

SHIRE OF CARNARVON

# AGENDA

COUNCIL MEETING  
Tuesday 26<sup>th</sup> November 2019

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

# **NOTICE OF MEETING**

Notice is hereby given

## **Shire of Carnarvon Ordinary Council Meeting**

will be held  
on Tuesday 26<sup>th</sup> November 2019  
at Bills Tavern, Robinson Street, Coral Bay  
commencing at 10.30am



David Burton  
CHIEF EXECUTIVE OFFICER

---

### **DISCLAIMER**

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

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

# AGENDA

## 1.0 ATTENDANCES , APOLOGIES & APPLICATIONS FOR LEAVE OF ABSENCE

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

## 2.0 PUBLIC 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.)

### 2.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE

### 2.2 PUBLIC QUESTION TIME

## 3.0 DECLARATIONS OF INTEREST

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

## 4.0 QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

## 5.0 CONFIRMATION OF MINUTES

- 5.1 Minutes of Ordinary Meeting of Council held on 22<sup>nd</sup> October 2019 subject to the following amendment to Council Resolution FC 4/10/19 – Council Committee Membership & Groups -

<i>Gascoyne Joint Development Assessment Panel</i>	<i>To determine development applications that meet set type and value thresholds (under legislation) in accordance with relevant planning instruments, such as the local planning scheme.</i>	<i>2 x Elected Members</i>  <i>2 x Proxies</i>  <i>(Ministerial appointment)</i>	<i>Cr Simpson</i> <i>Cr Skender (added)</i>  <i>Cr Fullarton (P) (added)</i> <i>Cr Nelson(P)</i>
--	---	--	--

## 6.0 PRESENTATIONS, PETITIONS AND MEMORIALS

A petition with 60 signatures, has been received by Mrs Jenny Ford and reads as follows –

“I am supporting Mrs Jenny Ford who has been breeding dogs in the Kingsford area and was granted permission to breed in 1991 by the Shire, now is no longer permitted to do so. I request that the Shire might again grant permission as it did in 1991, or allow Mrs Ford to build kennels in our industrial area. Being forced to remove her dogs from Carnarvon will also result in the closing down of her Hair Salon Business in Robinson Street. It is not good to see a business close down after 55 years service to the community when there are many possible solutions that can be explored to resolve the dogs issues being raised.

## 7.0 ANNOUNCEMENTS BY THE PRESIDENT WITHOUT DISCUSSION

## **8.0 DEPARTMENTAL REPORTS**

### **8.1 GOVERNANCE**

- 8.1.1 Actions Performed Under Delegated Authority – October/November 2019 ..... 5
- 8.1.2 Lot 300 Olivia Terrace – Due Diligence Report..... 8

### **8.2 CORPORATE SERVICES**

- 8.2.1 Accounts for Payment – 30 September 2019 ..... 11
- 8.2.2 Management Report – 30 September 2019..... 13
- 8.2.3 Investments as at 30 September 2019..... 15
- 8.2.4 Policy Review – Policy C030 – External Grants Procurement & Management..... 17

### **8.3 DEVELOPMENT SERVICES**

- 8.3.1 Retrospective Approval – Health Studio – Lot 56 Cleaver Street ..... 19
- 8.3.2 Traffic Assessment – Coral Bay..... 26

### **8.4 INFRASTRUCTURE SERVICES**

There is no report for November 2019.

### **8.5 COMMUNITY SERVICES**

- 8.5.1 Small Business Friendly ..... 30
- 8.5.2 Buy Local Retailers Campaign..... 33

## **9.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

- 9.1 Elected Member Motion - Revocation of Motion FC 11/9/19 – Removal of Blowholes  
Shacks Assessed as Being in a Dangerous Condition ..... 35

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

## **11.0 DATE OF NEXT MEETING**

- 11.1 Next meeting of Council will be held on Tuesday 17<sup>th</sup> December 2019 commencing at 8.30am.

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

## **13.0 CLOSURE**

**8.1.1****ACTIONS PERFORMED UNDER DELEGATED AUTHORITY FOR THE MONTHS OF OCTOBER/NOVEMBER 2019**

<b>Date of Meeting:</b>	26 November 2019
<b>Location/Address:</b>	3 Francis Street, Carnarvon
<b>Name of Applicant:</b>	Shire of Carnarvon
<b>Name of Owner:</b>	Shire of Carnarvon
<b>Author/s:</b>	David Burton, Chief Executive Officer
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements:</b>	Simple Majority

---

**Summary of Item:**

To report back to Council actions performed under delegated authority for the months October/November 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 October/November 2019 and are submitted to Council for information.

#### COMMON SEAL

Date Affixed	Agreement Details
4 November 2019	Lease – Portion Jim Richards Pavilion – Edmund Rice Education Australia
6 November 2019	Lease – Crown Land – Gascoyne Off Road Racing Club Inc.;

#### DELEGATIONS

#### ENVIRONMENTAL HEALTH

##### Food

##### *Food Act 2008*

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
11/11/2019	OCOR1920635	New mobile food vehicle business registration - Cheeki Pizzeria	Stephanie Condo	Shire of Carnarvon
18/11/2019	OCOR1920803	New home-based-manufacturer food business registration – Maila Fanning	Maila Fanning	Shire of Carnarvon

##### 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)
13/11/2019	HOS19/007	Permit to interfere with an onsite wastewater system at 11 Orr St, South Carnarvon	Carnarvon Plumbing Service	Department of Housing

## LAND USE AND DEVELOPMENT

Planning and Development Act (Local Planning Schemes) Regulations 2015 Schedule 2 Clause 68 Applications to use/develop land					
File Ref:	Application Ref:	Subject Land (Incl. Scheme No)	Purpose	Applicant/Proponent	Date Granted
A3053	P33/19	Lot 547 James Street Carnarvon Airport	Construction of Aircraft hangar	Coral Coast Helicopter Services	01/11/2019
A3577	P34/19	Lot 13 (HN 20) Robinson Street, Coral Bay	Relocation and construction of two units	Allerding & Associates	06/11/2019
A1347	P38/19	Lot 204 (HN 33) Granberry Drive, Brockman	Sea container for storage	Clifford Williams	13/11/2019

## BUILDING

Application No.	Owners Name	Lot & Street	Type of Building Work
B19/076	BIANCA CHANTELE MUNRO	LOT 1244 WILLIAM ST EAST CARNARVON	SOLAR PANELS
B19/081	MELISSA MARIE PERRY	LOT 314 GEYER PL BROCKMAN	ALTERATIONS AND/OR ADDITIONS TO AN EXISTING BUILDING
B19/086	CRAIG RONALD & TAMARA YVONNE MARGARET CHAPMAN	LOT 504 SHALLCROSS ST EAST CARNARVON	SOLAR PANELS
B19/088	HILLARY MOSS & ELLIS GARY WESTCOTT	LOT 604YARDI QUAYS BROCKMAN	SOLAR PANELS
B19/090	BRAD JAY SMITH	LOT 51 FINNERTY ST EAST CARNARVON	FENCE
B19/091	MURCHISON REGION ABORIGINAL CORPORATION	LOT 130 CARSON PL BROCKMAN	FENCE
B19/092	WARREN STEPHEN SCHMIDT & MIRANDA JASMINE WILLIAMSON	LOT 150 OLIVIA TCE CARNARVON	ALTERATIONS AND/OR ADDITIONS TO AN EXISTING BUILDING
B19/093	DEPARTMENT FOR HOUSING	LOT 2 MORRELL CT EAST MORGANTOWN	FENCE
B19/094	GOVERNMENT REGIONAL OFFICER HOUSING	LOT 95 GLASS PL MORGANTOWN	FENCE
B19/095	BRANDON HAROLD PERRY	LOT 1 BUZOLIC CT BROCKMAN	PATIO
B19/096	DAMPIER SALT LIMITED	LOT 17 CRAGGS CT BROWN RANGE	SWIMMING POOL
B19/098	ROMAN CATHOLIC BISHOP OF GERALDTON	LOT 337 JOHNSTON ST CARNARVON	ALTERATIONS AND/OR ADDITIONS TO AN EXISTING BUILDING
B19/106	CORAL BAY INVESTMENTS PTY LTD	LOT 13 ROBINSON ST CORAL BAY	ALTERATIONS AND/OR ADDITIONS TO AN EXISTING BUILDING

## OFFICER'S RECOMMENDATION

*That Council accept the reports outlining the actions performed under delegated authority for the months October/November 2019.*

File No:	ADM 1942
Date of Meeting:	26 November 2019
Location/Address:	Lot 300 P412840 (No. 85) Olivia Terrace, Carnarvon
Name of Applicant:	Shire of Carnarvon
Author/s:	David Burton, Chief Executive Officer Maurice Werder, Executive Manager Corporate Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report:	22 October 2019 – Expression of Interest – Lot 300 (85) Olivia Terrace 4 April 2018 – Scheme Amendment No. 75

#### Summary of Item:

This report relates to undertaking Due Diligence on the Shire's options on the proposed disposal of Lot 300 (85) Olivia Terrace, Carnarvon by the State's Land Asset Management Unit (LAMU). Ray White have advertised an area of approximately 7,422m<sup>2</sup> for sale through an expression of interest process that closed on 31 October 2019.

