



11 August 2023

## NOTICE OF MEETING

Dear Councillor,

The next Ordinary Meeting of Council will be held at 4pm on Wednesday, 16 August 2023 in the Council Chamber located at 33-37 Macpherson Street Carnamah.

The attached Agenda is presented for your consideration.

*Robert Paull*

Robert Paull  
**Chief Executive Officer**



*Unlocking the past, securing our future*

*We reflect on the spirit of the people who settled this country and developed the land; along with the service personnel and volunteers whose sacrifices have enabled us to enjoy the lifestyle we are accustomed.*

**AGENDA**  
**ORDINARY COUNCIL MEETING**  
**16 AUGUST 2023**

**DISCLAIMER**

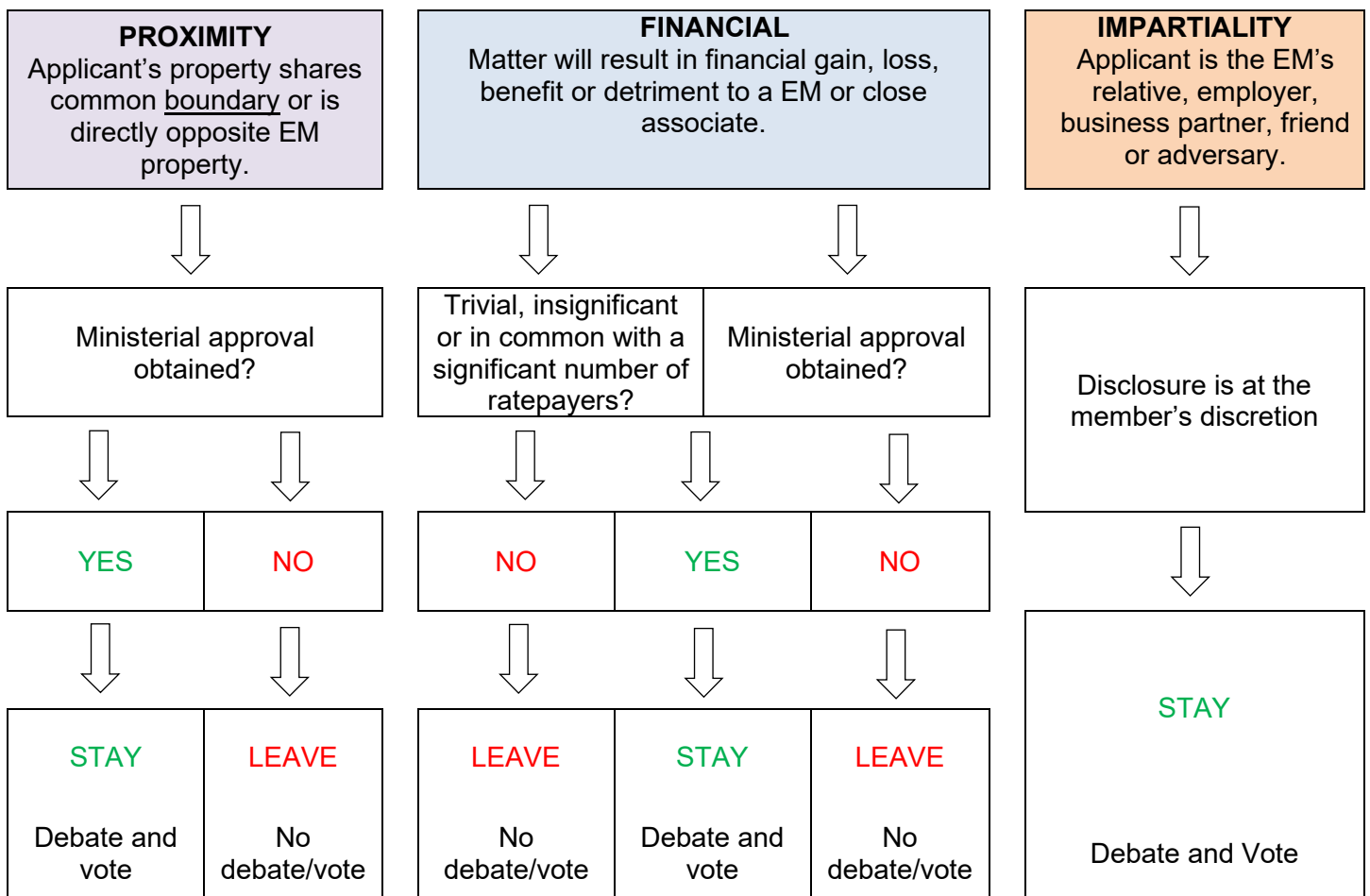
No responsibility is implied or accepted by Shire of Carnamah for any act, omission or statement or intimation occurring during Council or Committee meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

Shire of Carnamah advises that anyone who has any application lodged with 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 Shire of Carnamah in respect of the application.

**Disclosure of Interests at Meetings**

The Act places specific obligations on **elected members of council, local government employees** and other persons involved in making decisions or giving advice on Council matters to act honestly and responsibly in carrying out their functions. Generally, those obligations include the lodgement of disclosure of interest returns, the lodgement of written declarations and the verbal disclosure of financial interests at council and council committee meetings.

- **Financial interest:** a financial interest is where it is reasonable to expect that a matter being considered will result in a financial gain, loss, benefit or detriment for the person declaring the interest.
- **Proximity interest:** a proximity interest in a matter is where the matter being considered involves redevelopment or other changes of use of land that adjoins or has a common boundary or is directly across a thoroughfare to any land belonging to the person making the declaration of interest.
- **Indirect financial interest:** an indirect interest is where a matter being considered by the local government relates to another person with which the person making the declaration has a financial relationship.
- **Impartiality interest:** An impartiality interest is where there is an actual or perceived relationship that could adversely affect the impartiality of the person making the decision, and includes family, friends or membership of an association (*Local Government (Administration) Regulations 1996 reg 34C*).



