



SHIRE OF CARNARVON  
**MINUTES**  
ORDINARY COUNCIL MEETING  
TUESDAY 23 JANUARY 2024

**CONFIRMATION OF MINUTES**

These minutes were confirmed by the Council on

as a true and accurate record

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Chairman

Shire Council Chambers  
Stuart Street Carnarvon, West Australia  
Phone: (08) 9941 000  
Fax: (08) 9941 1099  
Website – [www.carnarvon.wa.gov.au](http://www.carnarvon.wa.gov.au)

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## DISCLAIMER

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

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

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

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## INFORMATION ON PUBLIC QUESTION TIME

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

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

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

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

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

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

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

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

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

### SPECIAL MEETINGS OF COUNCIL

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

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The meeting was declared open by the Presiding Member at 1.00pm

*The Shire of Carnarvon acknowledges and respects the Yinggarda (Carnarvon) and Baiyungu (Coral Bay) as the traditional custodians of the lands where we live and work. We pay our respects to Elders, past, present and emerging. The Shire of Carnarvon is committed to honouring the traditional custodians' unique cultural and spiritual relationships to the land, waters and seas and their rich contribution to society.*

**ATTENDANCE BY INSTANTANEOUS COMMUNICATION**

**COUNCIL RESOLUTION OCM 01/01/24**

**Moved:Cr Burke Maslen**

**Seconded: Cr Luke Vandeleur**

***That Cr Kelly be permitted to join the meeting by instantaneous communication from his residence in Perth as approved by Council.***

**FOR:** Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

**AGAINST:** Nil

**ABSENT:** Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**

**1 ATTENDANCE, APOLOGIES & APPROVED LEAVE OF ABSENCE**

Cr Eddie Smith .....Presiding Member/Shire President  
 Cr Burke Maslen ..... Councillor, Gascoyne/Minilya Ward  
 Cr Adam Cottrell ..... Councillor, Coral Bay Ward  
 Cr Marco Ferreirinha .....Councillor, Plantation Ward  
 Cr Luke Vandeleur .....Councillor, Town Ward  
 Cr Paul Kelly ..... Councillor, Town Ward(instantaneous communication)  
 Cr Dudley Maslen .....Councillor, Town Ward

Alan Thornton.....Acting Chief Executive Officer  
 David Nielsen ..... Executive Manager, Infrastructure Services  
 Stefan Louw .....Manager, Regulatory Services  
 Dannielle Hill..... Senior Executive Officer

**Apologies**

Cr Luke Skender .....Councillor, Town Ward

**Leave of Absence ..... Nil**

**Press..... Nil**

**Observers ..... Nil**

## 2 DECLARATIONS OF INTEREST

(Elected Members and Officers 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.)

- 2.1 Cr Vandeleur – Impartiality Interest – Item 7.4.1 – Tender RFT 10/2023 Repair Town Levees & Reconstruction of Floodgates
- 2.2 Cr B Maslen – Financial Interest – Item 7.3.1 – Shire of Carnarvon LPS 13 – Scheme Amendment 8

## 3 PUBLIC QUESTION TIME

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

Public Question Time commenced at 1.02pm

### 3.1 QUESTIONS TAKEN ON NOTICE FROM PREVIOUS MEETING

Nil

### 3.2 PUBLIC QUESTION TIME

Public Question Time was closed at 1.02pm

## 4 CONFIRMATION AND RECEIVING OF MINUTES

### CONFIRMATION OF MINUTES

- 4.1 Minutes of the Ordinary Council Meeting - 12 December 2023

#### COUNCIL RESOLUTION OCM 02/01/24

**Moved:** Cr Burke Maslen

**Seconded:** Cr Luke Vandeleur

***That the minutes of Ordinary Council Meeting held on 12 December 2023 be confirmed as a true record of proceedings.***

**FOR:** Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

**AGAINST:** Nil

**ABSENT:** Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**

## ACCEPTANCE OF MINUTES

### 4.2 Minutes of the Audit & Risk Management Committee Meeting – 16 January 2024

#### **COUNCIL RESOLUTION OCM 03/01/24**

**Moved:** Cr Burke Maslen

**Seconded:** Cr Luke Vandeleur

***That the minutes of the Audit & Risk Management Committee Meeting held on 16 January 2024 be accepted by Council.***

**FOR:** Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

**AGAINST:** Nil

**ABSENT:** Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**

## **5 ANNOUNCEMENTS BY THE PRESIDENT WITHOUT DISCUSSION**

Nil

## **6 PRESENTATIONS, PETITIONS AND MEMORIALS**

Nil



## 7 DEPARTMENTAL REPORTS

### 7.1 GOVERNANCE

#### 7.1.1 ANNUAL REPORT, FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2023 AND ELECTORS MEETING

File No:	ADM0032
Location/Address:	N/A
Name of Applicant:	Shire of Carnarvon
Name of Owner:	N/A
Author(s):	Alan Thornton, Deputy Chief Executive Officer
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Absolute Majority
Previous Report:	October 2022
Schedules:	1. Annual Report 2022/2023

#### Authority/Discretion:

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

#### Summary of Item

The purpose of this report is for Council to consider accepting the 2022/23 Annual Report for the Shire of Carnarvon and to set a date and time for the Annual General Meeting of Electors.

#### Background

Section 5.53 of the *Local Government Act 1995* requires the preparation of an Annual Report and details the contents required within that report which includes the audited Annual Financial Report. Section 5.54 requires that the Annual Report for each financial year be accepted no later than 31 December after that financial year or within two months of receiving the auditor’s report.

The auditor’s report for 2022/2023, provided by contract auditor William Buck, was received from the Office of the Auditor General (OAG) on 18 December 2023.

The *Local Government Act 1995* requires that an Electors’ General Meeting to be held within 56 days of acceptance of the Annual Report. Pending adoption of the Annual Report, the Electors’ General Meeting will be scheduled for 12 noon on Friday 16 February 2024 at the Shire of Carnarvon’s, Council Chambers.

**Stakeholder and Public Consultation**

William Buck Accountants & Advisors  
The Office of the Auditor General

**Statutory Environment**

*Local Government Act, 1995 – Section 5.53 Annual reports.*  
*Local Government Act, 1995 – Section 5.54 Acceptance of annual reports. Absolute majority required.*  
*Local Government Act, 1995 – Section 5.27 Electors’ general meeting.*

**Relevant Plans and Policy**

N/A

**Financial Implications**

There are no direct financial implications from the officer’s recommendation to receive the Annual Report and to set the date for the Electors’ General Meeting. However, the financial implications of the content of the financial statements are the very basis of this report. The Auditor’s Report provides further detail in the Risk Assessment section of this report – see below.

**Risk Assessment**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	A significant adverse audit 2023 finding was that no comprehensive inspection and condition assessment of individual infrastructure assets within this asset class, either by management or the independent valuer.	Extreme	As part of the Regulation 17A review a comprehensive inspection and condition assessment of these assets should also be undertaken to ensure that asset impairments and updated asset useful lives are considered in the asset valuations.
Health & Safety	N/A	N/A	N/A
Reputation	The delay in calling an Electors’ General Meeting (Annual Electors’ Meeting) has the potential to raise concerns about the Shire’s	Moderate	Open and transparent reporting of the reason for the delay in this report which is made publicly available.

	financial management and cause reputational damage.		
Service disruption	N/A	N/A	N/A
Compliance	Adoption of the Annual Report is an annual compliance obligation. Should statutory timeframes not be met a non-compliance will be recorded in the Compliance Annual Review.	Extreme	Adoption of the Annual Report within statutory timeframes will satisfy compliance obligations.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	Fraudulent reports	High	The objective of the audit is to obtain reasonable assurance that the financial report is free from material misstatement, either by fraud or error. As expressed in the Auditor’s Report.

**Community and Strategic Objectives**

The proposal aligns with the following desired objectives as expressed in the *Community Strategic Plan 2022-2032*:

**OBJECTIVES**

In 2040 Carnarvon is a place where:

- *Our community is engaged, inclusive and supportive*

**ADDITIONAL FOCUS AREAS:**

- *Improve the trust between citizens and the Shire of Carnarvon*

**BIG IDEAS FOR THE FUTURE OF CARNARVON:**

- *N/A*

**Comments**

The Annual Report for 2022/2023 has been prepared in accordance with section 5.53 of the Act which lists the minimum content requirements. This year’s Annual Report highlights the achievements of the shire during the last financial year and the continued delivery of quality local government services to the community and the completion of significant capital works projects.

Following adoption by Council, the report will be made available to the public in preparation for the Annual Electors Meeting which is recommended to be held 16 February 2024. The Audit and Risk Committee met on 16 January 2024 to consider the audited annual financial report and management letter and resolved to recommend Council receipt and adoption.

