

SHIRE OF CARNAMAH

Ordinary Meeting of Council

20 March 2019

Notice of Meeting

Dear Councillor,

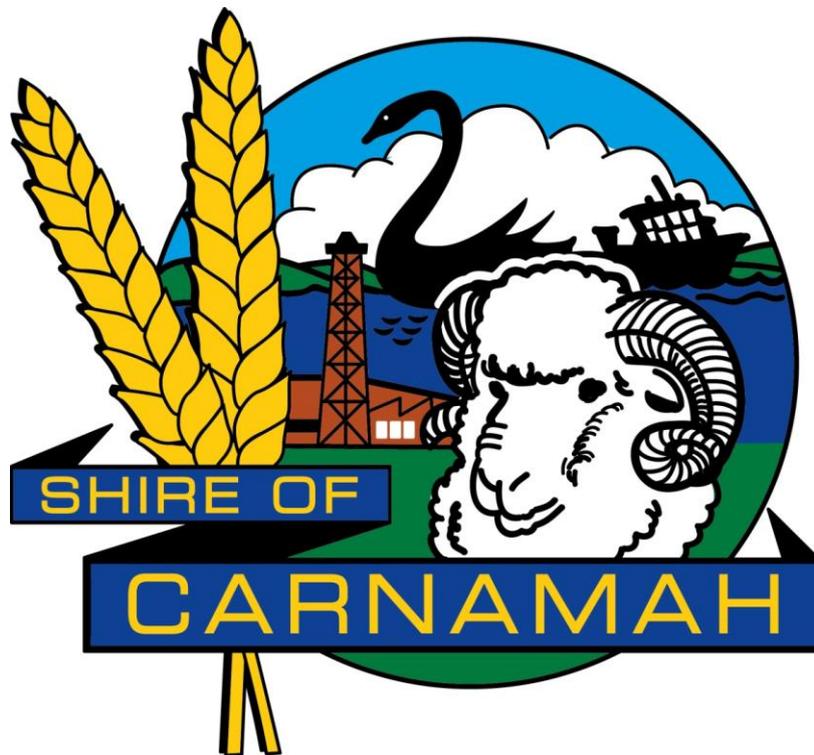
The next Ordinary Meeting of the Carnamah Shire Council is to be held:

On: Wednesday - 20 March 2019

At: Eneabba Sportsman's Club
Eneabba Drive, Eneabba

Commencing at: 3:00pm

.....
K L OBORN
CHIEF EXECUTIVE OFFICER



AGENDA

Ordinary Meeting of Council

20 March 2019

SHIRE OF CARNAMAH
ORDINARY MEETING OF COUNCIL - 20 March 2019

AGENDA

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APPENDICES

APPENDIX "A"

Minutes of Ordinary Meeting of Council - 20 February 2019
(As circulated)

SHIRE OF CARNAMAH

DISCLAIMER

No responsibility is implied or accepted by the Shire of Carnamah for any act, omission or statement or intimation occurring during Council or committee meetings.

The Shire of Carnamah disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or committee meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or committee meeting does so at that person's or legal entity's own risk.

In particular and without detracting in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Shire of Carnamah during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Carnamah.

The Shire of Carnamah advises that anyone who has any application lodged with the Shire of Carnamah shall obtain and should only rely on **WRITTEN CONFIRMATION** of the outcome of the application, and any conditions attaching to the decision made by the Shire of Carnamah in respect of the application.

Signed: _____

CHIEF EXECUTIVE OFFICER

SHIRE OF CARNAMAH

AGENDA

ORDINARY MEETING OF COUNCIL

To be held at the Eneabba Sportsman's Club - Eneabba Drive, Eneabba 6518
On Wednesday 20 March 2019
Commencing at 3:00pm

1. **DECLARATION OF OPENING**
2. **RECORD OF ATTENDANCE**
 - Present
 - Apologies
 - Leave Of Absence (Previously Approved)
3. **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
 - Nil
4. **PUBLIC QUESTION TIME**
5. **APPLICATIONS FOR LEAVE OF ABSENCE**
6. **DISCLOSURE OF INTEREST**
7. **PETITIONS, DEPUTATIONS AND PRESENTATIONS**
8. **ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**
9. **CONFIRMATION OF MINUTES**

9.1 Minutes of Ordinary Meeting of Council held 20 February 2019

As Circulated

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item 9.1

That the Minutes of the Ordinary Meeting of Council held on 20 February 2019 be accepted as a true and correct record.