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**ORDINARY COUNCIL MEETING**  
**Wednesday, 16 August 2023**

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**1.0 DECLARATION OF OPENING**

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**1.1 OPENING**

Acknowledgement of Country

*The President acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community; and pays respect to Elders past, present and emerging.*

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**2.0 RECORD OF ATTENDANCE**

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**2.1 TABLE OF COUNCILLOR ATTENDANCE OVER THE LAST 12 MONTHS**

2022/23	Cr Isbister	Cr Woollorton	Cr Counsel	Cr Bowman	Cr Kikeros	Cr Chisholm	Cr Risinger
07 - 22 OCM							
08 - 22 OCM							
08 - 22 SCM							
09 - 22 OCM							
10-22 OCM							
11-22 OCM							
12-22 OCM							
02-23 OCM							
03-23 OCM							
04-23 OCM							
05-23 OCM							
06-23 OCM							
07-23 OCM							

Legend:

Attended	
Leave of Absence	
Apology	

**2.2 APOLOGIES**

Nil

**2.3 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**

Nil

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**3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

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Nil

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#### **4.0 PUBLIC QUESTION TIME**

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Nil

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#### **5.0 APPLICATION FOR LEAVE OF ABSENCE**

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Nil

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#### **6.0 DISCLOSURE OF INTEREST**

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##### **6.1 DECLARATION OF FINANCIAL INTEREST AND PROXIMITY INTERESTS**

###### **6.1.1 Chief Executive Officer, Robert Paull – Item 10.3.1**

Chief Executive Officer, Robert Paull declared a financial interest in Item 10.3.1 Chief Executive Authorisations and Reporting due to the item addressing matters relating to his employment as CEO.

###### **6.1.2 Chief Executive Officer, Robert Paull – Item 10.5.2**

Chief Executive Officer, Robert Paull declared a financial interest in Item 10.5.2 Confidential item - Chief Executive Officer Performance Appraisal and Performance Criteria/Key Result Areas for 2023/24 due to the item addressing matters relating to his employment as CEO.

##### **6.2 DECLARATION OF INTEREST AFFECTING IMPARTIALITY**

Nil

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#### **7.0 PETITIONS AND DEPUTATIONS**

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Nil

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#### **8.0 ANNOUNCEMENTS BY THE PRESIDING PERSON**

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Nil

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#### **9.0 CONFIRMATION OF MINUTES**

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##### **9.1 UNCONFIRMED MINUTES - ORDINARY MEETING OF COUNCIL 17 MAY 2023**

###### **OFFICER RECOMMENDATION**

That the Minutes of the [Ordinary Meeting of Council](#) held on 19 July 2023 be accepted as a true and accurate record.

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## 10.0 REPORTS OF THE CEO

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### 10.1 MANAGER REGULATORY SERVICES

Nil

### 10.2 WORKS ADMINISTRATION REPORTS

Nil

### 10.3 FINANCE REPORTS

#### 10.3.1 Chief Executive Officer Authorisations and Reporting

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<b>File Code</b>	ADM0076
<b>Author</b>	Ian Walsh, Deputy Chief Executive Officer
<b>Senior Employee</b>	Ian Walsh, Deputy Chief Executive Officer
<b>Disclosure of Interest</b>	Should Council accept the recommendation of the Report, the Deputy Chief Executive Officer will be Acting Chief executive for the period 7 August 2023 until 8 August 2023 (inclusive).
<b>Attachments</b>	1. <a href="#">CEO's Timesheets</a> 2. <a href="#">CEO's Credit Card Statement</a>

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## SUMMARY

The purpose of this agenda item is to report to Council on the Chief Executive Officer (CEO) leave applications, use of corporate credit card and reimbursement of CEO expense applications.

## COMMENT

Due to the position held by the CEO, there is no other individual person authorised under the *Local Government Act 1995* (the Act) to approve or authorise the CEO's leave applications, use of the corporate credit card and the reimbursement of CEO expense applications. These functions can only be approved by Council resolution.

### Time Sheet and Leave Taken

This report covers period between 13 July 2023 and 10 August 2023 (**Attachment 1**). No was taken during this period.

### Leave Sought

This report covers the period between 17 August 2023 until 20 September 2023. The CEO is requesting to take Personal Leave on 7 September 2023 until 8 September 2023 (inclusive).

### Reimbursement Applications

This report covers period between 13 July 2023 and 10 August 2023. The CEO did not seek or receive any reimbursements during this period.



## Corporate Credit Card

This report covers 13 July 2023 and 10 August 2023 credit card statement (**Attachment 2**).

## CONSULTATION

Chief Executive Officer

## STATUTORY ENVIRONMENT

Section 2.7 of the Local Government Act 1995 states:

*“Role of council*

*(1) The council —*

*(a) governs the local government’s affairs; and*

*(b) is responsible for the performance of the local government’s functions.*

*(2) Without limiting subsection (1), the council is to —*

*(a) oversee the allocation of the local government’s finances and resources; and*

*(b) determine the local government’s policies.”*

## STRATEGIC IMPLICATIONS

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031 (reviewed December 2022)

*Outcome 4.2 Improvement in efficient and effective service delivery*

*Strategy 4.1.2 Continuous improvement in efficient and effective service delivery*

## POLICY IMPLICATIONS

Policy 1.9 CEO Leave Authorisations and Other Approvals

Policy 9.23 Acting Chief Executive Officer

Policy 9.23 States in part:

*“In accordance with the requirements of the Local Government Act 1995, section 5.36(2)(a), Council has determined that the person appointed as the permanent incumbent to the position of Deputy Chief Executive Officer is suitably qualified to perform the role of Acting Chief Executive Officer or in emergency situations.*

*The Shire’s incumbent Deputy Chief Executive Officer is Ian Walsh, Deputy Chief Executive Officer. Appointment to the role of Acting Chief Executive Officer shall be made in writing by the Chief Executive Officer for a defined period that does not exceed 3 months. A Council resolution is required for periods exceeding 3 months.*

## RISK IMPLICATIONS

<b>Risk:</b> Legal and Reputational – Only Council can approve or authorise the CEO’s leave applications, use of the corporate credit card and the reimbursement of CEO expense applications.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Possible	Low	Moderate
<b>Action / Strategy</b>		
The risk is mitigated by complying with the approved policy.		

## FINANCIAL IMPLICATIONS

There are no known financial implications associated with this Item.

## VOTING REQUIREMENT

Simple Majority

### OFFICER RECOMMENDATION

That with respect to Chief Executive Officer Authorisations and Reporting, Council:

1. Receives the information presented to this meeting of the time worked by the Chief Executive Officer between 13 July 2023 and 10 August 2023 and acknowledges that the time worked is in accordance with the Chief Executive Officer's Letter of Appointment.
2. Receives the information presented to this meeting that the other than previously approved, the Chief Executive Officer took no other leave from the last Ordinary Council meeting held on 19 July 2023 until 10 August 2023.
3. Approves the Chief Executive Officer's request for Personal Leave from 7 September 2023 until 8 September 2023 (inclusive).
4. Receives the information presented to this meeting of the credit card transactions made by the Chief Executive Officer using his corporate credit card 13 July 2023 and 10 August 2023 and acknowledges that payment has been incurred in accordance with the Shire's procurement policy.
5. Receives the information presented to this meeting of expenses or reimbursements applications made by the Chief Executive Officer between 13 July 2023 and 10 August 2023.
6. Notes that for the Chief Executive Officer's approved period of Annual Leave, under Council Policy 9.23 *Acting Chief Executive Officer*, Deputy Chief Executive Officer, Mr Ian Walsh will be Acting Chief Executive Officer.