Ray White describe the site as comprising of the *"Carnarvon Justice Precinct which is superbly located on the corner of Olivia Terrace overlooking the Carnarvon Fascine and Robinson Street in the central downtown commercial precinct. A rare opportunity to acquire and develop truly the best commercial/tourism site in Carnarvon. The improvements comprise of the Old Police Station, Courthouse and 2 government residences"*.

Due to the site's prime location and its significant development potential (in the right economic environment), the prior report recommended that Council delegate to the CEO the authority to prepare and submit a basic expression of interest to Ray White advising that the subject land is of strategic importance to the Shire, and requesting that Shire officers be provided with the opportunity to engage with representative(s) of the relevant State department State to discuss options for the Shire to acquire the subject land, and to require the CEO to bring the matter back to Council should there be any options available for land acquisition.

This motion at the October 2019 Ordinary Council Meeting was carried:

FC 10/10/19

#### OFFICER'S RECOMMENDATION

Cr Pinner / Cr Maslen

*That Council resolves to:*

- 1. Delegate to the CEO the authority to prepare and submit a basic expression of interest with Ray White advising that the subject land is of strategic importance to the Shire of Carnarvon and requesting that Shire officers be provided with the opportunity to engage with representative(s) of the State's Land Asset Management Unit to discuss options for the Shire to obtain the subject land.*
- 2. Require the CEO to report back to Council on the potential options available (if any) for the Shire to obtain the subject land.*

CARRIED

F7/A1

*Cr Fullarton voted against the motion.*



The expression of interest was made by the Shire of Carnarvon to the State's Land Asset Management Unit (LAMU) to inform them of the strategic importance of the subject land to the orderly development of the town of Carnarvon and, if developed appropriately, to the future economic importance of the District.

#### **Description of subject land:**

The subject land is located on the corner of Olivia Terrace and Robinson Street. The site sits opposite to the Fascine Waterway, a marine environment and waterfront of social and cultural significance to the town. The northern boundary of the lot abuts the Shire of Carnarvon Visitor Centre and the 'Woolshed'. North-west of the site the land is used for residential and community/emergency services uses. Opposite the site on Robinson Street is located a range of commercial uses including shops, cafes and financial establishments.

#### **Background:**

The recent rezoning to 'commercial' provides the opportunity for the redevelopment of the site which is currently in a state of disrepair. As described in the advertising by Ray White, the site is a prime redevelopment opportunity in the heart of the town centre; it has the potential for tourism and/or commercial/mixed-use redevelopment.

#### **Consultation:**

The matter of the future redevelopment of the site has previously been to Council in 2004. The proposed "Redevelopment Plan" endorsed by Council in 2004 sought to formalize a pedestrian connection between the Shire's Visitor Centre and the Woolshed (and axial connection from the corner of Robinson Street and Camel Lane) through to Olivia Terrace.

#### **Statutory Environment:**

The Shire of Carnarvon Town Planning Scheme No. 10 provides the statutory framework for the development of land within Carnarvon. The Scheme now zones the subject land as 'Commercial'. These uses include commercial, residential, mixed use (commercial/residential), civic, health and community use.

#### **Relevant Plans and Policies**

The following documents are relevant to any redevelopment of the site:

- Shire of Carnarvon Town Planning Scheme No. 10
- Shire of Carnarvon Strategic Community Plan 2018 - 2028
- Shire of Carnarvon Corporate Business Plan 2018 - 2028
- Shire of Carnarvon Local Planning Strategy 2017
- Carnarvon 2020 Strategy
- Carnarvon Fascine Waterway and Environs Master Plan 2010
- Shire of Carnarvon Municipal Inventory 2015

#### **Financial Implications:**

The proposed cost of the due diligence report involving a suitable consultant to complete the report is estimated to be \$10,000 to be funded from the COA06D2 Job 0011 Contractor/ Consultancy, with a variation at budget review if necessary.

#### **Risk Assessment:**

There are no risks associated with the proposed due diligence recommendation. There is a risk, as identified in the prior council item, that the land and buildings may be purchased by a developer and "land banked"; this outcome could result in the site continuing to be unoccupied and poorly maintained, thereby affecting the tourism experience of visitors and the economic reputation of the town.

#### **Community & Strategic Implications:**

The proposed recommendation aligns with the Strategic Community Plan 2018 – 2028 in the following ways:

## 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
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
1.2.3	Support the development and promotion of cultural tourism in the district of the Shire of Carnarvon

## Voting Requirements

Simple majority

## Comment:

In summary, an expression of interest was made by the Shire of Carnarvon. An independent due diligence report is needed before the CEO can confidently report back to Council on the economic potential and other options available (if any) for the Shire to obtain the subject land.

## OFFICER'S RECOMMENDATION

*That Council resolves to:*

- 1. Delegate to the CEO the authority to request the preparation of an independent Due Diligence Report on the implications, options and economics for the Shire to obtain the subject land.*
- 2. Require the CEO to report back to Council on the Due Diligence Report on the potential options available (if any) for the Shire to obtain the subject land.*

<b>File No:</b>	ADM0186
<b>Date of Meeting:</b>	26 November 2019
<b>Location/Address:</b>	Shire of Carnarvon
<b>Name of Applicant:</b>	Shire of Carnarvon
<b>Name of Owner:</b>	Shire of Carnarvon
<b>Author/s:</b>	Stacy Martyn – Relieving Creditors Officer
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements:</b>	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 October 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) totaling \$1,375,656.48 as presented for the month of October 2019 incorporating;*

<i>Payment Reference from:</i>	<i>Payment Reference to:</i>	<i>Payment Type</i>	<i>Payment Amount</i>
<i>DD37096</i>	<i>DD37207</i>	<i>Bank Direct</i>	<i>\$107,890.44</i>
<i>47029</i>	<i>47051</i>	<i>Muni Cheques</i>	<i>\$130,119.16</i>
<i>7465</i>	<i>7473</i>	<i>Trust Cheques</i>	<i>\$4,595.43</i>
<i>EFT29078</i>	<i>EFT29088</i>	<i>Muni EFT</i>	<i>\$1,127,032.36</i>
<i>EFT29089</i>	<i>EFT29361</i>	<i>Trust EFT</i>	<i>\$6,019.09</i>

- b) Receive the list of credit card payments, as per Schedule 8.2.1 (b), totalling \$8,049.72 as presented.*
- c) Note Sundry Creditors as at 31 October 2019 \$303,579.02.*

File No: ADM0186  
 Date of Meeting: 26 November 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 October 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 October 2019 as per Schedule 8.2.2.*

File No: ADM0186  
 Date of Meeting: 26 November 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 October 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 October 2019 as per Schedule 8.2.3.*



Date of Meeting	26 November 2019
Location/Address	Shire of Carnarvon
Name of Applicant	Shire of Carnarvon
Name of Owner	Shire of Carnarvon
Author/s	Maurice Werder, Executive Manager Corporate Services
Declaration of Interest	Nil
Voting Requirements	Absolute Majority
Previous Report	23 April 2019

### Summary of Item

This report presents an amendment to the Corporate policy C030 External Grants – procurement and Management to enable the decision to apply for grants to be delegated to the CEO in consultation with the Executive Leadership Team. Council will still need to decide if to accept the grant. This policy is consistent with the direction set by the Council through the recent strategic review.

### Description of Proposal

To adopt the revised Corporate Policy C030 External Grants – procurement and Management.