10 MANAGEMENT REPORTS

10.1 FINANCE REPORTS

10.1.1 Accounts for Payment

Applicant:	N/A
Location / Address:	N/A
File Ref:	ADM0075
Disclosure of Interest:	Nil
Date:	12 th March 2019
Author:	Ian Walsh - Deputy Chief Executive Officer
Attachments:	10.1.1 - Cheque & EFT Listing

SUMMARY

Council to confirm the payment of creditors for the period 5 February 2019 to 11 March 2019, in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

ATTACHMENT

Copy of list of accounts paid (EFT & cheque payments), which will enable Council to confirm the payment of its creditors in accordance with Local Government (Financial Management) Regulations 1996, Section 13(1).

BACKGROUND

Financial Regulations require a schedule of payments made through the Council bank accounts to be presented to Council for their inspection. The list includes details for each account paid incorporating the payee's name, amount of payment, date of payment and sufficient information to identify the transaction.

COMMENT

Invoices supporting all payments are available for inspection. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the provision of services and as to prices, computations and costings, and that the amounts shown were due for payment.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995, Section 6.4 *Financial Report*
Local Government (Financial Management) Regulations 1996 -
Section 12 Payments from municipal fund or trust fund;
Section 13 Lists of accounts; and
Section 15 Rounding off figures

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item: 10.1.1

That payment listed as Attachment 10.1.1. List of Accounts Due and Paid for the period 5 February 2019 to 11 March 2019; and paid by the Chief Executive Officer under delegated authority of Council, or by the Deputy CEO (in the Chief Executive Officer's absence) as delegated by the Chief Executive Officer including:

Manual Municipal cheques:	022587 - 022594
Municipal cheques:	Nil
Municipal EFT's:	12097 - 12214
Trust Cheques:	300433 - 300434
Payroll direct debits:	#16 - #17 - #18
Municipal Direct Debits	28/02/19

Totalling \$632,520.92 be approved and passed for payment.

10.1.2 Financial Reports to 28 February 2019

Applicant:	N/A
Location / Address:	N/A
File Ref:	ADM0075
Disclosure of Interest:	Nil
Date:	12 th March 2019
Author:	Ian Walsh - Deputy Chief Executive Officer
Attachments:	10.1.2 Monthly Statement of Financial Activity

SUMMARY

A Statement of Financial Activity and other supplementary financial information is produced monthly as part of the Council meeting agenda.

BACKGROUND

The attached financial report for the period 1 July 2018 to 28 February 2019 (Attachment 10.1.2) has been prepared in accordance with the Local Government Financial Management Regulations.

COMMENT

Included with this report is the following:

- Statement of Financial Activity for the period 1 July 2018 to 28 February 2019;
- Summary Rates Trial Balance Report as at 28 February 2019;
- Cash and Investment Listing;
- Debtors Listing;
- Other Supplementary Information;

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulation 34 - *Financial activity statement report* — s. 6.4

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item: 10.1.2

That Council receive the Statement of Financial Activity for the period 1 July 2018 to 28 February 2019; and other supplementary financial information as presented

10.2 ADMINISTRATION REPORTS

10.2.1 Review of OAG Report On Local Government Sector

Applicant:	N/A
Location / Address:	N/A
File Ref:	ADM0115
Disclosure of Interest:	Nil
Date:	8 th March 2019
Author:	Chief Executive Officer
Attachments:	10.2.1 - WA Auditor General's Report March 2019

SUMMARY

This report recommends that Council accepts and adopts the review recommendations of the Shire's Financial and Audit Management Governance and practices.

BACKGROUND

Following proclamation of the Local Government Amendment (Auditing) Act 2017, the Local Government sector in WA is now audited by the "Office of the Auditor General" (OAG). The 2017 -2018 year was the first of a 4-year transition of local government financial auditing to the Office of the Auditor General.