## 10.3.2 Accounts for Payment

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<b>File Code</b>	ADM0076
<b>Author</b>	Ian Walsh, Deputy Chief Executive Officer
<b>Senior Author</b>	Rob Paull, Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	<a href="#">Cheque and EFT Listing</a>

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### SUMMARY

Council to confirm the payment of creditors for the period 14 July 2023 to 8 August 2023, in accordance with the *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

Executive Management Team

### STATUTORY IMPLICATIONS

Local Government Act 1995, Section 6.4 Financial Report

Local Government (Financial Management) Regulations 1996 -

- Section 12 Payments from Municipal Fund;
- Section 13 Lists of accounts; and
- Section 15 Rounding off figures.

### STRATEGIC IMPLICATIONS

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031  
(Reviewed December 2022)

*Outcome 4*                      *Open, collaborative and empowered*

*Priority 4.1*                      *Improvement in efficient and effective service delivery*

*Strategy 4.1.2*                *Continuous improvement in efficient and effective service delivery*

## POLICY IMPLICATIONS

Council has a suite of Financial Polices to achieve Council's overarching financial objectives.

## RISK IMPLICATIONS

<b>Risk:</b> Payments are not monitored against approved budget and delegation		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
The monthly list of payments provides an open and transparent record of payments made under the CEO's approved delegation		

## FINANCIAL IMPLICATIONS

There are no known financial implications associated with this Item.

## VOTING REQUIREMENT

Simple Majority

<b>OFFICER RECOMMENDATION</b>	
That Council approves the payments listed as Attachment 1 for the period 14 July 2023 to 8 August 2023, and paid by the Chief Executive Officer under delegated authority of Council, or by the Deputy Chief Executive Officer (in the Chief Executive Officer's absence) as delegated by the Chief Executive Officer including:	
Municipal cheque:	28346
Municipal EFT's:	16512 – 16567
Payroll direct debits:	# 100, 101
Municipal direct debit:	14453.1, 14461.1, 14481.1, 14487.1, 14493.1 & BANK FEE
Totalling \$ 537062.40 be approved and passed for payment.	

### 10.3.3 Financial Reports to 30 June 2023

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<b>File Code</b>	ADM0076
<b>Author</b>	Ian Walsh, Deputy Chief Executive Officer
<b>Senior Author</b>	Rob Paull, Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachment</b>	1. <a href="#">Financial reports for June 2023</a>

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#### SUMMARY

Council is requested to receive the Financial Report for 30 June 2023 and other supplementary financial information.

#### BACKGROUND

The attached financial reports for the month of June 2023 (**Attachment 1**) have been prepared in accordance with the *Local Government (Financial Management) Regulations 1996*.

#### COMMENT

Included with this report is the following:

- Statement of Financial Activity for May 2023;
- Cash and Financial Assets Listing;
- Receivables;
- Other Current Assets;
- Payables;
- Disposal of Assets;
- Capital Acquisitions;
- Borrowings;
- Reserve Accounts;
- Other Current Liabilities; and
- Operating & Non-Operating Grants.

#### CONSULTATION

Executive Management Team

#### STATUTORY ENVIRONMENT

*Local Government Act 1995 (Act)*

*Local Government (Financial Management) Regulations 1996*

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

(1A) *In this regulation —*

**committed assets** *means revenue unspent but set aside under the annual budget for a specific purpose.*

(1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*

- (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and*
  - (b) *budget estimates to the end of the month to which the statement relates; and*
  - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and*
  - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
  - (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *Each statement of financial activity is to be accompanied by documents containing —*
- (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and*
  - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
  - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity must be shown according to nature or type classification.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
- (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
  - (b) *recorded in the minutes of the meeting at which it is presented.*
- (5) *Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

## **STRATEGIC IMPLICATIONS**

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031  
(Reviewed December 2022)

*Outcome 4. Open, collaborative and empowered*  
*Strategy 4.1 Improvement in efficient and effective service delivery*

## **POLICY IMPLICATIONS**

Council has a suite of Financial Policies to achieve Council's overarching financial objectives.

## RISK IMPLICATIONS

<b>Risk:</b> Financial performance is not monitored against approved budget		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
The monthly financial report tracks the Shire's actual financial performance against its budgeted financial performance to ensure that the Council is able to monitor to Shire's financial performance throughout the financial year.		

## FINANCIAL IMPLICATIONS

There are no known Financial Implications associated with this Item.

## VOTING REQUIREMENT

Simple Majority

### OFFICER RECOMMENDATION

That with respect to Financial Reports to 31 July 2023, Council:

1. Receive the Monthly Financial reports for June 2023 and other supplementary financial information as presented in Attachment 1.

### 10.3.4 2023/24 Budget Adoption and Imposition of Rates and Charges

<b>File Code</b>	ADM0167
<b>Author</b>	Ian Walsh – Deputy Chief Executive Officer
<b>Senior Employee</b>	Robert Paull, Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	1. 2023/24 Draft Budget Document (to be provided under separate cover) 2. <a href="#">Draft Road Hierarchy, Maintenance and Renewal Policy</a>

#### SUMMARY

Each financial year, a budget is prepared and submitted to Council for its consideration. The budget details anticipated income and expenditure for the coming financial year and it has taken into account input from Council's decisions over the last 12 months, and contributions from Councillors and Officers over the same period.

The draft Annual Budget for the year ended 30 June 2024 has now been prepared and is submitted to Council for consideration of formal adoption.

#### BACKGROUND

The *Local Government Act* 1995 requires every local government to have an approved financial year budget taking into account Council's Corporate Business Plan and Long Term Financial Plan. The draft Shire of Carnamah Annual Budget for the year ended 30 June 2024 detailing anticipated income and expenditure for the coming year has now been prepared (**Attachment 1**).

#### COMMENT

In June 2023 the Fair Work Commission handed down a 5.3% wage increase for all staff. These pay increases and corresponding increase in superannuation from 10.5% to 11% will increase employee costs by approximately \$55,000.

At its ordinary meeting in June 2021 Council resolved to establish a Community Education Reserve Fund with an annual allocation of \$5,000 being considered during Councils budget deliberations each year.

In May 2022, Council resolved to grant a 50% concession on the rent for the property situated at 9 Bierman Place to the Carnamah Day Care Supervisor to ensure that the service could continue.

