon as possible after the final demolition date as specified above, subject to funding approved in the 2020/21 budget.*

To be noted that during debate Cr Smith advised the meeting that he would be foreshadowing a motion for Council consideration if the substantive motion was lost.

FC 11/9/19

COUNCIL RESOLUTION & ELECTED MEMBER MOTION

Cr Garrett/Cr Youd

1. *That Council resolve to direct the CEO to immediately implement the Demolition Orders on the following shacks that have been identified as being in a dangerous state:*

- *Shack no. 6*
- *Shack no. 7*
- *Shack no. 8*
- *Shack no. 10*
- *Shack no. 12*
- *Shack no. 16*
- *Shack no. 21*
- *Shack no. 23*
- *Shack no. 24*
- *Shack no. 26*
- *Shack no. 28*
- *Shack no. 30*
- *Shack no. 41*
- *Shack no. 43.*

Note: The identifiers above have been sourced from information previously provided to Councillors by the CEO, and the specific shacks are identified in the photos contained in the condition report at Schedule 9.1(a).

The shacks, or remains of shacks, as identified above and assessed by the Shire's Building Surveyor as being in a dangerous state and/or needing urgent removal shall be removed in totality (including any underground works) by the shack owner(s) or their representative within 28 days of the date of this resolution.

2. *That should any or all of the shacks identified above not be removed by the date specified above (within 28 days of the date of this resolution), Council resolves to direct the CEO to contract through the Shire's established procurement policy a suitably qualified and experienced person(s) to demolish and remove all materials associated with the shacks, including any underground works, as soon as possible after the final demolition date as specified above.*
3. *Council also resolves to authorise the CEO to identify funds to meet the full costs associated with the contract for the removal of shacks as identified in resolution 2 above.*
4. *That Council resolve to direct the CEO to advise all other shack owners (that is owners of shacks not identified in resolution 1 above) that the shacks or remains of shacks (including any underground works) shall be removed by the shack owner(s) or their representative by 30 June 2020 as required by the*

previously issued demolition orders.

5. *That should any or all of the shacks identified in item 4 above not be removed within the date specified, Council resolve to direct the CEO to contract through the Shire's established procurement policy a suitably qualified and experienced person(s) to demolish and remove all materials associated with the shacks, including material below ground, as soon as possible after the final demolition date as specified above, subject to funding approved in the 2020/21 budget.*

DRAWN

F4/A4

Crs' Smith, Skender, Maslen and Pinner voted against the motion

In accordance with Section 5.23(c) of the Local Government Act 1995 the Presiding Member exercised his right to cast a second vote.

MOTION CARRIED

F5/A4

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

The Shire President advised that a late item had been received relative to Interstate Travel and therefore will be considered at this meeting.

10.1. REQUEST FOR INTERSTATE TRAVEL

9.05am – David Burton (CEO) and Jennifer MacKellin (Executive Manager Community Services) both declared financial interests in this item as the item relates to paid travel for them both. They both left the meeting and did not participate in discussion.

Date of Meeting:	24 th September 2019
Location/Address:	N/A
Name of Applicant:	Real Futures
Name of Owner:	N/A
Author/s:	David Burton – Chief Executive Officer
Declaration of Interest:	Financial Interest
Voting Requirements:	Simple Majority

Summary of Item:

To consider a request from Real Futures for two Officers to attend a conference to be held in Cairns in November 2019 to discuss issues for the Carnarvon Community.

Description of Proposal:

Real Futures has requested the presence of two Officers from the Shire of Carnarvon to a formal function to be held in Cairns in October/November 2019. The function will be an opportunity to discuss issues for the Carnarvon Community and the role Real Futures can play in assisting. Real Futures are prepared to fund all travel and accommodation costs. Other Shires where Real Futures operates will also be attending also.

Background:

Real Futures are the current Community Development Program (CDP) Provider for Carnarvon and several other Shires in Western Australia. Real Futures have held this position since July this year.