**OFFICER’S RECOMMENDATION**

*That Council, by Absolute Majority, pursuant to Section 5.54 of the Local Government Act 1995, resolves to:*

1. *accept the Shire of Carnarvon Annual Report for the 2022/2023 Financial Year, incorporating the Shire President’s Report, CEO’s Report, Financial Statements and Auditors Report, presented at Schedule 1 and make the Annual Report publicly available via the Shire website, at the Shire Administration Centre and at the Carnarvon Regional Library;*

2. *set the date for the Annual Electors' General Meeting as 16 February 2024 at the Shire of Carnarvon Council Chambers, Stuart Street, Carnarvon; and*
3. *give Public Notice of the meeting via local print and social media platforms and notices in public venues in Carnarvon and Coral Bay.*

**COUNCIL RESOLUTION OCM 04/01/24****Moved: Cr Paul Kelly****Seconded: Cr Dudley Maslen**

*That Council, by Absolute Majority, pursuant to Section 5.54 of the Local Government Act 1995, resolves to:*

1. *accept the Shire of Carnarvon Annual Report for the 2022/2023 Financial Year, incorporating the Shire President's Report, CEO's Report, Financial Statements and Auditors Report, presented at Schedule 1 and make the Annual Report publicly available via the Shire website, at the Shire Administration Centre and at the Carnarvon Regional Library;*
2. *set the date for the Annual Electors' General Meeting as 16 February 2024 at the Shire of Carnarvon Council Chambers, Stuart Street, Carnarvon;*
3. *give Public Notice of the meeting via local print and social media platforms and notices in public venues in Carnarvon and Coral Bay; and*
4. *that a separate link be provided on the Shire website to the President Report, CEO Report and financials contained within the financial report for ease of reading by the public.*

**FOR:** Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

**AGAINST:** Nil

**ABSENT:** Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**

Note : It was agreed that due to the large size of the Annual Report that a separate link be provided on Council's website for the sections of the report as listed in the recommendation for ease of the viewing public.

**7.1.2 ACTIONS PERFORMED UNDER DELEGATED AUTHORITY FOR THE MONTHS OF DECEMBER 2023 AND JANUARY 2024**

File No:	ADM0043
Location/Address:	N/A
Name of Applicant:	Shire of Carnarvon
Name of Owner:	N/A
Author(s):	Dannielle Hill, Senior Executive Officer
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Simple Majority
Previous Report:	Monthly Report
Schedules:	Nil

**Authority/Discretion:**

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

**Summary of Report**

This item reports on actions performed under delegated authority in December 2023 and January 2024.

**Background**

In accordance with the conditions of delegation and 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; and
- Affixing of Common Seal.

**Stakeholder and Public 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 arising from receiving this report.

**Risk Assessment**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A		
Health & Safety	N/A		
Reputation	Non-compliance with statutory requirements would result in reputational damage to the Shire	Low - 1	This agenda item aims to ensure that the Shire is compliant.
Service disruption	N/A		
Compliance	That the performed delegations are not reported to Council	Low - 1	This agenda item aims to ensure that the Shire is compliant in reporting delegated authority actions
Property	N/A		
Environment	N/A		
Fraud	N/A		

**Community and Strategic Objectives**

The proposal aligns with the following desired objectives as expressed in the *Community Strategic Plan 2022-2032*:

**OBJECTIVES**

**In 2040 Carnarvon is a place where:**

- *Our economy fosters investment and productivity in industries befitting Carnarvon’s physical and natural environment and that grows our horizons*

**ADDITIONAL FOCUS AREAS:**

- *Improve the trust between citizens and the Shire of Carnarvon*

**BIG IDEAS FOR THE FUTURE OF CARNARVON:**

- N/A

**Comments**

The following table detailing the actions performed within the organisation under delegated authority in December 2023 and January 2024 are submitted to Council for information.

**CEO DELEGATION**

Date	Donation
7 December 2023	Waiver of hire fee of Festival Grounds for TAFE – Drone Training – <i>Delegation No. 1.2.21 – Defer, Grant Discounts, Waive or Write Off Debts</i>

**ENVIRONMENTAL HEALTH**

**Food—Food Act 2008**

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
5/12/23	HFO23/016	Food business registration, Cheeki Pizzeria & Cheeki Patisserie, Mobile food trailer 1TPR148. 12 Smart Street, East Carnarvon	G.P. Condo & S.M. Condo	
13/12/23	HFO23/017	Temporary food business registration (island foods), Christmas Street Party 2023 and 18 Richardson St, South Carnarvon	Alilia Topui	

**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
A348	P37/23	2 WEST STREET SOUTH CARNARVON	VIEWING PLATFORM, GAZEBO, STAGE & FLAGPOLE	CARNARVON YACHT CLUB	15/12/2023
A4015	P40/23	22 WAHOO CT CORAL BAY	INTERNAL ALTERATIONS	3D EDGE DESIGNERS & PLANNERS	08/12/2023
A3088	P44/23	967 NORTH WEST COASTAL HWY CARNARVON	REPLACEMENT OF EXISTING SHED	BARRY MASON	15/12/2023

**Hawkers, traders and stall holders**

Shire of Carnarvon Local Government Act Local Laws, s.29

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
08/12/2023	P43/23	APPLICATION FOR MOBILE TRADING LICENCE	CHEEKI PIZZERIA AND CHEEKI PATISSERIE	Nil Nil

BUILDING SERVICES

Application No.	Owners Name	Lot & Street	Type of Building Work
B23/067	KEVIN & JANIE DUMBRELL	LOT 303 (131A) OLIVIA TERRACE, SOUTH CARNARVON	STAND ALONE GARAGE
B23/069	THE COUNTRY WOMENS ASSOCIATION OF WA	LOT 353 (14) STUART ST, CARNARVON WA 6701	DEMOLITION OF 2 X CLASS A DWELLINGS
B23/070	DEPARTMENT OF EDUCATION	LOT 101 (27) MARMION STREET, EAST CARNARVON WA 6701	INSTALL SOLAR PANELS TO EXISTING BUILDING

OFFICER'S RECOMMENDATION

*That Council, by Simple Majority, in accordance with Section 5.46 of the Local Government Act 1995, resolves to accept the reports outlining the actions performed under delegated authority for December 2023 and January 2024.*

**COUNCIL RESOLUTION OCM 05/01/24**

**Moved: Cr Burke Maslen**

**Seconded: Cr Luke Vandeleur**

*That Council, by Simple Majority, in accordance with Section 5.46 of the Local Government Act 1995, resolves to accept the reports outlining the actions performed under delegated authority for December 2023 and January 2024.*

FOR: Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

AGAINST: Nil

ABSENT: Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**



**7.1.3 FOI STATEMENT 2024**

File No:	ADM1880
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	Shire of Carnarvon
Author(s):	Dannielle Hill, Senior Executive Officer
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Simple Majority
Previous Report:	January 2023
Schedules:	1. FOI Statement January 2024

**Authority/Discretion:**

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

**Summary of Report**

The purpose of this report is to seek Council endorsement of the review of the Shire of Carnarvon Freedom of Information Statement. The last review was conducted in January 2023.

**Background**

In accordance with the Section 96 of the *Freedom of Information Act, 1992* it is a requirement of Council to undertake an annual review of its Freedom of Information Statement.

In reviewing the existing FOI Statement there were no changes made.

**Stakeholder and Public Consultation**

Nil

**Statutory Environment**

*Freedom of Information Act, 1992* – Section 96.

**Relevant Plans and Policy**

The Freedom of Information Statement is classed as a Council Policy and is referred to by staff when dealing with any Freedom of Information application/items relevant to this legislation.

**Financial Implications**

Nil

**Risk Assessment**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A		
Health & Safety	N/A		
Reputation	Non-compliance with statutory requirements would result in reputational damage to the Shire.	B-2	This agenda item aims to ensure that the Shire is compliant.
Service disruption	N/A		
Compliance	To not review the FOI Statement will be in breach of the FOI Act	B-2	This agenda item aims to ensure that the Shire is compliant with the FOI Act
Property	N/A		
Environment	N/A		
Fraud	N/A		

**Community and Strategic Objectives**

The proposal aligns with the following desired objectives as expressed in the *Community Strategic Plan 2022-2032*:

**OBJECTIVES**

In 2040 Carnarvon is a place where:

- *Our community is engaged, inclusive and supportive*

**ADDITIONAL FOCUS AREAS:**

- *Improve the trust between citizens and the Shire of Carnarvon*

**BIG IDEAS FOR THE FUTURE OF CARNARVON:**

- *N/A*

**Comments**

A copy of the updated Freedom of Information Statement is attached to this report for the Council’s information and consideration. In reviewing the document at an officer level there were no changes required to the existing statement.

**OFFICER'S RECOMMENDATION**

*That Council, by Simple Majority, pursuant to S.3.18 of the Local Government Act 1995 and in accordance with Section 96 of the Freedom of Information Act, 1992 resolves to endorse the Shire of Carnarvon Freedom of Information Statement of 2024 as presented in Schedule 1.*

**COUNCIL RESOLUTION OCM 06/01/24**

**Moved: Cr Burke Maslen**

**Seconded: Cr Luke Vandeleur**

*That Council, by Simple Majority, pursuant to S.3.18 of the Local Government Act 1995 and in accordance with Section 96 of the Freedom of Information Act, 1992 resolves to endorse the Shire of Carnarvon Freedom of Information Statement of 2024 as presented in Schedule 1.*

**FOR:** Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

**AGAINST:** Nil

**ABSENT:** Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**

**7.1.4 REQUEST FOR RENEWAL OF LICENCE - PANEL (PYLON ADVERTISING SIGN), PORTION OF LOTS 425 AND 565 CARNARVON ROAD, CARNARVON**

File No:	ADM0262
Location/Address:	Portion of Lots 425 & 565 Carnarvon Road, Carnarvon
Name of Applicant:	Primedia Pty Ltd
Name of Owner:	Shire of Carnarvon
Author(s):	Caroline Ballard, Senior Records Officer
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Simple Majority
Previous Report:	N/A
Schedules:	1. Market Valuation Report Lots 425 and 565 Carnarvon Road

**Authority/Discretion:**

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

**Summary of Report**

This report details a request from Primedia Pty Ltd (Licencee) seeking to renew a licence over a panel (pylon advertising sign) located on a portion of land, Lots 425 and 565, Carnarvon Road, Carnarvon. It is recommended that Council approve the renewal of the licence.