### Background

Council adopted the Corporate Policies on the 23<sup>rd</sup> April 2019 following the completion of the major strategic review and adoption of the Strategic Community Plan. In the current form Council need to decide if the Shire is to apply for a Grant, however in order to expedite the process, clause 1.2 is altered to delegate the decision to apply to the CEO as:

- 1.2 Where a potential grant source under 1.1 is identified, the CEO and ELT will review the risks and benefits of pursuing that funding path and make a decision on whether it wishes to seek the relevant funding, after consideration of strategic and long-term benefit.

Council will need to make decision on whether it wishes to seek the relevant funding that has been applied for under 1.2.

### Consultation

The review of this policy has been undertaken by the CEO and senior staff due to some issues around the timing of grant availability and timing.

### Statutory Environment

The Council's role in determining the Shire's policies is provided for by Section 2.7(2)(b) of the Local Government Act 1995.

### Financial Implications

There are no significant direct financial implications for the current budget as a result of the adoption of the proposed policies.

### Risk Assessment

A regular review and update of the Code of Conduct avoids the risk of the document becoming outdated.

### 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 Council has undertaken an extensive review of existing Corporate Policies and it is proposed that the existing policies set out in Table 1 be rescinded. Provision for volunteers will be incorporated into the Human resources policies due for review and the at C021 is incorporated into the reviewed C022. Table 2 details existing policies that have been reviewed and new policies to be endorsed by Council.

The policy review has incorporated new policies where these have been indicated by advice from the Department of Local Government and Communities, or where subject matter has been indicated through the strategic review or where accepted best practice indicates a policy is required.

#### **OFFICER'S RECOMMENDATION**

*That Council in accordance with Section 2.7(2)(b) of the Local Government Act 1995:*

- 1. Adopt the following amended Corporate policy listed in Table 1 below and as presented in Schedule 8.2.4 to this report, that will then form part of the Shire of Carnarvon Policy Manual:***

**TABLE 1**

<b><i>Policy No.</i></b>	<b><i>Policy</i></b>
<b><i>C030</i></b>	<b><i>External Grants – procurement and Management</i></b>

#### **Absolute Majority Required**

### 8.3.1

### LOT 56 (36) CLEAVER STREET – RETROSPECTIVE APPROVAL 'HEALTH STUDIO INCORPORATING A GYMNASIUM'

<b>File No:</b>	A109, P17/19
<b>Date of Meeting:</b>	26 November 2019
<b>Location/Address:</b>	Lot 56 (36) Cleaver Street, South Carnarvon
<b>Name of Applicant:</b>	Gavin Griffiths
<b>Name of Owner:</b>	The Baptist Union of Western Australia
<b>Author/s:</b>	Jessica Taukiri, Planning Officer John Meggitt, Principal Planner
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements:</b>	Simple Majority
<b>Previous Reports:</b>	27 April 2011 Change of use: Church Hall to Health Centre (Physiotherapy) 23 July 2013 (Confidential Report): Noncompliance with Planning Conditions

---

#### Summary of Item:

This application is for retrospective approval of a gymnasium at Lot 56 (36) Cleaver Street. The site is zoned 'Private Clubs and Institutions' under the Shire of Carnarvon Local Planning Scheme No. 10 (LPS 10). A 'Health Studio', which provides for indoor recreation, is listed as an 'AA' use meaning the Local Government may, at its discretion, permit the use.

In 2011 the applicant received development consent for 'Health Centre' enabling the establishment of a physiotherapy business. The applicant was to provide 7 car parking bays at the rear of the lot accessed from Baston Street.

The applicant is seeking approval for the additional use of the subject building as a gymnasium, which is currently operating on the site without development approval. A gymnasium is not a use which is included under the definition of a 'Health Centre'. The proposed use falls within the definition of 'Health Studio' under LPS 10:

*'a building designed and equipped for recreation and sporting activities and includes outdoor recreation if especially approved by Local Government'.*

Attention is drawn to the distinction between a 'health centre' and a 'health studio' noting that a 'health centre' provides for the establishment of passive medical activities including a maternal or x-ray centre, a district clinic, a masseur's establishment or a medical clinic. Alternatively, a 'health studio' provides for active recreation being a building designed and equipped for recreation and sporting activities.

#### Description of Proposal:

The application lodged on 22 March 2019 states that the proposed land use was to be 'gymnasium' provided no details of the expected number of patrons, hours of operation or parking arrangements to be provided. On 6 August 2019 the applicant provided the following details of current and proposed uses; these can be found in the application and supporting details at **Schedule 8.3.1(a)**:

#### Physiotherapy:

- 1-3 practitioners operating Monday to Friday from 8:00am to 6:00pm.
- Health rehabilitation classes conducted between 10:00am and 11:00am Monday to Thursday (max. of 8 participants per class).

#### Gymnasium:

- 4-5 users at any one time with the gym operating between 5:00am and 10:00pm seven days per week.

#### Parking:

- Baston Street onsite carpark for 5 patrons.

- Cleaver Street onsite carpark for 7 patrons.

The existing carpark at the rear of the subject site (access is from Baston Street) is to be upgraded, only five (5) car parking bays can be accommodated in this carpark. See **Schedule 8.3.1 (b)**.

A memorandum of understanding now exists between the Uniting Church and Carnarvon Physiotherapy for the use of the car park abutting the subject property at 34 Cleaver Street by visitors and staff of the physiotherapy practice. The carpark is to be available for use from Monday to Saturday between 7:00am and 7:00pm. It is estimated that the carpark will facilitate seven cars including one ACROD bay.



Figure 1: Lot 56 (36) Cleaver Street



Figure 2: Lot 98 (34) Cleaver Street

#### **Background:**

The property is located on the corner of Cleaver Street and Baston Street in South Carnarvon, it has an area of approximately 674m<sup>2</sup> (See Figure 1). The Uniting Church is located adjacent on Lot 98 (No. 34) Cleaver Street (See Figure 2).

The report to Council dated 27 April 2011 addressed the original application for a proposed 'Health Centre (Including Rehabilitation Exercises)'. It was approved by Council with conditions including a requirement for landscaping, the provision of a Baston Street crossover and seven (7) car parking bays at the rear of the building with access from Baston Street.

It is noted that the issue of noncompliance with Development Approval conditions was raised with the applicant between 2012 and 2013 after the Shire received complaints related to carparking and nuisance. The matter was then discussed in a closed Council meeting on 23 July 2013.

Following the meeting the Shire wrote to Mr. Griffiths requesting him to:

- Progress developing the crossover access, onsite parking and landscaping in accordance with the Development Approval as a matter of priority;
- Direct your clients to park in the on-site car parking area, once constructed, and in Baston Street to the side of the premises and sufficiently setback from the intersection with Clever Street so as to not obscure line of site for vehicles traversing the intersection;
- Lodge a formal application for the respective signage within 30 days from the date of this letter, inclusive of graphical presentation, a site plan illustrating placement of the signs, and payment of the application fee.

Mr Griffiths was advised that failure to comply with the conditions of approval of the health centre may be deemed an offence pursuant to s214 of the *Planning and Development Act (2005)* and that a person who commits an offence under this Act is liable to a fine of \$200 000 and, in the case of a continuing offence, a

further fine of \$25 000 for each day during which the offence continues.

No further action was taken by the Shire until the matter was brought to the attention of Shire Officers in January 2019 when complaints were received about people visiting the facility. The complaints related to music and the noise of equipment being used, people using the facility late at night, loud talking, vehicles revving and vehicle locking bleeps. Other complaints related to vehicles being parked on the footpath and vehicles blocking a driveway.

Mr. Griffiths subsequently lodged the current development application for the operation of the gymnasium.

#### **Parking Provision:**

The applicant has stated that there will be 1 physiotherapist and the equivalent of 1 therapy assistant at the studio and 4-5 gym users at any one time. Under TPS10, the applicant is required to provide 8 car parking bays for their consultancy (4 bays per consultant), while the parking requirements for a health studio (gymnasium) is dependent on “membership, frequency of use and maximum attendance etc.”

The Baston Street carpark, when accurately configured, can accommodate a maximum of 5 vehicles parallel parked with egress from the carpark in a rear direction, which is acceptable given the low volumes of traffic in Baston Street.