Early March 2019 OAG released their report summarising the results of 42 local government entities' annual financial report audits completed by the OAG to date for the year ending 30 June 2018. The 42 audits completed in 2017-18 represent approximately one third of all WA local government entity audits. During the audits, the OAG have made other observations about what they found is working well in the sector, where improvements may be considered and where opportunities exist.

One such stark governance-related opportunity relates to audit committees. Audit committees play a key role in assisting boards, councils and chief executive officers with financial management, control, and reporting. In their report, they have included a few preliminary observations about the role of audit committees in the annual reporting and audit process.

The OAG also raised concerns that some local government staff considered an audit finding not worthy of formal reporting if the control weakness did not result in a breach of legislation or misstatement. The OAG advised they report weaknesses in internal controls and governance, so that they can be remedied before they potentially lead to non-compliance with legislation including misstatement due to fraud or error.

The OAG also identified the need for more emphasis on auditor independence. The OAG noted it was often common practice for auditors to perform other work for local government entities, in addition to the annual financial audit.

As this can impair an auditor's independence, they have tightened controls around their contracted local government auditors performing this work, while recognising practical challenges - such as limited availability of alternate skills in some regional areas.

COMMENT

The attached WA Auditor General's Report March 2019 includes a list of identified risks and recommendations (page 8).

These identified issues in the sector, have been analysed and reviewed by the Shire's executive team to minimise of the risk of similar issues occurring at the Shire of Carnamah.

Having recently undertaken a review of our internal processes the team is confident the Shire of Carnamah is compliance with its regulatory obligations. However, the OAG have advised that they also Local governments to implement and enact internal policy and practices, as well which will also be audited for compliance.

In light of this, the Executive feel it is prudent to not only implement the recommendation listed in the OAG report, but to also ensure day to day practices are documented transparent and complied with.

As a result this item to Council seeks endorsement of the of key improvement recommendations.

CONSULTATION

- CEO
- Deputy CEO
- Senior Finance Officer
- EAO

STATUTORY ENVIRONMENT

Local Government Act (WA) 1995

Local Government (Audit) Regulations 1996 – Regulation 17

Local Government (Financial Management) Regulations 1996

Local Government (Administration) Regulations 1996

Local Government (Functions and General) Regulations 1996

Local Government (Elections) Regulations 1997

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENT

Absolute Majority

That Council accepts and adopts the review recommendations of the Shire's Financial and Audit Management governance and practices; Improvement Recommendations (ref: ATT 10.2.1) –

- 1. The Shire of Carnamah will maintain the integrity of the financial control environment by:***
 - a. Conducting a quarterly review and updating all financial, asset, human resources, governance, information systems and other management policies and procedures, and communicating these to staff.***
 - b. Conducting ongoing reviews and improvement of internal control systems in response to regular risk assessments.***
 - c. Regularly monitoring compliance with relevant legislation.***
 - d. Promptly addressing control weaknesses brought to our attention by audits. (Page 16)***
- 2. In addition to compliance with legislation, management will promote a culture of applying better practice financial management and complying with internal policies. (Page 18)***
- 3. An in-depth audit exit meeting will be held with the audit committee, in advance of council meetings. As far as is practicable, the audit committee will now only include a maximum of three council members, rather than the entire council. (Page 18)***
- 4. Annual audit entrance meetings will be held with the audit committee. (Page 18)***
- 5. Audit exit meetings will provide the auditor the opportunity to highlight the key audit issues, in a structured manner, and the CEO adequate opportunity to comment. (Page 18)***
- 6. The Shire of Carnamah will not make interim audit findings public until they are received as part of an Audit Report on completion of the audit, unless specific urgent needs warrant earlier release. (Page 18)***
- 7. The Shire of Carnamah will continue to comply with the legislated requirements regarding the reporting methodology of all asset classes. (Page 21)***
- 8. The Shire of Carnamah will continue to robustly assess the assumptions and methodology of valuers, in particular the approach for valuing land assets with restricted use. (Page 21)***
- 9. The Shire of Carnamah will continue to monitor the progress of the Australian Accounting Standards Board and International Public Sector Accounting Standards Board public sector fair value projects. As well as continue to seek expert compliance guidance. (Page 21)***
- 10. The Shire of Carnamah will commence transitioning to prepare for the implementation of the upcoming accounting standards changes, and the new regulation requiring assets with a value at acquisition below \$5,000 to be expensed. (Page 23)***

10.2.2 2018 Compliance Audit Return

Applicant:	N/A
Location / Address:	N/A
File Ref:	ADM0057
Disclosure of Interest:	Nil
Date:	9 th March 2018
Author:	Chief Executive Officer
Attachments:	Att 10.2.2 2018 Compliance Audit Return

SUMMARY

The 2018 Compliance Audit Return was presented to the Audit Committee for endorsement and/or amendment. The 2018 Compliance Audit Return is now presented for the Councils endorsement and/or amendment.