**Background**

An initial licence for a portion of the above-mentioned property commenced on 5 August 2013 for an initial period of 5 years, an option to renew for a further 5 years was exercised in October 2018, the current Deed of Extension of licence expired on 4 August 2023. The Shire received a request to renew the licence on 16 May 2023. A market valuation report was prepared in November 2023 by Opteon Solutions (**schedule 1**) which provides an in-depth market rental analysis and comparisons, the report summarises a market rental value of \$5,184.00 (ex. GST).

**Stakeholder and Public Consultation**

N/A

**Statutory Environment**

*Local Government Act 1995 section 3.58 Disposal of Property*

**Relevant Plans and Policy**

Policy CF018 Lease and Licensing Classification; Tier Three – Commercial Licence

**Financial Implications**

The cost of preparation of the licence, market valuation and maintenance will be paid by the licensee in accordance with Policy CF018.

This licence proposal will guarantee a set income of \$5184 per annum (ex.GST) through an annual Licence rental charge to be paid by the licensee, based on the valuation report. The rental fee will be reviewed annually (at the anniversary of commencement) based on CPI for the preceding quarter.

**Risk Assessment**

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

Risk Category	Description	Rating	Mitigating Action/s
Financial	The revenues earned from commercial leases in Carnarvon are an important income for the Shire.	C2 - Moderate	Renewing the lease mitigates the risk of loss of income to the Shire of Carnarvon
Health & Safety	N/A		
Reputation	N/A		
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	Environmental Risk	D2 – Low	If the licence were not renewed the land would require mediation (the licence requires the licensee to clear/remediate the land on termination of the agreement).
Fraud			

**Community and Strategic Objectives**

The proposal aligns with the following desired objectives as expressed in the *Community Strategic Plan 2022-2032*:

**OBJECTIVES**

In 2040 Carnarvon is a place where:

- *Our economy fosters investment and productivity in industries befitting Carnarvon’s physical and natural environment and that grows our horizons*

## ADDITIONAL FOCUS AREAS:

- N/A

## BIG IDEAS FOR THE FUTURE OF CARNARVON:

- N/A

**Comments**

Consistent with other commercial leases and licences in and around Carnarvon Airport Precinct it is recommended that Council grant a new licence for a five (5) year term with an option for a further five years in accordance with property disposal provisions under the *Local Government Act, 1995* and secure a continuing revenue stream.

**OFFICER'S RECOMMENDATION**

***That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, and the Shire of Carnarvon Policy CE018 Lease and Licensing Classification – Tier Three, resolves to:***

- 1. exercise the option and renew the licence over portion of Lots 425 and 565 Carnarvon Road, for a five-year term (and option for a further five years), subject to:***
  - a) an annual licence fee of \$5,184 (ex GST) per annum;***
  - b) conformity with the statutory provisions for 'Disposal of Property' under Section 3.58 of the Local Government Act, 1995; and***
  - c) licence documentation is prepared at the Licencee's cost to be invoiced to the Licencee upon execution of the licence.***
- 2. advertise by local public notice its intention to renew the licence for the land being a portion of Lots 425 and 565, Carnarvon Road, for a period of not less than two (2) weeks; and***
- 3. authorise the CEO to negotiate the details of the licence with the Licencee as outlined above, subject to no objections being received to the Public Notice for the proposed Disposal of Property.***

**COUNCIL RESOLUTION OCM 07/01/24**

Moved: Cr Burke Maslen

Seconded: Cr Luke Vandeleur

***That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, and the Shire of Carnarvon Policy CE018 Lease and Licensing Classification – Tier Three, resolves to:***

- 1. exercise the option and renew the licence over portion of Lots 425 and 565 Carnarvon Road, for a five-year term (and option for a further five years), subject to:***
  - a) an annual licence fee of \$5,184 (ex GST) per annum;***
  - b) conformity with the statutory provisions for 'Disposal of Property' under Section 3.58 of the Local Government Act, 1995; and***
  - c) licence documentation is prepared at the Licencee's cost to be invoiced to the Licencee upon execution of the licence.***
- 2. advertise by local public notice its intention to renew the licence for the land being a portion of Lots 425 and 565, Carnarvon Road, for a period of not less than two (2) weeks; and***
- 3. authorise the CEO to negotiate the details of the licence with the Licencee as outlined above, subject to no objections being received to the Public Notice for the proposed Disposal of Property.***

FOR: Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreira, Luke Vandeleur, Paul Kelly and Dudley Maslen

AGAINST: Nil

ABSENT: Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**

**7.1.5 POLICY REVIEW**

File No:	ADM0124
Location/Address:	N/A
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author(s):	Amanda Leighton, Manager People, Culture And Systems
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Absolute Majority
Previous Report:	7.1.6 Quarterly Policy Review
Schedules:	<ol style="list-style-type: none"> <li>1. EME035 Electronic Attendance at Meetings DRAFT</li> <li>2. EME036 Vexatious Complainant Policy DRAFT</li> </ol>

**Authority/Discretion:**

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

**Summary of Report**

The Shire of Carnarvon Council Policy Manual was presented to and adopted by Council at the Ordinary Meeting of Council on 23 August 2022. This agenda item forms part of a schedule to facilitate the regular formal review of the Council Policy Manual by Council. Table 2 in the comments section details the recommended changes to the policies.

**Background**

One of the primary functions of a Local Government Council is to determine the local government’s policies. Council policies focus on the strategic and statutory decision-making obligations of the Council. The policy may relate to an Express Power or Duty or a matter that is non-statutory and entirely discretionary. Council policies guide and inform the Local Government’s strategic, financial, and operational functions and may impact service levels provided to the community. Council policies apply to Council and employees when fulfilling their decision-making responsibilities.

A full review of all policies was completed by Council in August 2023. At that time the Council advised it was onerous to review all 71 policies at once and a quarterly review cycle would be more manageable.



The schedule for review is as follows:

Table 1

Month	Policy Numbers
March	EME001 to EME017
June	EME018 to EME034
September	CF001 to CF019
December	ID001 to ID005 and CD001 to CD013
New Policies	Presented to Council as required.

**Stakeholder and Public Consultation**

Nil.

**Statutory Environment**

Section 2.7 of the Local Government Act 1995 articulates the Role of Council, which includes determining policies of the local government.

The specific legislation for different policies is provided for reference in each policy document.

**Relevant Plans and Policy**

Shire of Carnarvon Policy Manual.

**Financial Implications**

There are no additional financial implications from adopting the updated policies. Any impacts have either already been considered in the budget setting, e.g., Community Growth Fund allocations, or will be brought before Council if there is a financial impact outside the current budget allocation.

**Risk Assessment**

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

Risk Category	Description	Rating	Mitigating Action/s
Financial	N/A		
Health & Safety	N/A		
Reputation	Unclear policy direction can result in less transparent decision-making and may impact the Shire’s reputation.	High	The policies aim to provide Council and Employees with clear direction and improve the transparency and consistency of decision-making.
Service disruption	N/A		

Compliance	That policies do not support compliance.	High	Policies have been checked to align with legislation and aim to add clarity to legislation to assist with compliance.
Property	N/A		
Environment	N/A		
Fraud	N/A		

**Community and Strategic Objectives**

The proposal aligns with the following desired objectives as expressed in the *Community Strategic Plan 2022-2032*:

**OBJECTIVES**

In 2040 Carnarvon is a place where:

- *Our community is engaged, inclusive and supportive*

**ADDITIONAL FOCUS AREAS:**

- *Improve the trust between citizens and the Shire of Carnarvon*

**BIG IDEAS FOR THE FUTURE OF CARNARVON:**

- *N/A*

**Comments**

The officer’s recommendation is that Council adopt the proposed new policies EME035 Electronic Attendance at Meetings and EME036 Vexatious Complainant Policy as presented.

Policy Title	Proposed Change
EME035	<b>Electronic Attendance at Meetings</b> New policy.
EME036	<b>Vexatious Complainant Policy</b> New policy.