A further 7 bays are available in Cleaver Street within the carpark owned by the Uniting Church. A copy of a Memorandum of Understanding (MOU) between the applicant and the Uniting Church has been provided to the Shire which allows parking in the Church’s Cleaver Street car park (See **Schedule 8.3.1(b)**).

The MOU provides for the proponent to use the car park Monday to Saturday between 7:00am and 7:00pm, the car park is reserved for the exclusive use of the church on Sundays.



Figure 3: The property viewed from Cleaver Street



Figure 4: Cleaver Street looking north

Visitors currently utilise the Cleaver Street and Baston Street carparks or park on the street(s). These carparks are considered adequate to accommodate physiotherapy and gymnasium visitors and staff. It is also noted that some clients may wish to continue to park their vehicles in the available public parking bays in Cleaver Street or Baston Street (see Figures 3. and 4). Parking controls in the adjoining streets are limited to a ‘no parking’ restriction between the entrance to the Cleaver Street carpark and the intersection with Baston Street and a bus stop adjacent to the Uniting Church in Cleaver Street.

Physiotherapist and therapy sessions are undertaken on week days and the applicant has advised that rarely more than 4-5 gym members are ever in attendance and only those attending the gymnasium visit on weekends. Officers are satisfied that the provision of a total number of 12 car bays on site is appropriate between the hours of 7:00am and 7:00pm.



A kerb crossover and gravel were put in place for the Baston Street carpark however the crossover does not meet the standards set out in the Shire's Vehicle Crossover Construction Specification P-IS001C and is required to be upgraded. Although the MOU is in place for the Cleaver Street car park this application does not formally include the Uniting Church land, as such development control conditions to improve the standard of this car park cannot be applied.

### Noise Impact:

Noise associated with the operation of the facility has been the focus of recent complaints from a nearby resident. A noise impact report has not been provided by the proponent to demonstrate how the proposed use will comply with the noise limits set in the *Environmental Protection (Noise) Regulations 1997* (the Regulations). The Shire's Environmental Health Officers have undertaken a basic assessment to determine the feasibility of the proposed use complying with the Regulations. It is noted however that the Shire does not have inhouse acoustic specialists nor does the scale of the proposed development warrant requiring the provision of an acoustic report, however to assist in the assessment of the impact of the proposal the Shire's EHO has undertaken a review of the proposal against the Regulations.

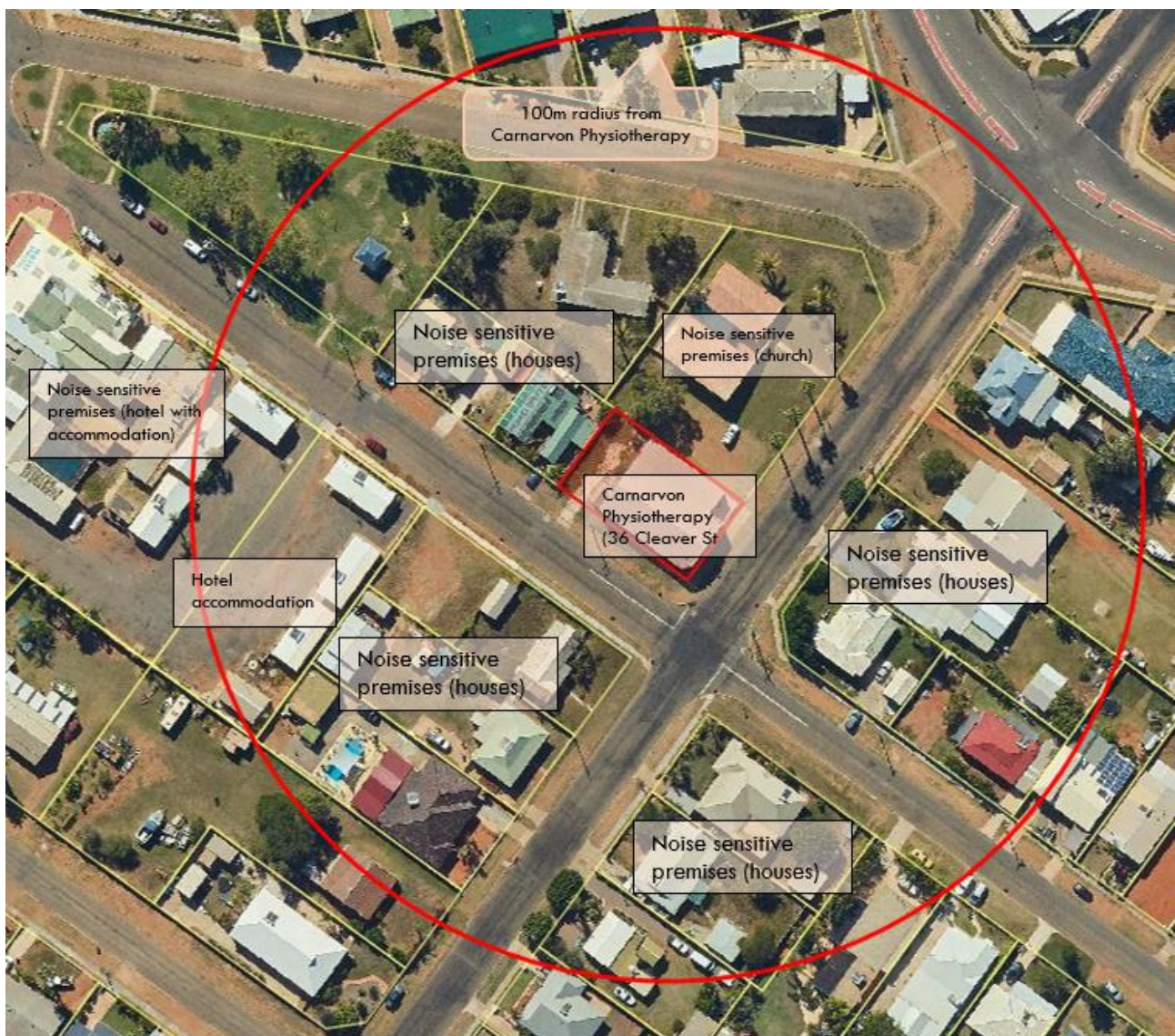


Figure 5. Aerial view of subject area with noise sensitive premises marked

Vehicle engine and braking noise from ordinary road use is excluded from the Regulations, but the closing of car doors is not excluded.

The gymnasium has natural ventilation (open windows) and as such the potential exists for noise from the premises to exceed Regulation levels at nearby houses, especially after hours. Such noise types include voices, music and weights dropping. People talking loudly outside the gym after hours can also exceed the assigned levels, as can the closing of car doors.

Given the low key nature of the facility and taking a conservative approach given the lack of an acoustic report, it has been assessed as being feasible for the health clinic to operate with minimal acoustic impact on the adjoining residences provided the following hours of operation apply:

- other than during the most sensitive hours being between 7pm and 7am Monday to Friday (7pm to 9am for Sundays and public holidays).

It is proposed to allow the requested use during the requested normal operating hours of 8am to 6pm on business days. This use includes physiotherapy consultations, health rehabilitation classes and personal gym use. It is proposed to allow personal gymnasium use from 7am to 7pm subject to some conditions.

**Consultation:**

There is no requirement for an 'AA' use to be advertised prior to the local authority making a determination on the application.

**Statutory Environment:**

Shire of Carnarvon Local Planning Scheme No. 10

The subject site is zoned 'Private Clubs and Institutions'. The proposed use for gymnasium can be described as a 'health studio' under LPS 10. A 'health studio' is a AA use under this zoning meaning that the Council may, at its discretion, permit the use.

Shire of Carnarvon Draft Local Planning Scheme No. 13

Lot 56 Cleaver Street proposed zoning under the Draft LPS 13 as '*Residential*' and includes the following objective:

*To provide for a range of non-residential uses, which are compatible with and complementary to residential development.*

A private recreation facility, the definition of which includes premises used for indoor recreation, is an 'A' use under the draft Scheme, as such the use can be permitted by the local government.

Environmental Protection (Noise) Regulations 1997: referenced in the 'noise impact' section above.

**Relevant Plans and Policy:**

Shire of Carnarvon Municipal Heritage Inventory

The Municipal Heritage Inventory is a local heritage list under the *Heritage of Western Australia Act 1990*. The status of the Municipal Inventory is simply a list of places to guide the Shire in planning considerations. Lot 56 (36) Cleaver Street, Royal Ancient Order of Buffaloes Hall (ROAB Hall), is listed as a building of considerable significance. Considerable significance is defined as '*very important to the heritage of the locality with a high degree of integrity/ authenticity*'. The proposal does not involve any modifications to the structure of the building.