It is recommended that as a result of this concession being granted, \$9,724 per annum, that no transfers be made to the reserve fund whilst the Day Care Supervisor occupies the property. The proposed differential rates were approved by Council on 21 June 2023 and advertised for public comment. Council needs to consider any submissions received prior to imposing the proposed 2023/24 differential rates and minimum payments. No submissions were received.



## CONSULTATION

Councillor Briefings:

- 19 June 2023
- 9 August 2023

Executive Management Team

## STATUTORY IMPLICATIONS

Local Government Act 1995

<i>Section 6.2</i>	<i>Budget to be adopted prior to 31<sup>st</sup> August</i>
<i>Section 6.32</i>	<i>Imposition of rates to make up budget deficiency</i>
<i>Section 6.45</i>	<i>Imposition of rates instalment administration charge</i>
<i>Section 6.51</i>	<i>Imposition of interest on overdue rates</i>
<i>Section 6.46</i>	<i>Granting of discounts for early payment of rates</i>
<i>Section 6.16</i>	<i>Imposition of Fees and Charges</i>
<i>Section 6.11(3)</i>	<i>Reserve accounts change of purpose</i>

Cemeteries Act 1986

<i>Section 53</i>	<i>Fees and charges</i>
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Waste Avoidance and Resource Recovery Act 2007

<i>Section 67</i>	<i>Imposition of receptacle charge</i>
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## STRATEGIC IMPLICATIONS

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021 – 2031 (reviewed December 2022).

*Outcome 4: Open, collaborative and empowered.*

The Strategic Community and Corporate Business Plan was considered when compiling the 2022-2023 Annual Budget.

## POLICY IMPLICATIONS

There are no known policy implications associated with this Item. It is noted that a recommendation to Council is the adoption of the draft *Road Hierarchy, Maintenance And Renewal Policy (Attachment 2)*. As per the April 2023 Roads Inspection and discussion at the May 2023, June 2023, and July 2023 Councillor Briefings, the Policy is to be adopted with the 2023/24 Budget for implementation. The Policy will be reviewed every year.

## RISK IMPLICATIONS

<b>Risk:</b> That the 2023-24 budget does not reflect the forecast expenditure and revenue.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Unlikely	Minor	Low
<b>Action / Strategy</b>		
The item has been evaluated against the Shire’s risk management procedures Risk Matrix. The perceived level of risk is considered low. The Deputy CEO and Manager of Works and Services will monitor the progress regularly.		

## FINANCIAL IMPLICATIONS

The proposed budget for 2023/24 is a balanced budget.

## VOTING REQUIREMENT

Absolute Majority

<b>OFFICER RECOMMENDATION</b>		
That Council:		
1) Impose in accordance with section 6.32(1)(a)(ii), 6.32(1)(b)(ii) and 6.33(3) of the Local Government Act the following differential rates for 2022/23.		
2)		
Rating Category	Minimum Rate \$	Rate in \$ (c)
GRV Townsite	918.75	17.6610
GRV Mining	1837.50	35.3220
UV Rural & Mining	918.75	1.2663
3) In accordance with section 6.45(1)(b) of the Local Government Act 1995, offer the following options for the payment of rates:		
<ul style="list-style-type: none"> <li>• Option 1 – payment in full within 35 days after the issue date of the annual rate notice; and</li> <li>• Option 2 – payments in four equal instalments at intervals of two (2) calendar months: <ul style="list-style-type: none"> <li>▪ Instalment 1 – 5<sup>th</sup> October 2023</li> <li>▪ Instalment 2 – 5<sup>th</sup> December 2022</li> <li>▪ Instalment 3 – 6<sup>th</sup> February 2024</li> <li>▪ Instalment 4 – 9<sup>th</sup> April 2024</li> </ul> </li> </ul>		
4) Impose in accordance with section 6.45(3) of the Local Government Act 1995 an interest rate of 5.5% where the owner has elected to pay rates and charges through an instalment option and an administration fee of \$10 per instalment notice.		

- 5) Impose in accordance with section 6.51(1) of the Local Government Act an interest rate of 11.0% applicable to overdue and unpaid rate and service charges subject to:
- Note that the advertising required by section 6.16 of the Local Government Act 1995 inviting input into the proposed differential rates was placed in the “West Australian” newspaper on Monday 26 June 2023 and on Councils website and notice boards and that no submissions were received.
  - Confirm that no discount is given where rates are paid in full by the due date.
  - Reaffirms its Materiality Policy of 10% as per Policy 8.14 – Materiality For Financial Reporting.
- 6) Set the following meeting fees and allowances payable to members for the period from 1<sup>st</sup> July 2021 to 30<sup>th</sup> June 2022 to:

Fee / Allowance Type	Current	Maximum	2023/24 Fee / Allowance
Presidential Allowance	\$8,000 pa	\$9,742 pa	\$8,000 pa
Meeting - President	\$238 each	\$488 each	\$238 each
Meeting - Councillor	\$238 each	\$244 each	\$238 each
Meeting - Committee	\$119 each	\$122 each	\$119 each
ITC	\$1,750 pa	\$3,500 pa	\$1,750 pa

- 7) Pursuant to section 3.18 of the Local Government Act 1995, advises it is satisfied that the services and facilities it provides and which are funded in the 2023-24 Annual Budget:
- Integrate and coordinate, so far as is practicable, with any provided by the Commonwealth, State or any public body;
  - Do not duplicate, to an extent that the Council considers inappropriate, services or facilities provided by the Commonwealth, State or any other body or person, whether public or private; and
  - Will be managed efficiently and effectively.
- 8) Resolve that consideration of an annual \$5,000 allocation for the Community Education Reserve each year not be considered whilst Council is providing the rental concession for the property situated at 9 Bierman Place Carnamah.
- 9) Adopt the *Road Hierarchy, Maintenance and Renewal Policy* as provided for in Attachment 2.

## 10.4 ADMINISTRATION REPORTS

### 10.4.1 Delegation Register – Additional Delegations

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<b>File Code</b>	ADM0353
<b>Author</b>	Rachael Moore, Executive Coordinator
<b>Disclosure of Interest</b>	Robert Paull, Chief Executive Officer
<b>Attachment</b>	<a href="#">1. Amended Delegations</a>

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#### SUMMARY

Council is requested to adopt several delegations across various legislations additional to the 2022/23 annual review of delegations.