Real Futures are committed to:

Building community capacity through job readiness, training and employment. They are committed to social and financial improvement and partner with employers across Australia.

Real Futures have requested Officers from the Shires they service to attend a conference in Cairns in November 2019 and to meet with Ministers involved in the CDP program to assist in raising the issues that are currently being handled by the Communities. Real Futures are prepared to cover all the travel costs of the Officer attending the conference.

Staff being considered for this conference are:

Chief Executive Officer

Executive Manager for Community Services.

Real Futures did request the Shire President for the function, however as this is an election year, we will not know the President until after the date required for booking flights.

Consultation:

Real Futures –

Shire of Carnarvon – Chief Executive Officer

Executive Manager for Community Services

Statutory Environment:

Travel will need to be declared on the Shire Registers.

Relevant Plans and Policy:

Financial Implications:

Real Futures will be covering all travel costs of staff so the cost will be limited to staff time.

Risk Assessment:

Nil

Community & Strategic Objectives:

Comment:

The trip to Cairns to meet with Ministers will enable staff to speak direct to Ministers about the issues currently being faced in Carnarvon with regards to unemployment and the other social issues that come as a result of that.

As the cost of the trip is limited to staff time only, it is an excellent opportunity for staff to give direct information to the relevant parties in a joint effort with other Shires in the region rather than trying to raise issues on a Shire by Shire basis.

The outcomes from the Conference will be that Real Futures can get some further assistance to delivery meaningful services to the communities that they service.

OFFICER'S RECOMMENDATION

That the Chief Executive Officer and Executive Manager for Community Services be permitted to attend the Real Futures conference to be held in Cairns in October/November 2019 providing that all travel costs are covered by Real Futures and declared by staff as required.

FC 12/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Garrett/Cr Simpson

That the Chief Executive Officer and Executive Manager for Community Services be permitted to attend the Real Futures conference to be held in Cairns in October/November 2019 providing that all travel costs are covered by Real Futures and declared by staff as required.

CARRIED

F8/AO

9.08am – David Burton and Jennifer MacKellin returned to the meeting and were advised of Council's decision on the matter.

11.0 DATE OF NEXT MEETING

11.1 The next meeting will be held on Tuesday 22nd October 2019 commencing at 8.30am in Council Chambers.

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

FC 13/9/19

COUNCIL RESOLUTION

Cr Skender/Cr Pinner

That the meeting be closed to the public in accordance with Section 5.23(2) as Item 12.1 relates to a matter affecting employees.

CARRIED

F8/AO

9.10am – The public gallery left the meeting as did Mr Paul Lees, Mr David Nielsen, Ms Jennifer MacKellin, Mr Maurice Werder and the Minute Clerk and did not return.

12.1 KEY PERFORMANCE INDICATORS – CHIEF EXECUTIVE OFFICER

Date of Meeting:	24 th September 2019
Location/Address:	N/A
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	David Burton - Chief Executive Officer
Declaration of Interest	Nil
Voting Requirements:	Simple Majority

FC 14/9/19

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Simpson/Cr Pinner

That Council endorse the Key Performance Indicators, as attached, for the Chief Executive Officer for the 2019/2020 Financial Year.

FC 15/9/19

PROCEDURAL MOTION

Cr Pinner/Cr Maslen

That the matter lay on the table.

LOST
F2/A6

The Substantive Motion FC 14/9/19 was put.

CARRIED
F6/A2

Crs' Pinner & Maslen voted against the motion.

FC 16/9/19

COUNCIL RESOLUTION

Cr Pinner/Cr Skender

That the meeting be reopened to the public.

CARRIED
F8/A0

Deputy Shire President Ed Garrett wished to thank President Karl Brandenburg for his long service with the Shire of Carnarvon over the past 20 years, 8 years of which was as Shire President.

The Shire President acknowledged that this was his last Ordinary meeting of Council as Shire President and thanked all members for their contributions and best of luck to those running in the next elections.

13.0 CLOSURE:

The Presiding Member declared the meeting closed at 9.27am.