BACKGROUND

Council is required to complete and submit the attached Compliance Audit Return by the 31st March 2019. The return covers the twelve months to the 31st December 2018.

COMMENT

The 2018 Compliance Audit Return is attached to this report. The return demonstrates that there has been a strong level of compliance and there is confidence that there have not been any material departures with respect to the Shire meeting its compliance requirements.

CONSULTATION

CEO
DCEO
ESO

STATUTORY ENVIRONMENT

Local Government Act 1995 – section 7.13(i) – *audit of compliance*.
Local Government Audit Regulations 1996 – *compliance audit of statutory requirements*.

STRATEGIC IMPLICATIONS

Corporate Business Plan

Civic Leadership

Objective 4:

To be a professional, customer focussed organisation, which

- *effectively engages (with) the community to determine strategic direction,*
- *responsibly manages the organisation's assets and financial resources,*
- *is a strong advocate for the community.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple Majority

COMMITTEE RECOMMENDATION

Item: 10.2.2

That Council adopt the Compliance Audit Return as the official return of Council for the period 1st January 2018 to 31st December 2018.

10.2.3 Annual Review of Delegations to the CEO

Applicant:	N/A
Location Address:	N/A
File Ref:	Delegation Register
Disclosure of Interest:	The CEO declares an impartiality interest as the delegations have a direct bearing of the extent of her authority to act on behalf of Council.
Date:	11 March 2019
Author:	Karen Oborn, Chief Executive Officer
Attachments:	10.2.3 Delegation Register 2019

SUMMARY

This report recommends that Council confirms and approves the delegations to the CEO as encompassed in Attachment 10.2.3 consisting of the Register of Delegations that is a review of the exiting delegations, as per the Local Government Act where Council has put a limitation on the CEO's authority.

BACKGROUND

The Local Government Act requires the delegator to review their delegations once every financial year. In this case there are two delegators:

- Council, as it delegates functions to the CEO; and
- The CEO, as they delegate functions to other staff.

Council last reviewed its delegations to the CEO in February 2018. The CEO reviewed his delegations to other staff at the same time.

COMMENT

The author on behalf of Council has reviewed the delegations to the CEO. There are a number of updated delegations proposed. These have been authored in a manner to be reflective of the sectors current best practice. An example being the Town of Claremont delegated authority register. A hard copy of their register is available for Councillor's wishing to review it.

Within the delegation instrument for the Local Government Act, it should be noted that Council has delegated the following to the CEO:

- All relevant matters under the Local Government Act and its regulations and relevant local laws except those things prohibited by Section 5.43 of that Act; and
- Delegations with limits including:
 - 1001 Obtaining Legal Advice – Is subject to the provision made in the budget for such expenses;
 - 1002 Debt Write Off – CEO can write off debts up to \$100;
 - 1003 Disposal of Surplus Equipment, Materials, Tools, etc. – Only applies to items not included on the Asset Register;
 - 1004 Altering Thoroughfare Alignments – Can be undertaken by the CEO providing there are no objections.

- Within the delegation Instrument for the Building Act, all relevant matters under the Building Act and its regulations and relevant local laws. Local Government under the Building Act is a permit authority and so has the power and function to deal with building approvals and incidental matters including inspections and the issue of building permits. The CEO can on delegate this power;

A copy of the reviewed delegations register to the CEO is attached to this report in Attachment 10.2.3. The author has also conducted a review of delegations from the CEO to staff.

CONSULTATION

- Senior Staff Team (CEO, DCEO, MWS, ESO).

STATUTORY ENVIRONMENT

Local Government Act 1995

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under -
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).

* *Absolute majority required*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in an instrument of delegation.