#### BACKGROUND

All delegations made under the *Local Government Act 1995 (Act)* must be made by absolute majority and recorded in a register. Sections 5.18 and 5.46 of the *Act* require that at least once every financial year, delegations are to be reviewed by the delegator for those delegations under the *Act*, but also presents an opportunity to review delegations made under other legislation. Council undertook its last annual review of delegations in May 2022 and endorsed the proposed outcome of that review at its 15 June 2022 Meeting.

The purpose of delegating power is to enable routine decision making to be undertaken in a cost effective and efficient manner, or rapidly where a time imperative may be involved. Council is required to make decisions of high importance, some of which require absolute majority decisions and cannot be delegated.

Council also has discretionary functions that involve making routine decisions that are high frequency and low risk. It is appropriate for Council to delegate these functions to the Chief Executive Officer (CEO). The Register of Delegations sets out the powers and functions delegated from Council to the CEO.

#### COMMENT

At the Ordinary meeting of 19 July 2023 Council reviewed its Delegation Register for 2023/23. The Shire has since been made aware of several additional delegations required in relation to statutory building and environmental health matters as follows (Note **Attachment 1**):

- **Delegation 2.1 – Authority Relating to Building Provisions**  
change in the delegate from Building Surveyor to Chief Executive Officer
- **Delegation 6.2 Appoint Authorised Officers and Designated Officers**  
change in the delegate from Environmental Health Officer to Chief Executive Officer
- **Delegation 6.1 - Food Business Registration**  
change in the delegate from Environmental Health Officer to Chief Executive Officer
- **Delegation 7.3 – Powers of Entry**
- Change of officer delegation as there is no longer an 'Emergency Management and Ranger Services Officer' employed.

## **CONSULTATION**

Executive Team

## **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.”*

*“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.”*

## **STRATEGIC IMPLICATIONS**

*Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031*  
(Reviewed 16 December 2022):

Outcome 4: Open, collaborative and empowered

Priority 4.1: Improvement in efficient and effective service delivery

Strategy 4.1.2: Continuous improvement in efficient and effective service delivery

## **POLICY IMPLICATIONS**

There are no known policy implications associated with this Item. Where relevant, the delegation register refers to the Council adopted policy.

## **FINANCIAL IMPLICATIONS**

There are no immediate financial implications as part of the review, however exercise of the delegation may incur financial implications (grant discounts, write off debts).

## **VOTING REQUIREMENT**

Absolute Majority

## RECOMMENDATION

That with respect to Delegation Register – Annual Review, Council:

1. Notes the additional delegations required in relation to statutory building and environmental health matters; and
2. Adopts the amended delegations as contained in Attachment 1.

## 10.4.2 Draft WAPC Operational Policy 2.3 - Planning for Public Open Space

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<b>File Code</b>	ADM0704
<b>Author</b>	Robert Paull, Chief Executive Officer
<b>Senior Employee</b>	Robert Paull, Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	1. <a href="#">Draft WAPC Operational Policy 2.3 – Planning For Public Open Space</a>

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### SUMMARY

Council is requested to indicate support for draft WAPC Operational Policy 2.3 but noting that:

- additional guidance is required for the determination of suitable contribution percentages when utilising any of the approved planning instruments that have been identified in the draft policy;
- additional clarity is needed regarding contributions for built strata subdivisions, including type, contribution percentage, and timing;
- allowing publicly accessible but privately owned open space that is accessible to the public to offset a POS contribution is not considered a suitable substitute for publicly owned POS, as it would create a burden on the landowner, in terms of maintenance, liability, and potential use conflict, and is not considered to be a sustainable or secure way to provide POS for surrounding residents.

### BACKGROUND

The Western Australian Planning Commission's (WAPC) long-standing Public Open Space (POS) policy currently requires that when new residential subdivision takes place, a minimum 10% of the gross subdividable area is ceded, free of cost, to the local government for POS, such as neighbourhood parks and sporting fields. Those who create new residential lots are required to either provide the land for POS as part of the development / subdivision or make an equivalent monetary contribution towards the cost of purchasing land for POS or improving POS facilities.

Under the current policy, all proposals that increase the number of lots can potentially be required to contribute to POS, including apartment developments that create new built strata lots and mixed-use lots that have a combination of residential and commercial development.

However, this is not entirely clear, and in practise the policy is inconsistently applied across all local governments. Subdivisions of five lots or fewer and built strata and mixed-use developments generally do not contribute to POS.

The proposed draft Operational Policy 2.3: Planning for Public Open Space (draft Policy 2.3) provides further clarity that all forms of land subdivision that increase the demand for POS can be subject to a contribution requirement, including all types of strata subdivision. The draft policy sets out the general principles and requirements that will be used by the WAPC to:

- ensure POS is an essential consideration across the planning framework;
- establish a minimum standard for the contribution towards POS from the creation of new lots;

- provide guidance on the collection, expenditure, and management of cash-in-lieu contributions towards POS to benefit the community.

The key aspects of draft Policy 2.3 are as follows:

- Ceding of at least 10% of the land area for POS will continue to apply in greenfield subdivision.
- Changes are proposed to the calculation of the contribution from those subdividing land to make the POS contribution process simpler, more predictable, fairer, and consistent.
- Whilst not applicable to the Shire of Carnamah, subdividers in established suburbs (infill sites) may contribute less, as a POS contribution was made when the suburb was established and some of the additional POS demand can be met within existing parks. In these situations, the contribution percentage will be determined after an endorsed POS needs analysis is completed by the local government. If this analysis is yet to be done, a default rate of 5% will apply.
- Where only one additional lot (such as re-subdividing two lots into three lots) is proposed, a reduction to a default contribution rate of 2.5% applies.
- Subdividers of apartments or grouped housing that provide publicly accessible but privately owned open space may reduce their contribution in limited circumstances.
- Where a mix of residential and non-residential land uses is possible, the contribution may be reduced proportional to the planned residential component to a default rate of 5% (lower and medium density) or 7.5% (high density).
- Subdividers of non-residential lots (e.g. Industrial zoned lots) will continue to typically be exempt from a POS contribution, unless a demonstrated community need exists, in which case the contribution rate will be established in an approved planning document.

It is understood that the WAPC is seeking to ensure that all communities have well-planned POS that is adequate in extent, quality, function, and accessibility, as well as being responsive to evolving community needs, and the costs of providing, upgrading, and maintaining POS be reasonably, predictably, and equitably shared among those that generate a need for it.

#### **COMMENT**

It has been over 30 years since the Shire has had to consider townsite subdivisions and the provision of open space. However, in the future should such subdivisions be considered, the WAPC's policies will prevail.

POS is an essential, standard infrastructure requirement and as community needs and expectations of what POS is and how it functions continue to evolve, the role of POS is broadening.