**OFFICER’S RECOMMENDATION**

***That Council, by Absolute Majority, in accordance with Section 2.7 of the Local Government Act 1995, resolves to adopt Policies EME035 and EME036 as presented in Schedule 1 and 2 and include them in the Shire of Carnarvon Policy Manual.***

**COUNCIL RESOLUTION OCM 08/01/24**

Moved: Cr Paul Kelly

***That Council, by Absolute Majority, in accordance with Section 2.7 of the Local Government Act 1995, resolves to:***

- 1. that EME035 Electronic Attendance at Meetings DRAFT policy be adopted; and***
- 2. that EME036 HABITUAL OR VEXATIOUS COMPLAINANTS DRAFT policy be amended by the inclusion of:***

**Register of HABITUAL OR VEXATIOUS COMPLAINANTS**

***A register is maintained by CEO noting complainant and details of the issue(s) arising for inclusion within the policy.***

***The register is provided to Council where a complainant is added and removed from the register.***

**Review of Register**

***That the Risk and Audit Committee periodically, at its discretion, overview procedural fairness of Habitual or Vexatious complainants***

**MOTION LAPSED FOR WANT OF A SECONDER**

**ALTERNATIVE MOTION****COUNCIL RESOLUTION OCM 09/01/24**

**Moved: Cr Burke Maslen**

**Seconded: Cr Adam Cottrell**

***That Council, by Absolute Majority, in accordance with Section 2.7 of the Local Government Act 1995, resolves to adopt Policy EME035 as presented in Schedule 1 and include in the Shire of Carnarvon Policy Manual.***

**FOR: Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen**

**AGAINST: Nil**

**ABSENT: Cr L Skender**

**CARRIED BY ABSOLUTE MAJORITY 7/0**

Note: Council were of the view that "Draft Policy EME036 Habitual or Vexatious Complainants" should be dealt with as an operational policy and therefore did not need Council approval.

## 7.2 CORPORATE SERVICES

### 7.2.1 ACCOUNTS PAID UNDER DELEGATION DECEMBER 2023

File No:	ADM0186
Location/Address:	N/A
Name of Applicant:	Shire of Carnarvon
Name of Owner:	N/A
Author(s):	Giang Nguyen, Creditors Officer
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Simple Majority
Previous Report:	Monthly Report
Schedules:	<ol style="list-style-type: none"> <li>1. Schedule 1 - Accounts for Payment in December 2023</li> <li>2. Schedule 2 - Credit Card Statement and Reconciliation 23.11.2023 - 26.12.2023</li> </ol>

**Authority/Discretion:**

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

**Summary of Report**

To present the listing of accounts paid under delegation from the Municipal Fund and Trust Fund, in accordance with the requirements of the *Local Government (Financial Management) Regulations 1996*, for the month of December 2023.

**Background**

Council has delegated to the CEO the exercise of its power under Financial Management Regulation 12 to make payments from Municipal Fund and Trust Fund (Delegation 1.2.20) with a statutory condition on the

delegation that a list of all payments is to be recorded in the Council Minutes. The list of payments is provided at Schedule 1 and 2 attached.

**Stakeholder and Public Consultation**

Nil

**Statutory Environment**

*Local Government Act 1995 – Section 5.42*

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

**Relevant Plans and Policy**

Nil

**Financial Implications**

Nil as all payments have been made in accordance with the Council adopted budget.

**Risk Assessment**

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

Risk Category	Description	Rating	Mitigating Action/s
Financial	Payments are made without appropriate budget authority	Low	Internal controls are in place to manage this potential risk
Health & Safety	N/A	N/A	
Reputation	N/A	N/A	
Service disruption	N/A	N/A	
Compliance	N/A	N/A	
Property	N/A	N/A	
Environment	N/A	N/A	
Fraud	Accounting Fraud	Moderate	Internal controls are in place, including background checks and regular updates of Sundry Creditors. Sign off by SFO of any Creditor changes (Bank Accounts).

**Community and Strategic Objectives**

The tabling of information relative to payments made under delegation aligns itself with no specific objective as expressed in the Community Strategic Plan 2022-2032. It is solely a legislative requirement common to all

local governments within Western Australia. Without compliance in this regard, achieving strategic or community objectives would be at risk.

**OBJECTIVES**

In 2040 Carnarvon is a place where:

- N/A

**ADDITIONAL FOCUS AREAS:**

- N/A

**BIG IDEAS FOR THE FUTURE OF CARNARVON:**

- N/A

**Comments**

Nil

**OFFICER’S RECOMMENDATION**

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

- 1. receive the list of payments made under delegation, as per Schedule 1 at a total value of \$2,797,911.34 as presented for the month of December 2023, incorporating the following; and*

<i>Payment Reference from:</i>	<i>Payment Reference to:</i>	<i>Payment Type</i>	<i>Payment Amount</i>
<i>EFT40021</i>	<i>EFT40300</i>	<i>Muni EFT</i>	<i>\$2,000,303.47</i>
<i>-</i>	<i>-</i>	<i>Trust EFT</i>	<i>\$0.00</i>
<i>-</i>	<i>-</i>	<i>Cheque</i>	<i>\$0.00</i>
<i>DD39920.1, DD40549.6 DD40595.1 DD40602.1-DD40602.3 DD40605.1-DD40605.5 DD40608.1 DD40621.1-DD40621.3 DD40624.1, DD40626.1 DD40631.1, DD40631.2 DD40633.1, DD40633.2 DD40638.1, DD40640.1 DD40642.1, DD40643.1 DD40645.1-DD40645.5 DD40651.1 DD40653.1 DD40655.1</i>	<i>DD40655.1</i>	<i>Bank Directs</i>	<i>\$797,607.87</i>
		<b>TOTAL</b>	<b>\$2,797,911.34</b>

- 2. receive the copies of credit card statements for all such Shire Facilities for the period 23 November 2023 to 26 December 2023.*

**COUNCIL RESOLUTION OCM 10/01/24**

**Moved:** Cr Burke Maslen  
**Seconded:** Cr Luke Vandeleur

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

- 1. receive the list of payments made under delegation, as per Schedule 1 at a total value of \$2,797,911.34 as presented for the month of December 2023, incorporating the following; and*

<i>Payment Reference from:</i>	<i>Payment Reference to:</i>	<i>Payment Type</i>	<i>Payment Amount</i>
<i>EFT40021</i>	<i>EFT40300</i>	<i>Muni EFT</i>	<i>\$2,000,303.4</i>
<i>-</i>	<i>-</i>	<i>Trust EFT</i>	<i>\$0.00</i>
<i>-</i>	<i>-</i>	<i>Cheque</i>	<i>\$0.00</i>
<i>DD39920.1, DD40549.6 DD40595.1 DD40602.1-DD40602.3 DD40605.1-DD40605.5 DD40608.1 DD40621.1-DD40621.3 DD40624.1, DD40626.1 DD40631.1, DD40631.2 DD40633.1, DD40633.2 DD40638.1, DD40640.1 DD40642.1, DD40643.1 DD40645.1-DD40645.5 DD40651.1 DD40653.1 DD40655.1</i>	<i>DD40655.1</i>	<i>Bank Directs</i>	<i>\$797,607.87</i>
		<i>TOTAL</i>	<i>\$2,797,911.34</i>

- 2. receive the copies of credit card statements for all such Shire Facilities for the period 23 November 2023 to 26 December 2023.*

FOR: Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen  
AGAINST: Nil  
ABSENT: Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**

**7.2.2 BUDGET ADJUSTMENTS - DECEMBER 2023**

File No: ADM0027  
 Location/Address: N/A  
 Name of Applicant: Shire of Carnarvon  
 Name of Owner: N/A  
 Author(s): Viv Matangi, Finance Officer  
 Seema Dutt, Senior Finance Officer - Reporting  
 Authoriser: Alan Thornton, Deputy Chief Executive Officer  
 Declaration of Interest: Nil  
 Voting Requirement: Absolute Majority  
 Previous Report: Monthly report  
 Schedules: 1. Budget Adjustments - December 2023

**Authority/Discretion:**

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

**Summary of Item**

This item presents officer requested budget adjustments arising after the adoption of the 2023-2024 Budget for Council to consider. The officer’s recommendation is that the adjustments are approved by Council.

**Background**

The Council adopted the Annual Budget for the Shire on 22 August 2023.

In accordance with *Section 6.8(1) of the Local Government Act 1995* a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:

- Is incurred in a financial year before the adoption of the annual budget by the local government
- Is authorised in advance by Council resolution - absolute majority required
- Is authorised in advance by the Mayor or President in an emergency.

Approval is therefore sought for the budget adjustments detailed in the attachment for the reasons specified. It is good management practice to revise the adopted budget when it is known that circumstances have changed. In keeping with this practice, budgets are reviewed by Officers regularly. Officers have reviewed the adopted budget and recommend adjustments to the budget as detailed in this report.

**Stakeholder and Public Consultation**

N/A



**Statutory Environment**

Local Government Act – Section 6.8(1).

**Relevant Plans and Policy**

N/A

**Financial Implications**

The adjustments presented for consideration to Council have a nil impact on the projected budget closing position.

**Risk Assessment**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
<b>Financial</b>	Potential for reduction in budget.	Low	The adjustments recommended in this report do not impact the net position of Council.
<b>Health &amp; Safety</b>	N/A	N/A	
<b>Reputation</b>	Delay in identifying known expenditure changes has the potential to damage the Shire’s reputation.	High	Identify changing circumstances and action budget variations as soon as practicable
<b>Service disruption</b>	N/A	N/A	
<b>Compliance</b>	Local Government Act requires that a local government is not to incur expenditure unless approved by Council.	High	This report to Council for approval ensures compliance requirements are met.
<b>Property</b>	N/A	N/A	
<b>Environment</b>	N/A	N/A	

## Community and Strategic Objectives

The tabling of information relative to the budget adjustments aligns itself with no specific objective as expressed in the Community Strategic Plan 2022-2032. It is solely a legislative requirement common to all local governments within Western Australia. Without compliance in this regard, achieving strategic or community objectives would be at risk.