**Financial Implications:**

There are no financial implications relating to the approval of this application.

**Risk Assessment:**

There are no identified risks associated with the officer's recommendation.

**Community & Strategic Objectives:**

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

## Objective 2: Natural and built environment

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

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

## Objective 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
5.1.2	The community is engaged in planning for the future and other matters that affect them
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
5.2.2	Highly capable executive leadership and management
5.2.3	Risks are well managed

### Comment:

The subject site is zoned 'Private Clubs and Institutions' under LPS 10. The proposed use of 'Health Studio' is listed as an 'AA' use under LPS 10 and currently has approval as a 'health centre' (physiotherapy). Having regard to the objectives of the zone and those matters considered under Clause 67 of the Deemed Provisions, the proposed use of 'Health Studio' is consistent with the objectives of the scheme, however it is essential that the use is conditioned to ensure that any potential adverse impacts are addressed.

It is considered that the arrangements for parking in the Baston Street and Cleaver Street car parks and the availability of street parking will adequately address the parking requirements of visitors and staff.

It is recognised that patrons are currently using the gymnasium early in the morning and late at night however the site is surrounded by residential uses which are sensitive to noise especially outside daytime hours. Furthermore, there is no acoustic report in place that justifies the use of the centre outside daytime use, as such it is considered appropriate that a conservative approach is taken to the acceptable hours of operation. The applicant may wish to submit an acoustic report in future as an amendment to this approval, should Council have a mind to approve the development application, which would justify extended hours of operation.

It is considered that limiting hours of operation, is the most effective way of protecting the amenity of residents in the area.

In light of the above the proposed change of use to 'Health Studio' (Gymnasium) in addition to the continued operation of the physiotherapy practice as approved is supported and it is expected that any amenity impacts associated with the change of use can be appropriately managed through conditions.

### **OFFICER'S RECOMMENDATION**

***Pursuant to Clause 68 of the Planning and Development (Local Planning Schemes) Regulations and the Shire of Carnarvon Local Planning Scheme No. 10, grant development approval for application P17/19 for the use of land at Lot 56 (36) Cleaver Street South Carnarvon for 'Health Studio' incorporating physiotherapy and gymnasium uses subject to the following conditions:***

- a) The Health Studio gymnasium use shall only be conducted between the hours 0700 to 1900 Monday to Friday and between 0900 to 1900 hours on Sundays and public holidays.  
Note: The Shire is willing to consider extended hours of operation should the applicant wish to submit an acoustic report in accordance with the Environmental Protection (Noise) Regulations 1997 to demonstrate compliance with allowable noise levels.***
- b) The number of attendees at the gymnasium at any one time is to be limited to ten (10) persons.  
Note: This approval does limit existing development approval rights for attendees at the health***



*centre granted by Council on 27 April 2011.*

- c) The Baston Street carpark is to be resurfaced with compacted gravel and the five (5) vehicle parking are to be clearly delineated.*
- d) The vehicle crossover to the Baston Street carpark is to be upgraded to meet the standards set out in the Shire of Carnarvon Vehicle Crossover Construction Specification P-IS001C.*

**Advice Notes:**

- i. 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.*
- ii. 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.*
- iii. This approval does not confer approval under other relevant legislation, including but not limited to, the Building Act 2011 and Health Act 1911. 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.*
- iv. This approval is partly based on the existence of the MOU between the applicant and the Uniting Church in relation to the use of the Cleaver Street carpark. Should the Uniting Church wish to revoke or substantially modify the MOU the approval for the gymnasium is to be reconsidered by the Shire.*
- v. Nothing in this approval removes the obligation to comply with the Environmental Protection (Noise) Regulations 1997. The proprietor is advised that the use permitted in this approval, if not carefully managed, will result in noise emissions that exceed the assigned levels for surrounding sensitive premises and this could result in enforcement action and/or the requirement to cease the after-hours use.*
- vi. The use of the building as a gym with membership and classes may constitute a 'public building' under the Health (Miscellaneous Provisions) Act 1911. As such, it may require a Certificate of Approval and may be inspected at any time by authorised officers to assess general building compliance, maintenance and risk to the public.*

<b>Date of Meeting:</b>	26 November 2019
<b>Location/Address:</b>	Robinson Street/Banksia Drive Road Network, Coral Bay
<b>Name of Applicant:</b>	Shire of Carnarvon
<b>Name of Owner:</b>	State of WA vested to the Shire of Carnarvon
<b>Author/s:</b>	Paul Lees, Executive Manager Development Services
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements:</b>	Simple Majority
<b>Previous Report:</b>	Nil

---

#### Summary of Item:

The Shire of Carnarvon has received a number of applications by business owners in Coral Bay for approval to operate as mobile traders from a range of sites along Robinson Street and Banksia Drive, Coral Bay. Whilst the type of trading activity and the range of hours varies between applicants, it is noted that any approvals for mobile traders on or adjacent to Robinson Street and/or Banksia Drive will have an impact on the movement of vehicles and pedestrians/cyclists within the Coral Bay settlement.

It is recognised that the peak holiday periods bring large numbers of visitors to Coral Bay. Anecdotal evidence suggests that the peak periods are extending as visitors alter holiday times to avoid the busiest times. A responsible assessment of the above-mentioned applications needs to include an assessment of the impact of the proposed traders on traffic movements and parking (for all vehicles acknowledging that the road network accommodates large tow vehicles and boats/caravans) and the significant number of holiday makers moving around Coral Bay as pedestrians, including families with young children.

Shire officers are of the view that these applications trigger the need for a more comprehensive understanding of the capacity of the Coral Bay road and pedestrian network to accommodate the proposed activities; as well as a more general understanding from a strategic perspective on the transport infrastructure needs of Coral Bay over the short to medium term.

This report therefore recommends that Council directs the CEO to engage a suitably qualified traffic engineer to prepare a Traffic Impact Assessment report on the capacity of the Coral Bay road network. The assessment should be undertaken during peak holiday times and the capacity of the road network to accommodate mobile trading from a range of locations. Including, but not limited to, the western end of Robinson Street and the informal car park on Robinson Street opposite the northern end of French Street. It should also assess the general capacity of the Coral Bay network to accommodate current peak visitor activity. The proposed consultant report will also provide important information in regard to further strategic planning work in Coral Bay including a review of the Coral Bay Settlement Structure Plan.

#### Description of Proposal:

As noted above, the Shire of Carnarvon has received a number of applications by business owners in Coral Bay for approval to operate as mobile traders from a range of sites within Coral Bay including the car park at the western termination of Robinson Street, the informal car park on Robinson Street (opposite the northern end of French Street), and the eastern side of Banksia Drive north and south of the intersection with Robinson Street. For a number of applicants, the request to operate as a mobile trader provides an extension of existing businesses, however the applications mostly specify a narrow range of specialty items to be traded from the proposed locations. To undertake trading in a legal manner the owner/operator must gain approval under Section 29 of the *Shire of Carnarvon Local Government Act Local Law* (Section 29. Hawkers, Traders and Stall Holders). To assist Shire officers in the assessment of mobile trader applications the Shire has developed Policy No. D001 – Mobile Trading.

It is understood that the informal parking area in the Robinson Street road reserve is well utilised, with it

sometimes acting as an overflow to the fish cleaning area; and that at certain times of the day the area is utilised by vehicles to park while waiting for access to the caravan parks within the settlement. There has also been an increase over recent years in the number and size of boats brought to Coral Bay, and an increase in the size of caravans on WA roads.

Coral Bay also receives a significant number of day visitors evident by the demands on the informal parking area at the western of Robinson Street, and the number of vehicles using the private carpark associated with the commercial centre on Robinson Street. The approval of any mobile traders located within the Robinson Street and/or Banksia Drive road reserves will disrupt the established traffic and pedestrian movements on and around these areas. Considering the high number of applications received, and the likelihood of further applications, it is important that Shire officers and Councillors have a full understanding of the impacts of these proposals on the established vehicle and pedestrian movements in Coral Bay.