It is reasonable to provide equitable access to quality POS, regardless of location or housing typology; however, the way in which this is provided requires a nuanced approach to ensure that open space demands and community expectations continue to be met into the future.

The Shire is of the opinion that a minimum 10% POS contribution for greenfield development sites should continue, though it is agreed that the provision of POS based on community need and functionality is also reasonable. In the absence of a local planning strategy that specifically addresses POS and appropriate contribution percentages, the implementation of the draft policy would be dependent on other "approved planning instruments", such as



local planning schemes, structure plans or development contribution plans, otherwise default contribution percentages would apply.

Draft Policy 2.3 offers no guidance on how the contribution percentage should be determined if any of these approved planning instruments are utilised. There is a concern that without such guidance, local governments will be required to depend on default percentages to deliver the requisite quality POS and undertake resource-intensive planning work to establish percentages for inclusion in approved planning instruments, which would effectively amount to creating a simplified development contribution scheme.

The inclusion of a provision allowing publicly accessible but privately owned open space to offset a POS contribution is not considered to be a suitable substitute for publicly owned POS. This option would create a burden on the landowner, in terms of maintenance, liability, and potential use conflict, and is not considered to be a sustainable or secure way to provide POS for surrounding residents.

The Shire is broadly supportive of draft Policy 2.3, noting that additional guidance is required for the determination of suitable contribution percentages when utilising any of the approved planning instruments that have been identified, and that additional clarity is needed regarding contributions for built strata subdivisions. However, draft provisions allowing offsetting of POS contributions through making private open space available to the public is not supported for the reasons outlined above.

## **CONSULTATION**

Executive Management Team

## **STATUTORY ENVIRONMENT**

*Planning and Development Act 2005*

## **STRATEGIC IMPLICATIONS**

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031 (reviewed December 2022)

*Outcome 4.2 Improvement in efficient and effective service delivery*

*Strategy 4.1.2 Continuous improvement in efficient and effective service delivery*

## **POLICY IMPLICATIONS**

There are no known policy implications associated with this Item

## **RISK IMPLICATIONS**

<b>Risk:</b> Legal – That Policy 2.3 will have implications associated with any future townsite POS .		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Possible	Low	Moderate
<b>Action / Strategy</b>		
The risk is mitigated by reviewing the draft policy and lodging a submission to the WAPC.		

## **FINANCIAL IMPLICATIONS**

There are no known financial implications associated with this Item.

## **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

That with respect to Draft WAPC Operational Policy 2.3 – Planning For Public Open Space, Council:

1. Request the Chief Executive Officer to lodge a submission with the Department of Planning, Lands and Heritage on draft Operational Policy 2.3 – Planning for Public Open Space noting as follows:
  - a) additional guidance is required for the determination of suitable contribution percentages when utilising any of the approved planning instruments that have been identified in the draft policy;
  - b) clarity is sought regarding contributions for built strata subdivisions, including type, percentage contribution, and timing; and
  - c) allowing publicly accessible but privately owned open space that is accessible to the public to offset a POS contribution is not considered a suitable substitute for publicly owned POS, as it would:
    - i. create a burden on the landowner, in terms of maintenance, liability, and potential use conflict; and
    - ii. is not a sustainable or secure way to providing POS for residents.

### 10.4.3 Application For Planning Approval – Short Stay Accommodation at Lot 42, No. 4 Caron Street, Carnamah

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<b>File Code</b>	ADM0273
<b>Author</b>	Robert Paull - Chief Executive Officer
<b>Senior Employee</b>	Robert Paull - Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	1. <a href="#">Application for Planning Approval</a>

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#### SUMMARY

This report recommends Council resolve to advertise a 'Use not Listed' application for planning approval for 'short stay accommodation' at Lot 42, No. 4 Caron Street, Carnamah.

#### BACKGROUND

Lot 42, No. 4 Caron Street, Carnamah is zoned 'Residential' under the Shire of Carnamah Local Planning Scheme No. 2 ('LPS No. 2').

Application for 'Short Stay Accommodation' on the land is not a use that is listed under the Zoning Table of LPS No. 2.

CI 3.4 of LPS No.2 allows Council to consider a 'Use not Listed' provided it as advertised the application to potentially affected residents. In this regard, Council will need to satisfy itself that the proposed 'Short Stay Accommodation' is consistent with the objectives of the Residential Zone (as follows):

##### *"3.2.1 Residential Zone*

- a) To provide for predominantly residential development with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes of Western Australia.*
- b) Non-residential uses shall be compatible in character, scale and operation with the predominant residential use.*
- c) A non-residential use shall only be permitted if the use does not detract from the amenity of the area".*

#### COMMENT

LPS No. 2 was Gazetted some 23 years ago and does not necessarily reflect the changing nature of residential and tourist uses (including online operators such as Air B&B).

It is suggested that with careful management, 'Short Stay Accommodation' at the property could be undertaken in a manner consistence with the LPS No. 2 objective and be in keeping with the amenity of the area.

## CONSULTATION

Should Council support the application in principle, the Shire would advertise the proposal to adjoining residents seeking their views on the proposal. Once completed, the Shire would refer the matter back to Council for consideration.

## STATUTORY IMPLICATIONS

*Planning and Development Act 2005 (as amended)*

*Planning and Development (Local Planning Schemes) Regulations 2015*

*Shire of Carnamah Local Planning Scheme No.2*

*“3.4. Interpretation of the Zoning Table*

*3.4.1. Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.*

*3.4.2. If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may -*

*(a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*

*(b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 64 of the deemed provisions in considering an application for development approval; or*

*(c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

## STRATEGIC IMPLICATIONS

The proposal is consistent with the following element of the Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031:

Outcome 2	<i>Rich in economic opportunities and jobs.</i>
Priority	<i>Support the retention, attraction and growth of businesses.</i>
Strategy	<i>Work with business community to develop action plan to support their retention and growth.</i>

## POLICY IMPLICATIONS

There are no known policy implications

## RISK IMPLICATIONS

<b>Risk:</b> Compliance - No noticeable regulatory or statutory impact.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Rare	Insignificant (Rare/Low)	Low
<b>Action / Strategy</b>		
Impose conditions on any approval granted to ensure compliance with LPS No. 2.		

## **FINANCIAL IMPLICATIONS**

There are no financial implications for the Shire aside from the administrative costs associated with processing the application which are provided for in Council's annual budget. The Applicant will be invoiced \$147 for the Application Fee. All costs associated with the proposed development will be met by the applicant / landowner.

It is significant to note should the applicant / landowner be aggrieved by Council's final decision in this matter they have the right seek a formal review of that decision by the State Administrative Tribunal.