### OBJECTIVES

In 2040 Carnarvon is a place where:

- *Our community is engaged, inclusive and supportive*

### ADDITIONAL FOCUS AREAS:

- *Improve the trust between citizens and the Shire of Carnarvon*

### **BIG IDEAS FOR THE FUTURE OF CARNARVON**

- *N/A*

## Comments

Attached at **Schedule 1** for consideration are the proposed budget adjustments at the time of preparation of this report.

### Adjustments Impacting Budgeted Closing Position

The adjustments presented in this report have no net impact on the closing position. Please note that adjustment number 07/24 approved by Council at the December Ordinary Meeting of Council OCM 18/11/23, did have an impact on the closing budget position, resulting in a deficit of \$14,400. The Mid-Year Budget Review will be utilised to identify savings from other areas, allocate reserve funds, and return the final budget surplus to a balanced position.

### Adjustments with no impact on budget closing position

There are eight (8) items in the attachment with the net effect on the budget position as nil.

### Net budget closing position

After making the above adjustments, the budget closing position remains unchanged.

## **OFFICER'S RECOMMENDATION**

*That Council, by Absolute Majority, in accordance with section 6.8(1) of the Local Government Act 1995 resolves to approve the adjustments to the 2023/2024 adopted Shire budget as detailed in this report and attachment as per Schedule 1.*

**COUNCIL RESOLUTION OCM 11/01/24****Moved: Cr Luke Vandeleur****Seconded: Cr Burke Maslen**

*That Council, by Absolute Majority, in accordance with section 6.8(1) of the Local Government Act 1995 resolves to approve the adjustments to the 2023/2024 adopted Shire budget as detailed in this report and attachment as per Schedule 1.*

**FOR:** Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

**AGAINST:** Nil

**ABSENT:** Cr L Skender

**CARRIED BY ABSOLUTE MAJORITY 7/0**

**7.2.3 MONTHLY FINANCIAL REPORT DECEMBER 2023**

File No:	ADM0186
Location/Address:	N/A
Name of Applicant:	Shire of Carnarvon
Name of Owner:	N/A
Author(s):	Seema Dutt, Senior Finance Officer - Reporting
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Simple Majority
Previous Report:	Nil
Schedules:	1. Monthly Financial Report- December 2023

**Authority/Discretion:**

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

**Summary of Item**

This item presents the Statement of Financial Activity for the period ending 31<sup>st</sup> December 2023 for Council to consider. The officer’s recommendation is that the Statement of Financial Activity be received by Council.

**Background**

Each month a local government is to prepare a Statement of Financial Activity reporting on the revenue and expenditure for the month as set out in the budget. The *Local Government (Financial Management) Regulations* provide that the statements be presented at an Ordinary Meeting of the Council within two months after the end of the month to which the statement relates.

**Stakeholder and Public Consultation**

Nil

**Statutory Environment**

*Local Government (Financial Management) Regulation 34.*

**Relevant Plans and Policy**

Nil

**Financial Implications**

Nil

**Risk Assessment**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Stakeholders may withdraw funding if the statements are not prepared according to the regulatory framework.	Low	Financial Statements are prepared on time and according to the applicable Legislation and Regulations.
Health & Safety	N/A	N/A	
Reputation	The delay in achieving timely reporting has the potential to damage the Shire’s reputation.	High	High priority has been placed on preparing Statutory reporting within legislated timeframes.
Service disruption	N/A	N/A	
Compliance	<i>Local Government Act 1995</i> requires Council receives these statements within 2 months of the end of the applicable month.	N/A	Financial Statements are prepared on time and according to the applicable Legislation and Regulations.
Property	N/A	N/A	
Environment	N/A	N/A	
Fraud	N/A	N/A	

## Community and Strategic Objectives

The proposal aligns with the following desired objectives as expressed in the Community Strategic Plan 2022-2032:

### **OBJECTIVES**

#### **In 2040 Carnarvon is a place where:**

- *Our community is engaged, inclusive and supportive*

#### **ADDITIONAL FOCUS AREAS:**

- *Improve the trust between citizens and the Shire of Carnarvon*

### **Comments**

The officer advises that the December 2023 Statement of Financial Activity being presented at the December 2023 Ordinary Meeting of Council complies with the *Local Government Act 1995*. **Schedule 1** attached for consideration is the Statement of Financial Activity, legislative notes, and supporting notes for the period ended 31 December 2023.

Monthly Financial Report – contains:

- Statement of Financial Activity (by Nature or Type) - with Explanation of Material Variances\*
- Note 1 Composition of Net Current Assets\*
- Note 2 Statement of Financial Position\*  
(\* required by legislation)

Notes for other supporting Information include:

- Basis of Preparation
- Statement of Financial Activity by Program
- Cash and Financial Assets
- Cash Reserves
- Capital Acquisition and Disposals
- Receivables
- Payables
- Rate Revenue
- Non-operating grants and contributions
- Operating grants and contributions
- Borrowings
- Lease Liabilities

Councillors should note a change to the statutory format of the Statement of Financial Activity at page 2 and 3 of the Financial Report where totals of each category of Income or expenditure have been aggregated at the bottom of the report. For information, the old format is still included in the other supporting information.

Operating Grants Subsidies and Contributions are \$2.1 million lower than year to date budget, this is due to the timing of completed works and the claiming of AGRN flood damage funds (\$2.08M). Funds are claimed from DRFAWA based on milestone progress claims.

Operational Material and Contracts is \$1.9M lower than year to date budget, this is considered a timing variance relating mainly to DRFAWA payments. There are various other contracts throughout the service areas that are lower than year to date budget, that are being assessed with the budget review process that is currently underway.

The capital works program is well underway with over 50% of funds spent or committed to projects.

**OFFICER'S RECOMMENDATION**

***That Council, by Simple Majority pursuant to Section 3.18 of the Local Government Act, 1995 , resolves to receive the Draft Statement of Financial Activity for December 2023 as per attached Schedule 1.***

**COUNCIL RESOLUTION OCM 12/01/24**

**Moved: Cr Marco Ferreira**

**Seconded: Cr Luke Vandeleur**

***That Council, by Simple Majority pursuant to Section 3.18 of the Local Government Act, 1995 , resolves to receive the Draft Statement of Financial Activity for December 2023 as per attached Schedule 1.***

**FOR: Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreira, Luke Vandeleur, Paul Kelly and Dudley Maslen**

**AGAINST: Nil**

**ABSENT: Cr L Skender**

**CARRIED BY SIMPLE MAJORITY 7/0**

## 7.3 DEVELOPMENT AND COMMUNITY SERVICES

### 7.3.1 SHIRE OF CARNARVON LOCAL PLANNING SCHEME NO. 13 - SCHEME AMENDMENT NO. 8

At 1:17 pm Cr Burke Maslen declared a Financial Interest and left the meeting.

File No:	ADM2148
Location/Address:	Lot 350 on Plan 46687, Lot 3000 on Plan 50853, Lot 3002 on Plan 50853, Portion Lot 755 on Plan 420666 and Lot 732 on Plan 418999
Name of Applicant:	Element Advisory
Name of Owner:	State of Western Australia
Author(s):	Stefan Louw, Planning And Building Manager
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Simple Majority
Previous Report:	Nil
Schedules:	<ol style="list-style-type: none"> <li>HyEnergy Scheme Amendment Report</li> <li>Province Amendment Documentation</li> </ol>

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#### Authority/Discretion:

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

#### Summary of Report

This report seeks a Council resolution to initiate an amendment to Local Planning Scheme No. 13 (LPS 13). This amendment aims to facilitate the implementation of the HyEnergy Renewable Green Hydrogen Project, known as the 'HyEnergy Project.'

#### Background

The affected sites are currently reserved under the Scheme as ‘Environmental Conservation’ which prohibit most development on the site. It is acknowledged that the proposed development does not directly align with the overarching objectives of the ‘Environmental Conservation’ reserve however, it is important to note that the ‘Environmental Conservation’ reserve was applied broadly along the coastline as a key planning action of the Strategy. The intent of this action was to provide increased control over the protection and management of the coast to ensure future development does not compromise the amenity of the natural



environment. This action was implemented when the Shire prepared LPS 13 in 2020, with all land along the coast (regardless of tenure) reclassified to 'Environmental Conservation.

As a result, a Scheme Amendment is required to allow for the future planning and development of the project.

In detail, the proposed changes to LPS 13 include:

- rezoning the western section of Lot 350 in the Town Common area from 'Environmental Conservation' reserve to 'Strategic Infrastructure' reserve and 'General Industry' zone;
- introducing a Special Control Area (SCA) in Schedule 7 to incorporate additional provisions for the proposed 'General Industry' zone;
- adding Additional Use Areas under Schedule 1 to allow for extra land uses within the existing 'Environmental Conservation' reserve;
- including Additional Use Areas under Schedule 2 to permit additional land uses within the planned 'General Industry' zone; and
- updating the scheme maps to reflect the changes in rezoning, SCA, and additional use areas.