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties -

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (h) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (i) any power or duty that requires the approval of the Minister or the Governor;
- (j) such other powers or duties as may be prescribed.

[Section 5.43 amended by No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23.]

5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty -
 - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) -
conditions includes qualifications, limitations or exceptions.
[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

5.45. Other matters relevant to delegations under this Division

- (1) Without limiting the application of sections 58 and 59 of the *Interpretation Act 1984* —
 - (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing -
 - (a) a local government from performing any of its functions by acting through a person other than the CEO; or
 - (b) a CEO from performing any of his or her functions by acting through another person.

5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

Section 9.49A

As advised in the policy implications section of this report, the Shire President can sign the instruments of delegation to the CEO on behalf of the Shire.

Note:

In the annual financial review of the delegations to the CEO, the review process is only required under the Local Government Act and not in other legislation. However, it would be prudent to review all delegations to the CEO at the same time.

Building Act 2011

Cat Act 2011

Dog Act 1976

Bush Fires Act 1954

Graffiti Vandalism Act 2016

STRATEGIC IMPLICATIONS

Civic Leadership - Objective 4:

To be a professional, customer focussed organisation, which

- effectively engages (with) the community to determine strategic direction,***
- responsibly manages the organisation's assets and financial resources,***
- is a strong advocate for the community.***

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK IMPLICATIONS

Using the Shire's Risk Governance Framework, there are a number of risks associated with failing to administer delegations correctly:

Financial: The financial delegations to the CEO are currently limited (e.g. write off of debts up to \$100) and there is a procurement policy in place that allows the CEO (and therefore staff) to act within the required limits and to act through (according to) the Shire's budget. So the consequence is low (less than \$1,000). The likelihood of conducting an action without the appropriate delegation in this instance is possible i.e. once every three years. The risk is therefore low.

Compliance: The CEO and staff conducting tasks without the appropriate delegation can be a major consequence i.e. resulting in an imposed penalty. The likelihood of this occurring is possible i.e. once every three years and so the risk is high.

Reputational: Once reported that the Shire is non-compliant regarding keeping its' delegations up to date, there is the risk of substantiated, public embarrassment of moderate impact and with a moderate news profile (e.g. media reporting in the Mid West) and so the consequence is moderate. The likelihood of this occurring is possible i.e. once every three years. The risk is moderate in nature.

The annual review of the delegations to the CEO (and by the CEO to staff) reduces the risk for all three consequences to low. The risk acceptance criterion puts the responsibility at CEO/Manager level i.e. the CEO conducts the review of the delegations (or seeks new delegations as required) and advises Council accordingly.

VOTING REQUIREMENT

Absolute Majority

OFFICER RECOMMENDATION

<i>Item: 10.2.3</i>

<i>That Council adopts the 2019 Shire of Carnamah Delegated Authority Register, as attached.</i>
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10.2.4 Participation in the Regional Wildflower Country Program

Applicant:	N/A
Location / Address:	N/A
File Ref:	ADM0202
Disclosure of Interest:	Nil
Date:	12 th March 2019
Author:	Karen Oborn, Chief Executive Officer
Attachments:	

SUMMARY

This report recommends that Council consider recommencing their participation in the Wildflower Country Program.

BACKGROUND

Tourist is becoming a major issue for the Shire of Carnamah, in particular attracting people travelling in our region, to view the wildflowers. In addition, the Shire is supporting the early stages of developing an astro-tourism program. The Shire of Carnamah also has a rich heritage and historical sites for tourists to interact with. However, there is a need to promote the region as well in order to increase visitor numbers. Currently the Shire is not a participant in the regional Wildflower Country Group.

COMMENT

In September 2018, Council decided to leave the regional Wildflower Country Group. This was because it seemed that the Wildflower Country Marketing group are not making the best decisions for the whole 9 Shires involved. Some other Shires in our region also felt there is a need to reform our tourism approach and develop an economic plan that looks at wildflowers, astro-tourism and other key features at each location, including geocaching and eco-tourism, as a whole, to promote the development of the region. In addition many felt the engagement of a person at \$60 an hour to coordinated marketing and promotion was not sustainable.