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER RECOMMENDATION**

That with respect to Application For Planning Approval – Short Stay Accommodation, Lot 42, No. 4 Caron Street, Carnamah, Council:

1. Notes the Report;
2. Is satisfied that the proposed Short Stay Accommodation is consistent with the objectives of the Residential Zone of the Shire of Carnamah Local Planning Scheme No. 2 (LPS No. 2) and is therefore permitted;
3. Determines that the use may be consistent with the objectives of the Residential zone and thereafter requests the Chief Executive Officer (CEO) to follow the advertising procedures of clause 64 of the deemed provisions of LPS. 2
4. Requests the CEO to refer the Application back to Council once advertising as referred in 3. above is completed.

#### 10.4.4 Proposed Fire Break Notice 2023/24

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<b>File Code</b>	ADM0558
<b>Author</b>	Robert Paull, Chief Executive Officer
<b>Senior Employee</b>	Robert Paull, Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	<a href="#">1 Draft Fire Break Notice 2023/24</a>

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#### SUMMARY

This report recommends that Council endorse the Shire of Carnamah Fire Break Notice 2023/24.

#### BACKGROUND

At the 17 August 2022 Ordinary Meeting, Council endorsed the 2022/23 Annual Fire Break Notice and approved the appointment of the Fire Control Officers (FCO). Prior Council's consideration, Bush Fire Advisory Committee (BFAC) recommended minor changes made to the 2022/23 Fire Break Notice by the BFAC as follows:

- Amended Restricted and Prohibited Burning periods previously agreed to by Council; Changing of the wording 'Fire Danger Index above 35' to 'Fire Behaviour Index above 40' (part of new national fire danger rating system);
- Burning is now permitted on Sundays with Public Holidays still not allowed (during Restricted Burning Period);
- Removal of flammable material distance around buildings, haystacks etc. has been increased from 2.7 m to 3 meters;
- The Harvest Ban Information Line contact number has been removed (no longer operating);
- Addition of one Fire Control Officer (John Morgan); and
- Inclusion of advice that Permits will be issued from the Shire Office (CEO and Deputy CEO).

Feedback at the time from the Chief Bushfire Control Officer (CBFCO) and other FCO's was that they didn't wish to issue Fire Permits and requested that the Shire administration undertake this task. In past years Shire administration filled in the Permit form and then contacted the CBFCO to seek availability to sign the form (and if not the CEO, would sign the form).

This is inconvenient to the person waiting to receive the permit and inefficient from a staff perspective. The *Bushfires Act 1954* allows where an FCO is not available for the CEO of a local government to sign a burning permit. Accordingly, it was agreed that the Deputy CEO would be approved as an FCO for the sole purpose of issuing burning permits. The arrangement was that before a permit was issued, the Community Emergency Services Manager (CESM) would be contacted for assessment.

#### COMMENT

As the Fire Break Notice is provided to ratepayers with their annual Rates Notice, it is essential that Council adopt a Shire of Carnamah Fire Break Notice 2023/24.

It is unfortunate that the Bush Fire Advisory Committee has not met in 2023 to determine the Fire Break Notice or appoint the FCO's. It is also noted that the current CESM has resigned from the role and this position is currently vacant.

**Attachment 1** provides the draft Fire Break Notice 2023/24 which although has been slightly re-formatted, is near identical to the 2022/23 Fire Break Notice with the exception of:

- Referencing the Bush Fire Brigade FCO's to the Shire Website.
- Burning periods recommend as follows:
  - Prohibited Burning Period from 1 November to 28 February (no change);
  - Restricted Burning Period is from:
    - 19 September to 31 October (formally 19 September to 30 October);
    - 1 March to 31 March (no change).

The above burning periods are generally consistent with the 2022/23 Fire Break Notice and the dates set by the Shire of Coorow.

It is expected that well before the fire season, BFAC will meet to recommend the FCO positions, and this will be referred to Council to adopt.

## CONSULTATION

Executive Management Team  
CESM

## STATUTORY IMPLICATIONS

*Bush Fires Act 1954, sections 33 and 38*

### **33. Local government may require occupier of land to plough or clear fire-break**

(1) *Subject to subsection (2) a local government at any time, and from time to time, may, and if so required by the Minister shall, as a measure for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur, give notice in writing to an owner or occupier of land situate within the district of the local government or shall give notice to all owners or occupiers of land in its district by publishing a notice in the Government Gazette and in a newspaper circulating in the area requiring him or them as the case may be within a time specified in the notice to do or to commence to do at a time so specified all or any of the following things —*

- (a) *to plough, cultivate, scarify, burn or otherwise clear upon the land fire-breaks in such manner, at such places, of such dimensions, and to such number, and whether in parallel or otherwise, as the local government may and is hereby empowered to determine and as are specified in the notice, and thereafter to maintain the fire-breaks clear of inflammable matter;*
- (b) *to act as and when specified in the notice with respect to anything which is upon the land, and which in the opinion of the local government or its duly authorised officer, is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire,*

*and the notice may require the owner or occupier to do so —*

- (c) *as a separate operation, or in co-ordination with any other person, carrying out a similar operation on adjoining or neighbouring land; and*

(d) *in any event, to the satisfaction of either the local government or its duly authorised officer, according to which of them is specified in the notice.*

(2) *A notice in writing under subsection (1) may be given to an owner or occupier of land by posting it to him at his last postal address known to the local government and may be given to an owner of land by posting it to him at the address shown in the rate record kept by the local government pursuant to the Local Government Act 1995, as his address for the service of rate notices*

### **38. Local government may appoint bush fire control officer**

(1) *A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A (2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.*

(2A) *The local government shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district.*

## **STRATEGIC IMPLICATIONS**

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031  
(reviewed by Council in December 2022)

*Outcome 4: Open, collaborative and empowered*

*Priority 4.1: Improvement in efficient and effective service delivery*

*Strategy 4.1.2 Continuous improvement in efficient and effective service delivery.*

## **POLICY IMPLICATIONS**

*3.1 Bush Fire Control*

## **RISK IMPLICATIONS**

<b>Risk:</b> Failure of landowners to comply with the requirements of the notice increasing the potential for damage to property and injury to lives from fires.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Possible	Major	High
<b>Action / Strategy</b>		
Inspection of property prior to the commencement of the fire season to ensure compliance with the notice which will reduce the risk of fires commencing and causing damage.		

## **FINANCIAL IMPLICATIONS**

Minimal cost, being photocopy charges as the notice is printed internally and included with the annual Rates Notice. Cost of undertaking annual inspections is included in the annual budget allocations under Law Order and Public Safety, Fire Control Expenses.