There are a number of possible other developments in Coral Bay that will add an additional load to the network being the redevelopment of the Ningaloo Reef Resort (proposed RAC redevelopment), future workers accommodation that will free up sites for holiday makers, new holiday home development, development of the vacant tourism sites, and the new fuel retail site. These developments are likely to trigger a demand for further infrastructure investment in Coral Bay being the extension to Banksia Drive, upgrades to pedestrian infrastructure and parking along Robinson Street (associated with the beach area), pedestrianisation or traffic control/one-way system to the western portion of Robinson Street, and the function of French Street within the overall network.

Whilst many of the above matters have been considered in the *Coral Bay Settlement Structure Plan 2014* it is fair to say that these matters are associated with the long-term vision of Coral Bay: “*Determination of the vision and ‘sense of place’ for Coral Bay looking forward 25 years*”. In reality the demand for visitation to Coral Bay has probably accelerated beyond the growth curve envisioned by the Coral Bay Settlement Structure Plan.

With this in mind, and taking a strategic approach to the above matters it is recommended that Council directs the CEO to engage the services of a suitably qualified person (Qualified Traffic Engineer) to undertake the following:

- Assess the impacts of the operation of mobile traders in the locations proposed for the current applications, and any future applications received prior to finalisation of the consultant engagement, on the existing vehicle and pedestrian movement network in Coral Bay;
- Assess the impact of Council potentially nominating the informal parking area within the road reserve of Robinson Street (opposite the northern end of French Street) as a designated mobile trader area;
- Undertake a traffic count of vehicles using Robinson Street and Banksia Drive at peak holiday times and provide advice on any stress points within the system, and possible measures to address the identified concerns;
- Provide advice on appropriate traffic management associated with the release of the proposed retail fuel outlet on the corner of Banksia Drive and Monck Head Drive (Lot 62) Coral Bay;
- Review the current parking arrangements at Coral Bay and provide a comment on the urgency for the delivery of the Robinson Street upgrades as outlined in the Coral Bay Settlement Structure Plan 2014 - Appendix A Coral Bay Detailed Area Concept Plans.

It should be noted that the procurement of consultancy advice is required to be consistent with the Shire’s established procurement policy, and it is likely that the fees associated with the above work may be in the order of \$20k to \$25k. It is therefore recommended that Council direct the Shire’s Chief Executive Officer (CEO) to identify the funds required to complete this work and liaise with the Gascoyne Development Commission (GDC) in regard to a co-contribution for the above studies.

#### **Consultation:**

This report has been referred internally within the Shire for input from the CEO and the Executive Manager Infrastructure Services, who support the recommendations of this report.

**Statutory Environment:***Planning and Development Act 2005**Planning and Development (Local Planning Schemes) Regulations 2015**Local Government Act 1995**Shire of Carnarvon Local Government Act Local Laws 1998***Relevant Plans and Policy:**

Shire of Carnarvon Local Planning Scheme No. 11

Shire of Carnarvon Local Planning Strategy 2017

Coral Bay Settlement Structure Plan 2014

Shire of Carnarvon Corporate Business Plan 2018 – 2022

Shire of Carnarvon Strategic Community Plan 2018 - 2028

**Financial Implications:**

The financial implications associated with the proposed consultant engagement has been outlined above. However, it is suggested that the Shire discuss with the GDC the possibility of a co-contribution to the proposed project.

**Risk Assessment:**

There is a significant risk in Council approving mobile trader applications on an ad hoc basis without a full understanding of the impacts of these proposed activities on the vehicle and pedestrian network of Coral Bay. There is also evidence that in some areas the road network may be reaching capacity and therefore it is timely to receive traffic engineering advice on the likely problem areas in the short to medium term so that these matters can be strategically addressed.

**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
<b>1.2</b>	<b>Thriving tourism industry within the district/region</b>
<b>1.2.1</b>	Promote the district of the Shire of Carnarvon as a tourism destination within the wider Coral Coast tourism region
<b>1.2.2</b>	Support the development and promotion of tourism attractions in the district of the Shire of Carnarvon
<b>1.3</b>	<b>Transport hubs that support a thriving region</b>
<b>1.3.1</b>	Provide and maintain airports at Carnarvon and Coral Bay
<b>1.3.2</b>	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
<b>2.1</b>	<b>Valued natural environment, for use and enjoyment by current and future generations</b>
<b>2.1.1</b>	Work with other government and non-government organisations to control weeds and pests, and undertake other conservation measures
<b>2.2</b>	<b>Open, accessible, healthy foreshore and waterways</b>
<b>2.2.3</b>	Monitoring water quality
<b>2.4</b>	<b>Waste management practices that are efficient and sustainable</b>

<b>2.7</b>	<b>Regulated land use to meet the current and future needs of the community</b>
<b>2.7.1</b>	Incorporate appropriate planning controls for land use planning and development
<b>2.7.2</b>	Adopt appropriate land use planning and building regulation practices

## **Objective 5: Civic**

*Strong and listening Council.*

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

### **Comment:**

This report recommends that the matters outlined below be approved by Council to allow for the due consideration of the mobile trader applications received at the Shire, and to provide strategic input into the impacts of likely future developments and the overall review of planning in Coral Bay.

### **OFFICER'S RECOMMENDATION**

- 1) *That Council directs the CEO to engage the services of a suitably qualified person (Qualified Traffic Engineer) to undertake the following:*
  - a. *Assess the impacts of the operation of mobile traders in the locations proposed for the current applications, and any future applications received prior to finalisation of the consultant engagement, on the existing vehicle and pedestrian movement network in Coral Bay;*
  - b. *Assess the impact of Council potentially nominating the informal parking area within the road reserve of Robinson Street (opposite the northern end of French Street) as a designated mobile trader area;*
  - c. *Undertake a traffic count of vehicles using Robinson Street and Banksia Drive at peak holiday times and provide advice on any stress points within the system, and possible measures to address the identified concerns;*
  - d. *Provide advice on appropriate traffic management associated with the release of the proposed retail fuel outlet on the corner of Banksia Drive and Monck Head Drive (Lot 62) Coral Bay;*
  - e. *Review the current parking arrangements at Coral Bay and provide a comment on the urgency for the delivery of the Robinson Street upgrades as outlined in the Coral Bay Settlement Structure Plan 2014 - Appendix A Coral Bay Detailed Area Concept Plans.*
- 2) *That Council directs the CEO to identify the funds required to complete this work and to liaise with the Gascoyne Development Commission (GDC) in regard to obtaining a co-contribution for the above study.*
- 3) *Should the proposed financial cost to the Shire received through the RFQ process exceed \$25k Council directs the CEO to bring the matter back to Council for their approval.*

Date of Meeting:	27 November 2019
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	Jennifer MacKellin – Executive Manager Community Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

#### Summary of Item:

The Shire of Carnarvon is committed to being recognised as ‘Small Business Friendly’ through demonstrated actions, activities and policies that support this commitment. The Small Business Development Corporation encourages Local Governments to sign the ‘Small Business Friendly Local Governments Charter’ to show they have committed to work with, and support, small business.

#### Description of Proposal:

That the Shire of Carnarvon sign the ‘Small Business Friendly Local Governments Charter’ as a part of its commitment to local small businesses.

#### Background:

The development of a ‘strong and growing community, with a thriving regional centre, abundant business opportunities and jobs’ was identified by the Shire of Carnarvon as a priority in its Strategic Community Plan 2018-2028 goal of economic growth. To support this goal, the Shire has been working on strategies to meet this goal including:

1. **Purchasing Policy C002** – this policy provides for purchasing goods and services locally, wherever possible:  
*Buy Local*  
26. *As much as practicable, the Shire shall endeavour to:*  
(a) *consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses;*  
(b) *consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);*  
(c) *ensure that procurement plans address local business capability and local content;*  
(d) *explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses;*  
(e) *avoid bias in the design and specifications for Requests for Quotation and Tenders – all Requests must be structured to encourage local businesses to bid; and*  
27. *A qualitative weighting may be afforded in the evaluation of quotes and tenders where suppliers are located within the boundaries of the Shire, or substantially demonstrate a benefit or contribution to the local economy.*  
28. *A regional price preference may be afforded under the C035 Regional Price Preference Policy.*
2. **Regional Price Preference Policy C035** – this policy seeks to maximise the use of competitive local business in the procurement of goods and services and to encourage employment of local people as a way to encourage economic growth within the town and region. This Policy applies to all purchases over \$50,000 (excluding GST) for goods or services under Purchasing Policy (C002), with the exception of quotations obtained from a supplier under an existing Preferred Supplier Contract of a Pre-Qualified Supplier. On a case-by-case basis, the policy may be applied to purchases between \$6,000 to \$49,999.
3. **Weekly invoice payments** – the Shire recognises the impact that delays in payment may have on small businesses. The Shire has a weekly payment run, which enables businesses to receive payment more promptly after an invoice is received.