However, at the Wildflower meeting on Friday the 22nd Feb 2019, the remaining group asked the Shire of Carnamah to re-join. It was an intense conversation and many matters were clarified. Continuing to pay out \$24k pa., for a marketing person, is not acceptable to the Shire of Carnamah. And many other members of this group have also previously expressed this very same thing. However, this situation is continuing as a trial, despite having a deficit budget. There needs to be an end point, otherwise the same issues will go around and around.

There have also been some changes, including a shift in focus to the projects which is a great initiative, supported by us. There will however be a need to contribute additional funding to develop these projects. And we would consider adding funds in, for them to be implemented. As a result there was an agreement that the matter would be taken to Council in March 2019, for their consideration.

STATUTORY ENVIRONMENT

Nil

STRATEGIC IMPLICATIONS

Economic Objective: *Business* - Retain existing industries and encourage the establishment of new industries to broaden the district's economic base.

Economic Objective: *Tourism* - To promote and develop a sustainable tourism industry in the Shire of Carnamah

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The Shire contributes \$4,500 pa. to Wildflower Country.

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION

Item: 10.2.4

That Council consider recommencing their participation in the Wildflower Country Program, and inform the Wildflower Country Committee, that;

They will not be re-joining the group.

Or

They will be re-joining the group.

Or

They will consider re-joining the group in three months' time in order to monitor the issues that have caused the past grievances. Council will however consider participating in the discrete regional projects, put forward by the Wildflower Country Committee, at their meeting 22 February 2019.

10.2.5 Eneabba Horse Paddocks - Request from Breanna Dorrington

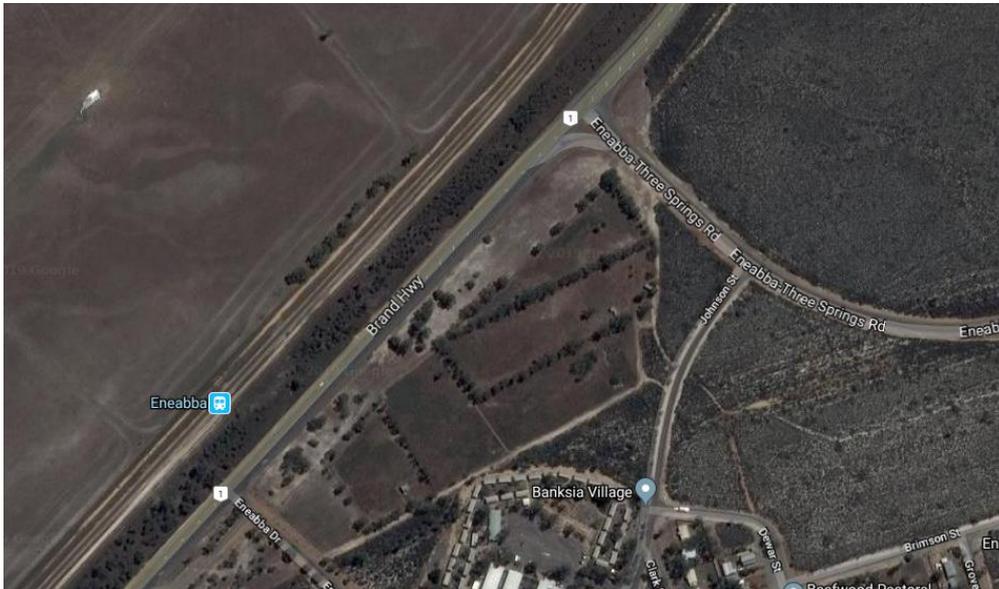
Applicant:	Breanna Dorrington
Location / Address:	Eneabba Horse Paddocks, Brand Highway Eneabba WA
File Ref:	ADM0250
Disclosure of Interest:	Nil
Date:	12 th March 2019
Author:	Karen Oborn, Chief Executive Officer
Attachments:	10.2.5 Letter from Breanna Dorrington

SUMMARY

This report recommends that Council, conditionally agree to Breanna Dorrington using the Eneabba Horse Paddocks next to the Brand Highway.

BACKGROUND

Ms Breanna Dorrington has written to Council seeking permission to use the Eneabba horse paddocks next to the brand Highway in Eneabba WA. She would like to use the paddocks when she is home from school and has confirmed she will be responsible for the fencing and maintenance of the facilities she uses.