### **Stakeholder and Public Consultation**

The scheme amendment proposal, once initiated, will be forwarded to the Environmental Protection Authority (EPA) in accordance with *s. 81 of the Planning and Development Act 2005*. The application is then required to be advertised for a period of 60 days. As soon as practical and at the end of the consideration period the local government must pass a resolution to either:

- support the amendment without modification;
- support the amendment with proposed modifications; or
- to not support the proposed amendment.

Within 21 days of resolution the amendment must be submitted to the Western Australian Planning Commission (WAPC).

### **Statutory Environment**

*Section 34 of the Planning and Development (Local Planning Schemes) Regulations 2015* defines scheme amendments in the three (3) following ways: basic, standard, or complex amendment. It is considered that the amendment falls within the 'Complex amendment' category.

A complex amendment means any of the following:

- (a) an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- (b) an amendment that is not addressed by any local planning strategy;
- (c) an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;
- (d) an amendment made to comply with an order made by the Minister under section 76 or 77A of the Act; and
- (e) an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan;

By virtue of point (c) above, the amendment is being treated as a complex amendment.

**Relevant Plans and Policy**

Shire of Carnarvon Local Planning Strategy: The Local Planning Strategy sets out specific objectives for business and employment which relate to the growth and prosperity of a community. The Strategy recognises that the performance of the local economy directly affects several key areas relating to the growth and prosperity of a community including:

- Attracting new investment and sustaining existing businesses

**Financial Implications**

N/A

**Risk Assessment**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	
Health & Safety	N/A		
Reputation	The Shire over many years has provided in-principal support for the project. Not initiating the Scheme amendment may result in reputational damage	Moderate	Initiate the scheme amendment
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	This Scheme amendment is necessary to facilitate the HyEnergy Project, which is a key element of the Government’s emission reduction strategies. If not initiated, it will be unlikely the project can occur in the future.	Moderate	An environmental assessment report has been provided as part of the initiation request that addresses the risks through mitigation measures.  Detailed environmental impacts will be assessed at the structure planning stage
Fraud	N/A		

## Community and Strategic Objectives

The proposal aligns with the following desired objectives as expressed in the *Community Strategic Plan 2022-2032*:

### OBJECTIVES

In 2040 Carnarvon is a place where:

- *Our economy fosters investment and productivity in industries befitting Carnarvon's physical and natural environment and that grows our horizons*

### ADDITIONAL FOCUS AREAS:

- *Supports the needs of areas outside the Township of Carnarvon (Coral Bay and outlying areas)*

### BIG IDEAS FOR THE FUTURE OF CARNARVON:

- *Aim towards 100% Renewable Energy*

## Comments

Initiating the Scheme Amendment will provide a level of certainty to the proponents that the project can eventuate in the future. Many of the details (such as environmental impact, costings, detailed designs etc.) will be completed at a later stage once a level of certainty is provided.

In addition to the above, this report seeks Council's resolution to initiate and advertise the scheme amendment only. No approvals are being granted as part of this step in the process, and there are also no requirements in the *Planning and Development (Local Planning Schemes) Regulations 2015* that compel Council to initiate this amendment.

As such, the following options available for Council to consider are:

Option 1: Abandon the amendment.

Option 2: Initiate the amendment to gather community feedback as further information for the final decision, noting that the item will be brought back to Council for adoption following the advertising period.

## OFFICER'S RECOMMENDATION

***That Council, by Simple Majority,***

- 1. pursuant to Section 75 of the Planning and Development Act 2005, resolves to adopt Local Planning Scheme Amendment No. 8 of Shire of Carnarvon Local Planning Scheme No. 13 by:***
  - a. rezoning the western portion of Lot 350 within the Town Common area from 'Environmental Conservation' reserve to 'Strategic Infrastructure' reserve and 'General Industry' zone;***
  - b. introducing a Special Control Area (SCA) into Schedule 7 to provide additional provisions for the proposed 'General Industry' zone;***
  - c. introducing an Additional Use Area under Schedule 1 to enable additional land uses to be considered in the existing 'Environmental Conservation' reserve;***
  - d. introducing Additional Use Areas under Schedule 2 to enable additional land uses to be considered in the proposed 'General Industry' zone; and***
  - e. updating the Scheme Map accordingly.***
- 2. pursuant to Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 (The Regulations), resolves that the Local Planning Scheme Amendment No. 8 is a complex scheme amendment on the basis that it relates to development that is of a scale that is significant relative to development in the locality;***

3. *notes that pursuant to Regulation 35(A) of the Planning and Development (Local Planning Schemes) Regulations 2015, the amendment to the Shire of Carnarvon Local Planning Scheme No. 13 affects the following structure plans: No Structure Plans applicable;*
4. *pursuant to Section 81 and 82 of the Planning and Development Act 2005, resolves to REFER the Local Planning Scheme No. 13 Amendment 8 to the Environmental Protection Authority for the level of assessment to be set pursuant to Section 48A of the Environmental Protection Act 1986;*
5. *refers the Amendment to the Minister for Planning, pursuant to Section 83A of the Planning and Development Act 2005, for permission to advertise the proposed Scheme Amendment;*
6. *upon compliance with Sections 81, 82 and 83A of the Planning and Development Act 2005, advertises the proposed Amendment pursuant to the details prescribed within Part 5, Division 2, Regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015 for a period of 60 days through the placement of an advertisement in the local newspaper, placement of a notice in the Shire Office, and posting of notices to affected parties; and*
7. *pursuant to Regulation 44 of the Planning and Development (Local Planning Scheme) Regulations 2015, resolves to forward the amendment to the Western Australian Planning Commission.*

#### **COUNCIL RESOLUTION OCM 13/01/24**

Moved: Cr Adam Cottrell

Seconded: Cr Marco Ferreirinha

*That Council, by Simple Majority,*

1. *pursuant to Section 75 of the Planning and Development Act 2005, resolves to adopt Local Planning Scheme Amendment No. 8 of Shire of Carnarvon Local Planning Scheme No. 13 by:*
  - a. *rezoning the western portion of Lot 350 within the Town Common area from 'Environmental Conservation' reserve to 'Strategic Infrastructure' reserve and 'General Industry' zone;*
  - b. *introducing a Special Control Area (SCA) into Schedule 7 to provide additional provisions for the proposed 'General Industry' zone;*
  - c. *introducing an Additional Use Area under Schedule 1 to enable additional land uses to be considered in the existing 'Environmental Conservation' reserve;*
  - d. *introducing Additional Use Areas under Schedule 2 to enable additional land uses to be considered in the proposed 'General Industry' zone; and*
  - e. *updating the Scheme Map accordingly.*
2. *pursuant to Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 (The Regulations), resolves that the Local Planning Scheme Amendment No. 8 is a complex scheme amendment on the basis that it relates to development that is of a scale that is significant relative to development in the locality;*
3. *notes that pursuant to Regulation 35(A) of the Planning and Development (Local Planning Schemes) Regulations 2015, the amendment to the Shire of Carnarvon Local Planning Scheme No. 13 affects the following structure plans: No Structure Plans applicable;*
4. *pursuant to Section 81 and 82 of the Planning and Development Act 2005, resolves to REFER the Local Planning Scheme No. 13 Amendment 8 to the Environmental Protection Authority for the level of assessment to be set pursuant to Section 48A of the Environmental Protection Act 1986;*
5. *refers the Amendment to the Minister for Planning, pursuant to Section 83A of the Planning and Development Act 2005, for permission to advertise the proposed Scheme Amendment;*
6. *upon compliance with Sections 81, 82 and 83A of the Planning and Development Act 2005, advertises the proposed Amendment pursuant to the details prescribed within Part 5, Division 2, Regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015 for a period of 60 days through the placement of an advertisement in the local newspaper, placement of a notice in the Shire Office, and posting of notices to affected parties; and*

- 7. pursuant to Regulation 44 of the Planning and Development (Local Planning Scheme) Regulations 2015, resolves to forward the amendment to the Western Australian Planning Commission.**

**FOR:** Crs Eddie Smith, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen  
**AGAINST:** Nil  
**ABSENT:** Crs B Maslen and L Skender

**CARRIED BY SIMPLE MAJORITY 6/0**

At 1:18 pm, Cr Burke Maslen returned to the meeting.

**7.3.2 BOARDING UP OF DAMAGED HOUSE (A1285)**

File No:	ADM0182
Location/Address:	108 David Brand Drive, Brockman
Name of Applicant:	N/A
Name of Owner:	The Public Trustee
Author(s):	Dane Wallace, Environmental Health Officer
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Simple
Previous Report:	Nil
Schedules:	1. Photos of 108 DB - Confidential (under separate cover)

**Authority/Discretion:**

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

**Summary of Report**

This report recommends the issuing of a s.137 Notice to board up the house located at 108 David Brand Drive and authorising of the CEO to enact the terms of the notice.

**Background**

The house in question was severely vandalised more than a year ago when a few other vacant houses in the immediate vicinity were also vandalised. Whilst the internal cladding is destroyed, the structure and framing appears to be in good condition.

The house was declared unfit for habitation on 12 June 2023 by virtue of a s.135 notice under the *Health (Miscellaneous Provisions) Act 1911* which was affixed to the premises. The notice was not sent to the owner due to this being a deceased estate and insufficient contact details. After receiving legal advice, the notice was sent to the Public Trustee on 9 January 2024 as the effective owner. The officer has been requested to provide a recommendation on taking further action.