4. **Local quotes** - within the purchasing policy is a requirement to obtain quotes for any purchase over \$2500. When seeking quotes staff contact local suppliers, if available, to provide an opportunity to quote.
5. **Business awards** – in conjunction with Regional Development Australia, the Gascoyne Development Commission, the Small Business Development Commission and Business Local and the Carnarvon Chamber of Commerce & Industry, the Shire will be supporting the Gascoyne Business Awards to recognise businesses within in our community.
6. **Information sessions and workshops** – planning is underway for information sessions and workshops to be held in 2020 that will provide further information to small businesses on a range of topics including the writing of grants and tenders to enable them to be more competitive.
7. **Tourism** – recognising the importance of tourism to local small businesses, the Shire is working closely with tourism operators to encourage tourists to visit Carnarvon and explore the local area. The Carnarvon Visitors Centre is involved in a number of initiatives that encourage the economic growth of Carnarvon, which supports small businesses. These initiatives include the highly successful “Buy West Eat Best” campaign that is associated with the Gascoyne Food Festival and encourages local food businesses to prepare specialist menus for guests that hero local fresh produce. The Shire has committed money, through its Community Growth Funds, to festivals and events that draw tourists to the town and supports local businesses including micro businesses.
8. **Buy local campaigns** – the Shire supports initiatives undertaken by other bodies to encourage local purchasing.

**Consultation:**

Carnarvon Chamber of Commerce and Industry – the Shire of Carnarvon is a member of the Chamber and appreciates its feedback on issues of importance to local small businesses.

Local small business owners – the Shire President and CEO have both encouraged community members, including small business owners, to meet with them to discuss issues of importance that might be considered by Council. The Executive Leadership Team has undertaken to regularly engage with businesses in order to better understand their needs.

**Statutory Environment:**

Section 3.57 of LGA, Regulation 11A of Functions & General Regulations

Local Government (Functions and General) Regulations 1996 Regulation 11 and Regulation 18(4)

Local Government Act 1995 (“the Act”) and the Local Government Act (Functions and General) Regulations 1996 (“the Regulations”).

LGA 1995 s. 3.57 LG F&G Reg. 1996 Part 4A – Regional price preference

**Relevant Plans and Policy:**

Purchasing Policy C002

Regional Price Preference Policy C035

**Financial Implications:**

Nil

**Risk Assessment:**

N/A

Community & Strategic Objectives:

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
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
1.2.3	Support the development and promotion of cultural tourism 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

**Comment:**

This reports demonstrates that the Shire of Carnarvon has committed to both the economic growth of Carnarvon and its support of local businesses. The activities undertaken by the Shire are equal to or greater than those identified, by the Small Business Development Corporation, to be identified as 'Small Business Friendly'.

**OFFICER'S RECOMMENDATION**

*That the Shire of Carnarvon sign the Small Business Friendly Local Governments Charter as a part of its commitment to local small businesses.*



<b>Date of Meeting:</b>	27 November 2019
<b>Location/Address:</b>	N/A
<b>Name of Applicant:</b>	Carnarvon Chamber of Commerce Inc. Di Ramirez, Lee Anne Daly, Stephanie Perry, Pam Greenup, Mem Beard
<b>Name of Owner:</b>	N/A
<b>Author/s:</b>	Jennifer MacKellin – Executive Manager Community Services
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements:</b>	Simple Majority

**Summary of Item:**

Support is requested for a contribution of \$1,000 for a 'Buy Local' campaign being conducted by the Carnarvon Chamber of Commerce Inc. This request falls outside of the guidelines for Community Growth Funds (Policy C025), due to application closing dates, and it is requested that Council consider the use of funds allocated to Community Growth Funds for this request.

**Description of Proposal:**

That the Shire of Carnarvon provide the Carnarvon Chamber of Commerce Inc. with \$1,000 for their 'Buy Local' campaign. These funds would be used to as a cash prize as a part of this campaign.

**Background:**

The Carnarvon Chamber of Commerce Inc. is an established association representing the business community of Carnarvon. The Mission of this association is 'To improve and enhance the economic vitality and the quality of life for the total community and area'. As at 12 November 2019, there were 12 local businesses committed to the campaign. Each business is contributing \$250 cash and a \$50 voucher for their business, to be used as prizes in the campaign.

The campaign will commence on 2 December 2019. There campaign will consist of:

- 4 x weekly prizes to be drawn (Business vouchers)
- A minimum spend of \$50 per shopper to enter the prize draw
- Retailers will be promoting their own business and the region
- Posters advertising the campaign will be displayed in participating retailers
- Marketing will include radio and social media

A request such as this would normally be assessed through the Shire of Carnarvon Community Growth Funds (Policy C025), as a 'Small Assistance Donation up to \$1,000'. This group has identified that it only commenced work on this campaign on 8 November 2019. The final round of Community Growth Fund applications for 2019 closed on 30 October 2019. As the next round of applications does not close until 28 February 2020, the group will not be eligible to apply for Community Growth Funds through the policy guidelines.

Community Growth Funds are provided to assist community groups with projects and events which contribute to the social and economic development of the community.

Council provided a budget of \$65,000 for Community Growth Funds in the 2019/20 budget. There is currently a remaining balance of \$49,000 of these funds, with \$20,000 committed to iconic events which will be held in 2020. The remaining balance of \$29,000 is available for Community Growth Funds expenditure.

This campaign supports both the Shire's commitment to supporting small businesses and economic growth.

**Consultation:**

The Shire of Carnarvon Executive Leadership Team discussed this request for support and were in favour of supporting the request.

**Statutory Environment:** N/A

**Relevant Plans and Policy:**

Community Growth Funds Policy C025

**Financial Implications:**

The contribution of \$1,000 from the Community Growth Funds budget (02J2) will have a negligible impact on this budget.

**Risk Assessment:**

This contribution would pose no significant risk for the Shire of Carnarvon.

**Community & Strategic Objectives:**

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
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
1.2.3	Support the development and promotion of cultural tourism 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

**Comment:**

The commitment by the Shire of Carnarvon to supporting small businesses and the economic growth of the community are identified priorities of the Council as identified in the Strategic Community Plan 2018-2028. Should Council provide this request, it further demonstrates this commitment.

**OFFICER'S RECOMMENDATION**

*That a contribution of \$1,000 be made by the Shire of Carnarvon to the Carnarvon Chamber of Commerce Inc. in support of a 'Buy Local' campaign to be held in December 2019. Funds for this contribution are to be provided through the Community Growth Funds budget (02J2).*

**Date of Meeting:** 26 November 2019  
**Location/Address:** R37457 MacLeod WA 6701  
**Name of Applicant:** Councillor Fullerton, Nelson and Maslen  
**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:** 24 September 2019

---

#### Summary of Item:

Councillors Fullerton, Nelson, and Maslen have given notice that they intend to submit a Notice of Motion at the Ordinary Meeting of Council to be held on 26 November 2019 recommending that Motion FC 11/9/19 be revoked.

#### Description of Proposal:

The proposed Notice of Motion to revoke FC 11/9/19 relates to the following motion passed at the Ordinary Meeting of Council of 24 September 2019:

#### “ELECTED MEMBER MOTION (FC 11/9/19):

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.

MOTION CARRIED F5/A4".

The Minutes of the Ordinary meeting of Council of 22 October 2019 record the following:

**"ORDINARY MEETING OF COUNCIL – 24<sup>TH</sup> SEPTEMBER 2019**

**NOTICE OF A MOTION TO REVOKE MOTION FC11/9/19 – REMOVAL OF BLOWHOLES SHACKS ASSESSED AS BEING IN A DANGEROUS CONDITION.**

*In accordance with the Local Government (Administration) Regulations 1996 Pt.2 s.10, Crs' Fullarton, Nelson and Maslen have advised that they will be submitting a Notice of Motion at the Ordinary Meeting of Council to be held on 26<sup>th</sup> November 2019 recommending that Motion FC 11/9/19 be revoked."*

This report therefore provides background and further information on this matter to inform Councillors in considering the full implications of the motion.