COMMENT

There are liability issues to be considered, should the horses get out of the paddocks. It is felt the applicant would need to take out public liability insurance. Previously the area has been overstocked and animal welfare issues have been raised. The Shire would need the applicant to give the Shire of Carnamah, the right to remove and impound any animals straying or whose welfare was in jeopardy. In addition the stocking rate would need to be limited severely to prevent past issues from arising again, to a limit of 2 or 3 horses only.

CONSULTATION

DCEO

MWS

STATUTORY ENVIRONMENT

Nil

STRATEGIC COMMUNITY PLAN 2027 IMPLICATIONS

Social Objective 1: Continuity and improvement of existing services and facilities in the Shire -

3. To plan and implement town beautification programs; 5. To encourage the level of participation in sport and recreation whilst improving facilities and access; and 6. To promote and facilitate the development of a wide variety of artistic and cultural pursuits that forge connections between residents of the district and their natural and built environments.

POLICY IMPLICATIONS

Council policy 2.1: Contributions and Donations, requires this matter to be presented for consideration by Council.

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple majority required.

OFFICER RECOMMENDATION

Item: 10.2.5

That Council conditionally agrees to Breanna Dorrington being allowed to use the Eneabba Horse Paddocks next to the Brand Highway, Eneabba WA, for the occasional keeping of horses, subject to;

- 1. The applicant (or legal guardian if under 18 years of age) agrees in writing to being solely responsible for any injury to livestock or persons, including that caused by straying livestock and any damage to property and / or injury to persons caused as a result of these occurrences; and***
- 2. The applicant provides the Shire with a copy of a certificate of currency for public liability insurance covering the events detailed at point 1; and***
- 3. The applicant (or legal guardian if under 18 years of age) agrees in writing to accept sole responsibility for the supply of water to the paddock(s), the maintenance of all fencing and any infrastructure in the paddock(s), as well as the welfare and wellbeing of the horses kept in the paddocks, safety of themselves, other people and any trespassers, and waives any right to compensation from the Shire for any matter relating to the paddocks, fencing, sheds, location, people and/or injury to people and/ or the horses and / or their welfare; and***
- 4. Agrees in writing to limit the number of horses to two horses that they own and does not allow any other animals of any kind to be kept there, nor any other horses owned by other persons to be on Shire property; and***
- 5. Agrees in writing to give the Shire of Carnamah the right to remove and impound any animals straying or whose welfare appears to be in jeopardy and/or is not being cared for in a manner to satisfy the requirements of the RSPCA.***

10.2.6 APPLICATION FOR PLANNING APPROVAL- 2 Robertson Street, Carnamah WA

Applicant:	Sebastien Fidock (Landowner)
Location / Address:	2 Robertson Street, Carnamah WA
File Ref:	ADM0270
Disclosure of Interest:	Nil
Date:	12 th February 2019
Author:	Karen Oborn, Chief Executive Officer
Attachments:	<i>A confidential commercially sensitive Hard Copy of the DA and related documents will be given to Councils at the Meeting – Not for Publication</i>

SUMMARY

This report recommends that an application for planning approval submitted by Sebastien Fidock (Landowner) to operate a Home Store, in the Carnamah townsite be approved subject to conditions.

BACKGROUND

An application was received and presented to the October 2017 Council Meeting for a letter of support from Council, so that a Carnamah town site resident might apply for a license from the Western Australia Police to be a firearms dealer. The community consultation required by Council has been completed and the proponent (Mr Sebastian Fidock) presented a summary of that feedback at the December 2017 Council Meeting..

COMMENT

The Council at the OCM 8 December 2017 noted the presentation provided by Mr Fidock at the Council Meeting in relation to this particular matter. The Shire wrote to Mr Fidock of Fraternity Ag, inviting him to apply for planning approval for a Home Occupation or Home Store License, for his proposed business at 2 Robertson Street, Carnamah, for Council assessment, upon receipt of approval from the WA Police for a Home Occupation License to Fraternity Ag. Council provided a letter of support for the home store and acknowledges that Council is aware that firearms will be kept at that location in approving of the operation of a firearms and ammunitions dealership business at 2 Robertson Street, Carnamah;

CONSULTATION

DCEO,

Councillors Oct & Dec 2017.