**Stakeholder and Public Consultation**

Nil

**Statutory Environment**

*Health (Miscellaneous Provisions) Act 1911*, a sections 135–140 and section 371.

**Relevant Plans and Policy**

Nil

**Financial Implications**

If the property sells for less than the amount of the charges applied to the land, the Shire will forfeit the monies owed in excess of the sale price.

There is already a rates debt of approximately \$11,000. If the Shire also boarded up the house and applied the cost to the land, the total costs are still expected to be less than the sale price of the land with a damaged house on it, whereas the land would be worth less if it was vacant.

**Risk Assessment**

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

Risk Category	Description	Rating	Mitigating Action/s
Financial	Risk of not recovering the money spent to board up the house should the notice not be complied with	Low	Costs will be charged to the land and recovered when the land is sold
Health & Safety	n/a		
Reputation	n/a		
Service disruption	n/a		
Compliance	n/a		
Property	n/a		
Environment	No action will mean the house remains open and looking less tidy	Low	Boarding the house up will make it look tidier
Fraud	n/a		

**Community and Strategic Objectives**

The proposal aligns with the following desired objectives as expressed in the *Community Strategic Plan 2022-2032*:

**OBJECTIVES**

In 2040 Carnarvon is a place where:

- N/A

**ADDITIONAL FOCUS AREAS:**

- N/A

**BIG IDEAS FOR THE FUTURE OF CARNARVON:**

- N/A

**Comments**

The Shire could issue a section 137 notice to have the house boarded up within a timeframe. The officer sought legal advice on the matter due to it being a deceased estate. The legal advice was that:

- the Public Trustee is the effective owner for the purposes of the Health Act, but it won't comply with the notice, and the Shire can't take action against the Public Trustee for not complying.
- The Public Trustee's job will be to sell the land before too long (no specific time given);
- the Shire could enact the terms of the notice after it wasn't complied with and register the cost of the works as a charge on the land;
- if the charges against the land exceeded the cost of land when sold, the Shire would forfeit the amount of charges in excess of the land sale price;
- there is merit for the Shire in considering the value of the land and the total charges to be registered against it when determining what action the Shire orders in the section 137 notice.

In this case, the Shire could board up the house if the notice wasn't complied with and charge the costs to the land with some assurance that the property would be sold before too long and the money would be recovered.

Given that the house is currently declared unfit for habitation, whoever chooses to buy the property is likely to be willing and able to repair it to a habitable standard.

It is recommended that the house be boarded up on the basis of:

- using the least appropriate force and intervention in another's property;
- avoiding the devaluing of the property; and
- maximising the likelihood of the Shire's expenses being recovered.

**OFFICER'S RECOMMENDATION**

1. ***That Council, by Simple Majority pursuant to Section 3.18 of the Local Government Act 1995, resolves to order, under section 137 of the Health (Miscellaneous Provisions) Act 1911, that all openings of the house at 108 David Brand Drive, Brockman, are securely boarded up with 12mm plywood or equivalent security within 3 weeks of the date of the notice.***
2. ***That Council further authorise the Chief Executive Officer to enact the terms of the above notice in the event it is not complied with within the timeframe and to register the cost of the works as a charge on the land.***

**COUNCIL RESOLUTION OCM 14/01/24**

**Moved:** Cr Luke Vandeleur

**Seconded:** Cr Burke Maslen

1. ***That Council, by Simple Majority pursuant to Section 3.18 of the Local Government Act 1995, resolves to order, that the house be demolished leaving the land clear within 4 weeks of issue of notice under section 137 of the Health (Miscellaneous Provisions) Act 1911; and***
2. ***That Council further authorise the Chief Executive Officer to enact the terms of the above notice in the event it is not complied with within the timeframe and to register the cost of the works as a charge on the land.***

**FOR:** Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

**AGAINST:** Nil

**ABSENT:** Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**



Note – Council agreed that boarding up the house will not solve the issue of continuous damage occurring to the building and therefore consider that demolishing the dwelling is the preferred option.

## 7.4 INFRASTRUCTURE SERVICES

### 7.4.1 TENDER RFT 10/2023 REPAIR TOWN LEVEES AND RECONSTRUCTION OF FLOODGATES

At 1:27 pm, Cr Luke Vandeleur declared an Impartiality interest in this matter and left the meeting.

File No:	ADM2254
Location/Address:	Various
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author(s):	Mativa Toomalatai, Acting Projects Contracts Manager
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Simple Majority
Previous Report:	Nil
Schedules:	1. GHD Evaluation Report RFT 10/2023 - Confidential (under separate cover)

#### Authority/Discretion:

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

#### Summary of Item

This report details the evaluation of submissions received for Request for Tender (RFT) 10/2023 – Repair of Town Levees and Reconstruction of Flood Gates. The tender closed on 15 December 2023 and only one submission was received.

It is recommended Council does not accept the submission received for RFT 10/2023, and that Council authorises the CEO to seek quotations for the project scope.

#### Background

Due to the flood event in February 2021, the Improving Flood Preparedness project was established in 2022 to increase the community’s ability to withstand and mitigate the effects of flooding and tropical cyclones. It is partly funded by the Department of Industry, Science, Energy and Resources (DISER) with co-contributions from participating project partners represented by the Shire, Department of Primary Industries and Regional Development (DPIRD) and the Department of Water and Environmental Regulation (DWER).

RFT 10/2023 consists of two elements identified within the Improving Flood Preparedness funded project. The tender was issued as two separable portions. Separable Portion A was the remediation of the existing town levee system. Separable Portion B was the upgrade/reinstatement of Airport and Morgantown levee flood gates. Tenderers were given the option to submit for one or both separable portions.

One tender submission was received. The submission received was for Separable Portion A only.

**Stakeholder and Public Consultation**

Nil.

**Statutory Environment**

*Local Government Act, 1995 S3.57 - Tender for providing goods and services.*

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

**Relevant Plans and Policy**

Policy C013 – Tender Selection Criteria Policy

Policy C002 – Purchasing Policy

**Financial Implications**

The budget allocation for these two elements of the project totals \$914,916. Council will note in the evaluation report, the pricing schedule provided in the tender received exceeds this budget considerably.

There are seven elements in the overall Improving Flood Preparedness project, the budget is defined for each of those elements and most elements have commenced and have committed expenditures. There is no flexibility or scope for a change in budget unless the Shire and/or project partners were prepared to increase their contributions.

**Risk Assessment**

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

Risk Category	Description	Rating	Mitigating Action/s
Financial	Over expenditure of the project budget if tender is accepted.	A2 – High	Council approves the officer’s recommendation and does not accept the tender.
Health & Safety	N/A		
Reputation	Project progress and implementation is monitored by several community stakeholders. Engagement of a suitable contractor, whilst maintaining project budgets and deadlines is essential to ensure stakeholder satisfaction.	B2 - Moderate	Council approves the officer’s recommendation and alternative quotes are sought as soon as possible to avoid any delays in commencing the work required for this stage of the project.

Risk Category	Description	Rating	Mitigating Action/s
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

**Community and Strategic Objectives**

The proposal aligns with the following desired objectives as expressed in the *Community Strategic Plan 2022-2032*:

**OBJECTIVES**

In 2040 Carnarvon is a place where:

- *Our infrastructure, housing and amenities are high quality and accessible*

**ADDITIONAL FOCUS AREAS:**

- *N/A*

**BIG IDEAS FOR THE FUTURE OF CARNARVON:**

- *N/A*

**Comments**

It should be noted that the submission received for RFT 10/2023 was for Separable Portion A only, the town levee remediation work. Nil submissions were received for Separable Portion B, the levee flood gate work.

An evaluation panel evaluated the tender submission received. The evaluation report for the tender is provided in **Confidential Schedule 1**.

The Tender Evaluation Panel recommends that RFT 10/2023 not be awarded. The panel was not satisfied the offer received offers the best value for money and it is well beyond the available budget with no likelihood of increased contributions from the project partners.

Whilst this work is essential to achieving long-term strategic outcomes focused on flood mitigation and protection, the working group is mindful of budget limitations and seeking best value for money representation in meeting all project milestones. The Shire can seek quotations for the tendered works if no tender is accepted and the intent is to seek quotations from known providers of these services including local providers.