**Background:**

The previous officers report – 'Agenda Item 9.1 Notice of Motion – Removal of Blowholes Shacks Assessed as Being in a Dangerous Condition' can be found at **Schedule 9.1(a)**. The report provides important background to the history of the demolition orders issued to shack owners. The report also provided information on recent meetings between Shire officers and members of the Blowholes Preservation Association (BPA). The report stated:

*"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 some 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."*

Because Council resolved to direct the CEO to immediately implement the Demolition Orders on the following shacks being no's: 6, 7, 8, 10, 12, 16, 21, 23, 24, 26, 28, 30, 41 and 43 due to their unsafe condition as assessed on 8 October 2018, and due to the time lag between the resolution and the previous building report, it was

considered prudent to request the Shire's contract building surveyor to reassess the subject shacks to ensure accuracy of the information and to record any changes in the condition of the shack(s).

A further inspection of the shacks was undertaken on 16 October 2019 to determine structural sufficiency. The results of this inspection can be found at **Schedule 9.1(b)**. In summary the inspection revealed that all of the shacks the subject of the resolution are still considered to be in a dangerous condition.

It should be noted that whilst some owners of shacks may consider that the recladding and/or repainting of shacks may be considered to be improvements to the safety of the structures, in many cases the underlying frames and foundation members are so corroded that such measures are not altering the structural sufficiency of the structures.

#### **Consultation:**

It should be noted that Shire officers have consulted with the LGIS on the potential risk of the proposed motion to Council Members and staff. The matter is outlined in detail under the Risk Assessment section of this report below.

#### **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:**

As noted in the earlier report, there will be financial implications to the Shire should 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.

Discussions with shack owners over the past two and a half years have focused on a cooperative approach to making good any shacks determined to be unsafe, with recent assistance provided by way of free disposal of materials at the Browns Range landfill. It goes without saying that the voluntary removal of unsafe structures by the shack owners/BPA members would ensure that the forceful removal of shacks by Shire contractors does not fall solely with the Shire and is not burdened on the Shire ratepayers.

#### **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. The potential liability that may fall to Council Members and Staff in rescinding the motion is of concern, and therefore the advice of the LGIS has been sought in regard to this matter. The following advice has been received from the LGIS:

If the shacks are built on land controlled or maintained by the Shire., there are a number of issues (or consequences) that may arise if Council votes to rescind the previous decision of Council to demolish the squatter shacks including, but not limited to, the following:

- Indemnity under the Shire’s Public Liability Policy:
  - The LGIS PL Policy (**Policy**) provides protection for the Shire to claims for personal injury caused by an occurrence in connection with the Business of the Member;
  - It is a condition of the Policy (Condition 5) that the Shire must take reasonable care including to take all reasonable precautions to prevent personal injury and damage to property, and comply and ensure its employees, servants and agents comply with all statutory obligations, by-laws or regulations imposed by any public authority for the safety of persons or property;
  - The Shire may not be entitled to indemnity under the Policy for claims arising from a personal injury (or other liability claims) in circumstances where the Shire:
    - Is responsible to control and maintain the land upon which the shacks are built;
    - Is aware that the shacks are in a state of disrepair (and potentially structurally unsound) and not in a safe and sound condition;
    - Resolves not to take any steps to demolish the unsafe shack;
    - Has therefore, potentially, not taken all reasonable precautions to prevent personal injury.
- Potential Liabilities:
  - The Shire may have broad responsibilities of the land and the shacks as an occupier or controller of that land or having responsibilities for management of that land;
  - A breach of these responsibilities may result in fines, exposure to damages to the Shire and/or personal liabilities for the Town’s officers;
  - An employee who makes, or participates in making, decisions that affect the business of the Shire may be exposed to the above liabilities. This includes, but not limited to, the CEO, directors, managers, coordinators and supervisors (depending upon the applicable circumstances);
  - The Shire does hold a Management Liability Policy of Insurance (separate to the Policy) which may respond to some, or all, of the above potential claims against the Shire and/or Employees. However, there are exclusions under that policy which may be triggered, and therefore coverage would not be available, being conduct exclusions for any deliberately dishonest or deliberately fraudulent act or omission by the Employee or Shire or an intentional breach of the law by them.

LGIS has advised that it should be noted that this information is a generalised assessment and the Shire may wish to seek their own legal advice to confirm the extent of liability on any proposed course of action or inaction.

It should be noted that in order to ensure that some action is being taken on the matter of the Blowholes shacks, it is recommended that the following actions be considered in principal, and that the matter is “left on the table” whilst a legal opinion is obtained in regard to the potential liability of these actions to Council Members and Staff.

Recommended actions:

1. That the owners of the shacks identified as being in a dangerous state on the site inspection of 16 October 2019 undertaken by the Shire’s contract building surveyor (shacks 6, 7, 8, 10, 12, 16, 21, 23, 24, 26, 28, 30, 41 & 43) shall within 28 days of this resolution make good (that is remediate to a safe

condition) their shack(s) to the satisfaction of the Shire's consultant building surveyor. After a further inspection of the shacks by the Shire's consultant building surveyor (after the 28 day period), if the subject shack(s) are still considered to be in a dangerous condition the owner(s) shall cordon off the shack(s) to the satisfaction of the Shire's Executive Manager Infrastructure Services, shall not allow the shack(s) to be occupied, and shall remove the shack within 90 days of the date of this resolution.

2. The Shire's CEO shall require the Shire's contract building surveyor to undertake a further inspection of the shacks at the end of April 2020 to ensure the structures have remained in a safe condition. If it is found that any of the shack(s) are in dangerous condition, the matter shall be brought back to Council for their consideration with Council resolving to direct the CEO to undertake the immediate removal of those shacks considered at the time of the further inspection to be in a dangerous condition.

Additional to the above the failure to undertake the development/improvements to the daytime visitor area as outlined in the Blowholes Reserves Management Plan 2014 – 2036 may have a potential reputational and financial risk to the Shire due to the negative visitor experience. The Shire has recently received significant social media and State media coverage acknowledging the district as the new "must see" visitor destination in WA, and therefore it is important that the longstanding issues associated with the area be resolved.

#### **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
<b>1.2</b>	<b>Thriving tourism industry within the district/region</b>
<b>1.2.1</b>	Promote the district of the Shire of Carnarvon as a tourism destination within the wider Coral Coast tourism region
<b>1.2.2</b>	Support the development and promotion of tourism attractions in the district of the Shire of Carnarvon
<b>1.3</b>	<b>Transport hubs that support a thriving region</b>
<b>1.3.1</b>	Provide and maintain airports at Carnarvon and Coral Bay
<b>1.3.2</b>	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
<b>2.1</b>	<b>Valued natural environment, for use and enjoyment by current and future generations</b>
<b>2.1.1</b>	Work with other government and non-government organisations to control weeds and pests, and undertake other conservation measures
<b>2.2</b>	<b>Open, accessible, healthy foreshore and waterways</b>
<b>2.2.3</b>	Monitoring water quality
<b>2.4</b>	<b>Waste management practices that are efficient and sustainable</b>
<b>2.7</b>	<b>Regulated land use to meet the current and future needs of the community</b>
<b>2.7.1</b>	Incorporate appropriate planning controls for land use planning and development
<b>2.7.2</b>	Adopt appropriate land use planning and building regulation practices

#### **Objective 5: Civic**

*Strong and listening Council.*

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

#### **Officers Recommendation:**

It is recommended that the proposed members motion be ‘left on the table’ until further specialist legal advice is obtained on the matter due to the potential risk to Council and Shire staff. It is also recommended that recommended actions 1 & 2 above be considered by Council as a possible way forward, and should these actions be considered to have merit, that Council directs the CEO to obtain legal advice on these matters also.

In summary, this report provides background information, building (shack) condition information, and initial LGIS legal advice to inform decision making by Councillors.

This report relates principally to the notice that Councillors Fullarton, Nelson, and Maslen intend to submit a Notice of Motion at the Ordinary Meeting of Council to be held on 26 November 2019 recommending that Motion FC 11/9/19 be revoked as below:

#### **ELECTED MEMBER MOTION**

***That Council revoke Motion FC 11/9/19 - Removal of Blowholes Shacks assessed as being in a dangerous condition.***