STATUTORY ENVIRONMENT

The Local Government Act 1995 at section 3.1 outlines that the general Function of Local Government is to provide for the good government of people in its district. The property is zoned Residential and the Shire of Carnamah's Town Planning Scheme Table 10 - Zoning

Table provides that a “Home Occupation” is a “D” use (vis. the use is not permitted unless the local government has exercised its discretion by granting planning approval).

The Planning and Development (Local Planning Schemes) Regulations 2015 defines a Home Occupation as follows;

means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation that —

(a) does not involve employing a person who is not a member of the occupier’s household; and

(b) will not cause injury to or adversely affect the amenity of the neighbourhood; and

(c) does not occupy an area greater than 20 m²; and

(d) does not involve the display on the premises of a sign with an area exceeding 0.2 m²; and

(e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and

(f) does not —

(i) require a greater number of parking spaces than normally required for a single dwelling; or

(ii) result in an increase in traffic volume in the neighbourhood; and

(g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and

(h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and

(i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is locate.

The application could alternatively be treated as an application for a ‘Home Store’ which does allow some retail. The Regulations defines a *home store* as:

a shop attached to a dwelling that —

(a) has a net lettable area not exceeding 100 m²; and

(b) is operated by a person residing in the dwelling;

STRATEGIC IMPLICATIONS

The Strategic Community Plan refers to aspirations like community safety and being a place of economic opportunity. The Corporate Business Plan refers to the need for the Shire’s Planning Scheme to be reviewed to ensure appropriate land use zoning to accommodate future business activity (which has occurred); and to encourage the establishment of new industries to broaden the district’s economic base.

POLICY IMPLICATIONS

- Shire of Carnamah Policy 3.8 – *Townscape Amenity Policy*
- State Planning Policy 3 – *Urban Growth and Settlement*

FINANCIAL IMPLICATIONS

There is a small fee for the provision of the Home Occupation License if one is issued. All costs associated with the project’s implementation will be borne by the applicant / landowner.

VOTING REQUIREMENT

Simple majority required.

OFFICER RECOMMENDATION

Item 10.2.6

That the application for planning approval submitted by Sebastien Fidock (Landowner) to operate a Home Store, being a Firearms Dealership, in the Carnamah townsite be **APPROVED** by Council, subject to the following conditions and advice notes:

Conditions

1. The proposed development shall be undertaken in a manner consistent with the information and plans submitted in support of the application unless otherwise approved by Council.
2. The Home Store being a Firearms Dealership, must at all times comply with the requirements of the Firearms Dealers Licence, issued in accordance with Section 16(1)(d) of the Firearms Act, 1973, by the Western Australian Commissioner of Police, and the terms and conditions relating to that license.

Advice Notes

1. The development is to be substantially commenced within a period of two (2) years from the date of this approval. If the development is not substantially commenced within this period the approval will lapse and be of no further effect. Where an approval has lapsed, no development shall be carried out without the further approval of the Shire of Carnamah having first been sought and obtained.
2. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.
3. This is a planning approval of the Shire of Carnamah under its Local Planning Scheme No.2. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant and landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
4. In accordance with the Building Act 2011 and Building Regulations 2012 any building permit applications must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any building construction or earthworks on the land.
5. The proposed development is required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements must be submitted to the Shire with the required building permit application.
6. No construction works shall commence on the land prior to 7am without the Shire's written approval. No construction works are permitted on Sundays or Public Holidays.
7. The noise generated by any activities on-site including machinery motors or vehicles shall not exceed the levels as set out under the Environmental (Noise) Regulations 1997.
8. Failure to comply with any of the conditions of this planning approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the Shire of Carnamah Local Planning Scheme No.2 and may result in legal action being initiated by the local government.
9. If the applicant / landowner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be submitted within 28 days of the determination.

11. ORDERING THE COMMON SEAL

12. REPORTS OF COMMITTEES AND MEMBERS

13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

14. NOTICE OF MOTIONS

(For consideration at the following meeting, if given during the meeting)

15. NEW BUSINESS OF AN URGENT NATURE ADMITTED BY COUNCIL

16. CLOSURE OF MEETING