**OFFICER’S RECOMMENDATION**

1. ***That Council, by Simple Majority:***
  - (a) ***pursuant to Section 3.57 of the Local Government Act, 1995 and Regulation 18 (5) of the Local Government (Functions and General) Regulations, 1996, does not accept the Tender submission received for RFT 10/2023 Repair of Town Levees and Reconstruction of Flood Gates; and***
  - (b) ***pursuant to Regulation 11(2)(c)(i) of the Local Government Regulations, Functions and General 1996 and 3.18 of the Local Government Act, 1995, authorise the CEO to seek alternate quotations for the project scope detailed under RFT 10/2023 Repair of Town Levees and Reconstruction of Flood Gates.***

**COUNCIL RESOLUTION OCM 15/01/24****Moved:** Cr Burke Maslen**Seconded:** Cr Paul Kelly**1. That Council, by Simple Majority:**

**(a) pursuant to Section 3.57 of the Local Government Act, 1995 and Regulation 18 (5) of the Local Government (Functions and General) Regulations, 1996, does not accept the Tender submission received for RFT 10/2023 Repair of Town Levees and Reconstruction of Flood Gates; and**

**(b) pursuant to Regulation 11(2)(c)(i) of the Local Government Regulations, Functions and General 1996 and 3.18 of the Local Government Act, 1995, authorise the CEO to seek alternate quotations for the project scope detailed under RFT 10/2023 Repair of Town Levees and Reconstruction of Flood Gates.**

**(c)**

**FOR:** Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Paul Kelly and Dudley Maslen

**AGAINST:** Nil

**ABSENT:** Crs L Skender and L Vandeleur

**CARRIED BY SIMPLE MAJORITY 6/0**

At 1:30 pm, Cr Luke Vandeleur returned to the meeting

**7.4.2 TENDER NO HP10360 - CARNARVON RESIDENTIAL HOUSING BUILDS**

File No:	ADM2139
Location/Address:	Lots 326 and 328 Parnaa View, Brockman
Name of Applicant:	N/A
Name of Owner:	Shire of Carnarvon
Author(s):	David Nielsen, Executive Manager Infrastructure Services
Authoriser:	Alan Thornton, Deputy Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirement:	Simple Majority
Previous Report:	Nil
Schedules:	Nil

**Authority/Discretion:**

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

**Summary of Report**

This report details Request for Tender HP 10360 – Carnarvon Residential House Builds. This tender was issued under a partnership arrangement between the Shire of Carnarvon and Horizon Power for construction of up to four residential houses in Parnaa View, Brockman.

It is recommended Council does not accept any submission received for this tender. It is further recommended Council authorises the CEO to undertake procurement utilising WALGA preferred supplier arrangements for a modified project which will meet project budget and funding requirements.

**Background**

In 2023, the Shire received Regional Economic Development (RED) funding for construction of two, four-bedroom, two-bathroom homes on Shire owned vacant properties owned on Lots 326 and 328 Parnaa View, Brockman.

The funding is on the basis the homes would be utilised for essential (non-Shire) worker accommodation. After a period the housing can revert to Shire staff housing, replacing aging existing Shire housing stock. The funding includes a partnership with Horizon Power who are also seeking to build two worker accommodation residences in the same street.

A Cost Sharing Agreement for architectural and construction supervision services was entered into between the Shire and Horizon Power in May 2023. The project architect/construction supervision services contractor was finalised in late August 2023. Design works were completed and a joint tender for construction of the four houses was advertised on 16 November 2023. Tenders closed on 14 December 2024.

One tender submission was received.

**Stakeholder and Public Consultation**

Nil

**Statutory Environment**

*Local Government Act, 1995 – Section 3.57 Tender for providing goods and services.*

*Local Government Act, 1995 – Section 3.18 Performing executive functions.*

*Local Government (Functions and General) Regulations, 1996 – Part 4 Tenders for providing goods or services.*

**Relevant Plans and Policy**

Policy C013 – Tender Selection Criteria Policy.

Policy C002 – Purchasing Policy.

**Financial Implications**

There is no direct financial implication associated with the recommendation.

Council has allocated \$1,240,000 under COA 129900 - Housing Development Northwater. That total budget consists of the following

Funding Source	Amount
Regional Economic Development (RED) Funding Program	\$240,000
Shire Borrowings	\$1,000,000
<b>Total</b>	<b>\$1,240,000</b>

The tender submission received substantially exceeds the project budget. i.e. it exceeds available budget by more than 25%.

**Risk Assessment**

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

Risk Category	Description	Rating	Mitigating Action/s
Financial	Project costs exceeding available budget if tender accepted.	A3 - Extreme	Not accepting the tender submission and undertaking an amended procurement process to build the residences to the available budget.
Health & Safety	N/A		
Reputation	N/A		
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

## Community and Strategic Objectives

The proposal aligns with the following desired objectives as expressed in the *Community Strategic Plan 2022-2032*:

### OBJECTIVES

In 2040 Carnarvon is a place where:

- *Our infrastructure, housing and amenities are high quality and accessible*

### ADDITIONAL FOCUS AREAS:

- N/A

### BIG IDEAS FOR THE FUTURE OF CARNARVON:

- N/A

## Comments

The Horizon Power partnered tender process intent was to maximise buying power, economies of scale and use of local services for the residential housing builds. For administrative and contractual separation, the tender was structured with two separable portions. i.e. if accepted, a contract between Horizon Power and the builder and a contract between the Shire and the builder would be the outcome.

Upon receipt of information regarding the submitted tender pricing it was apparent Shire budget availability would be insufficient unless substantial modification to the proposed Shire residences occurred.

Contact was made with WALGA procurement services to determine to what level the Shire could proceed by negotiation with the tender submitter in the modification of the scope. Advice received was given the Shire went to market with a well-developed design and specification for the residence, the Shire is limited in its ability to negotiate with the submitter to "minor variations" only. By way of examples the following would constitute minor variations:

- if a particular standard of floor covering was specified, alternate lower cost coverings would be a minor variation;
- if air-conditioning was specified, a minor variation would be to replace air conditioning with ceiling fans; and
- landscaping elements could be removed/amended.

A detailed evaluation of the submission received was not warranted and was not completed.

It is understood Horizon Power have an ability to negotiate with the tender submitter to modify the proposal to meet their project budget. To retain confidentiality of that potential commercial agreement, it is not therefore possible to disclose details of the tender submission received.

It appears likely each party in the partnership will now move forward individually with procurement of a suitable builder for construction of the residences. This may have implications regarding the existing funding agreement and a variation of that agreement is likely to be required to recognise the amended arrangement.

The economy of scale discount offered in the submission received for construction of four houses was 5%.

Possible approaches for the Shire to reduce project costs include:

- utilising modular type dwellings; and/or
- reductions in the building scale and features; and/or
- going to market with a set budget design and construct style procurement process.

The RED funding program requires construction of the essential worker accommodation to be completed no later than 31 December 2024. Given that timeline and the joint procurement setback, it is recommended to utilise WALGA preferred supplier arrangements to seek direct quotes from pre-qualified suppliers. This eliminates the need for a public tender process and allows a targeted procurement process to be undertaken.



There are 13 WALGA prequalified suppliers offering modular and prefabricated dwelling supply services and 16 WALGA prequalified suppliers (including one locally based supplier) offering Construction - New Buildings services.

Evaluation of quotations from that process would be completed and the matter returned to Council for a decision regarding appointment (or otherwise) of a contractor/supplier to undertake the building works. Based on current estimates it is hoped to return the matter to Council at its February or March 2024 meeting.

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

***That Council, by Simple Majority resolves:***

- a. pursuant to Section 3.57 of the Local Government Act, 1995 and Part 4 of the Local Government (Functions and General) Regulations 1996, to not accept any submission for tender HP10360 - Carnarvon Residential House Builds; and***
- b. pursuant to Section 3.18 of the Local Government Act 1995 and Regulation 11(2)(b) of the Local Government Regulations (Functions and General) 1996 authorises the CEO to seek quotations from WALGA preferred suppliers for construction of two essential worker accommodation dwellings for Lots 326 and 328 Parnaa View, Brockman that meets funding program conditions and the existing available budget allocation.***

#### **COUNCIL RESOLUTION OCM 16/01/24**

**Moved:** Cr Luke Vandeleur

**Seconded:** Cr Burke Maslen

***That Council, by Simple Majority resolves:***

- a. pursuant to Section 3.57 of the Local Government Act, 1995 and Part 4 of the Local Government (Functions and General) Regulations 1996, to not accept any submission for tender HP10360 - Carnarvon Residential House Builds; and***
- b. pursuant to Section 3.18 of the Local Government Act 1995 and Regulation 11(2)(b) of the Local Government Regulations (Functions and General) 1996 authorises the CEO to seek tenders from suitably qualified suppliers for construction of two essential worker accommodation dwellings for Lots 326 and 328 Parnaa View, Brockman that meets funding program conditions and the existing available budget allocation.***

**FOR:** Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

**AGAINST:** Nil

**ABSENT:** Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**

Note : Council determined that to give all local businesses the opportunity to tender for the construction works that Council call tenders without the requirement to be a WA Local Government Association preferred supplier.

## 8 APPLICATIONS FOR LEAVE OF ABSENCE

Cr Cottrell has requested Leave of Absence for the February 2024 Ordinary Council Meeting.

### COUNCIL RESOLUTION OCM 17/01/24

**Moved:** Cr Luke Vandeleur

**Seconded:** Cr Burke Maslen

That Cr Cottrell be granted Leave of Absence for the February 2024 Ordinary Council Meeting.

FOR: Crs Eddie Smith, Burke Maslen, Adam Cottrell, Marco Ferreirinha, Luke Vandeleur, Paul Kelly and Dudley Maslen

AGAINST: Nil

ABSENT: Cr L Skender

**CARRIED BY SIMPLE MAJORITY 7/0**

## 9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

## 10 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

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

Nil

## 13 DATE OF NEXT MEETING

The next meeting will be held on Tuesday 27 February 2024 at Shire Council Chambers, Stuart Street Carnarvon commencing at 1.00pm

## 14 CLOSURE

The Presiding Member declared the meeting closed at 1.36pm.