## **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

That with respect proposed Fire Break Notice 2023/24 that Council:

1. Adopts the Shire of Carnamah Fire Break Notice 2023/24 as detailed in Attachment 1; and
2. Requests the Chief Executive Officer to forward the recommended Fire Control Officers to Council for appointment once the Bush Fire Advisory Committee has met and recommended such nominations.

## 10.4.5 Voting Delegates for Western Australian Local Government Association (WALGA) Annual General Meeting

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<b>File Code</b>	ADM0382
<b>Author</b>	Rachael Moore, Executive Coordinator
<b>Senior Employee</b>	Robert Paull, Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	Nil

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### SUMMARY

The purpose of this report is for Council to elect Voting Delegates for the Shire of Carnamah in respect of the WALGA Annual General Meeting (AGM) for 2023.

### BACKGROUND

All member local governments are entitled to be represented by two voting delegates at the WALGA AGM to be held on Monday, 18 September 2023 commencing at 2:00pm.

### COMMENT

Two representatives for the Shire of Morawa attending the WALGA AGM should be elected as voting delegates on behalf of the Shire of Carnamah. It is open for Council to also elect two Proxy Voting Delegates.

At this stage the Shire has no elected members registered to attend the WALGA Convention. Councillors are requested to nominate as voting delegates.

The Officer recommendation allows the Chief executive officer (CEO) to assign a proxy should only one voting delegate be able to attend the AGM due to sickness or another unexpected reason.

It is expected that significant governance amendments to the constitution of WALGA will be presented to the AGM so it will be beneficial to have good representation if possible.

### STRATEGIC IMPLICATIONS

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031 (reviewed December 2022)

*Outcome 4.2 Improvement in efficient and effective service delivery*

*Strategy 4.1.2 Continuous improvement in efficient and effective service delivery*

### POLICY IMPLICATIONS

*Policy 1.6 Elected Members Professional Development*

- Council will pay accommodation costs of authorised delegates and their partners to conferences and functions as approved by Council;
- Council will pay meal costs for authorised delegates and their partners to conferences and functions as approved by Council; and
- Council will pay expenses (e.g. phone, taxi fares for local government business) for authorised delegates only to conferences and functions as approved by Council.

## RISK IMPLICATIONS

<b>Risk:</b> Legal and Reputational – Only Council can authorise Voting Delegates for the WALGA AGM.		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Possible	Low	Moderate
<b>Action / Strategy</b>		
The risk is mitigated by authorising voting delegates.		

## FINANCIAL IMPLICATIONS

There are no known financial implications associated with this Item. The 2023/24 budget will have an appropriate allocation of funds to address the attendance of Councillors/CEO at the AGM and Conference.

## VOTING REQUIREMENT

Simple Majority

### OFFICER RECOMMENDATION

That with respect to Voting Delegates for Western Australian Local Government Association (WALGA) Annual General Meeting, Council:

1. Elect Cr.....; and

Cr.....

as Voting Delegates for the Shire of Carnamah and meet all registration, accommodation, meals and other expenses for the delegates and proxy delegates as per Council policy 1.6; and

2. Authorise the Chief Executive Officer assign a proxy should the above representatives fall ill or be unable to attend.

## 10.4.6 Request to Waive Carnamah Youth and Community Centre (Town Hall) Facility Hire Fees

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<b>File Code</b>	ADM0476
<b>Author</b>	Rachael Moore, Executive Coordinator
<b>Senior Employee</b>	Robert Paull, Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	1. <a href="#">Correspondence from Rural Aid</a>

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### SUMMARY

Council is requested to waive the Carnamah Youth and Community Centre (Town Hall) Facility hire fees in relation to a 'not for profit' event being undertaken by Rural Aid's 'Community Builders Program'.

### BACKGROUND

Rural Aid is currently running a series of workshops in the North Midlands area as a Community Builders Program, in summary this is what has been achieved so far with the support from the Mid West Development Commission. Rural Aid's 'Community Connector' advises that the Community Builder Program involves no cost to participants and Carnamah has been chosen to host the final workshop and celebration event on the 20 October 2023. Guest speaker is the Hon. Minister Don Punch MLA, Minister for Regional Development; Disability Services; Fisheries; Seniors and Ageing; Volunteering along with the Hon Sandra Carr, MLC Member for the Agricultural Region.

Rural Aid is requesting that Council waive the cost of the Town Hall and request that they may be able to support the event by way of sponsorship (Note **Attachment 1**). Rural Aid has also requested that the Shire support a 'BYO' arrangement alcohol. At the Ordinary Meeting of 17 May 2023, Council resolved to adopt fees and charges 2023/24 with \$220.00 the associated fee for the daily hire of the Carnamah Youth and Community Centre (Town Hall) Facility. A Facility Hire Bond of \$310 is also applicable.

### COMMENT

The Community Builders Program represents a grassroots leadership program that seeks to support local community builders within a defined cluster of communities to better understand and build their local and regional community and economy.

As the event is a 'not for profit' event being undertaken by Rural Aid's 'Community Builders Program', the request to waive the fee by way of 'sponsorship'.

However, the Facility Hire Bond will still need to be paid. In relation to the 'BYO' arrangement for alcohol, given the type of event and the target audience, it is anticipated that Community Builders will promote the responsible consumption alcohol.

### CONSULTATION

Executive Management Team

## STATUTORY IMPLICATIONS

*Local Government Act 1995*

## STRATEGIC IMPLICATIONS

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031

*Outcome 1 Close-knit and family-friendly*

*Priority 1.2 Improve the standard and utilisation of community and recreation facilities*

*Strategy 1.2.2 Work with the community to improve utilisation of community and recreation facilities*

## POLICY IMPLICATIONS

Council Policy 8.5 Fees and Charges Setting applies to this Item.

## RISK IMPLICATIONS

<b>Risk:</b> Financial Impact		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Almost Certain	Insignificant	Moderate
<b>Action / Strategy</b>		
There will be a loss of potential income of \$250 however the benefit to the community will mitigate this.		

## FINANCIAL IMPLICATIONS

Should Council agree to waive the requested fee, it would forego \$220 of potential income.

## VOTING REQUIREMENT

Absolute Majority

### OFFICER RECOMMENDATION

That in relation to Request to Carnamah Youth and Community Centre (Town Hall) Facility Hire Fees, Council:

1. Note the request from Rural Aid to waive the Carnamah Youth and Community Centre (Town Hall) hire fee in relation to the final workshop and celebration event on the 20 October 2023 and 'BYO' alcohol; and
2. Resolve to:
  - a) waive the facility hire fee for the Carnamah Youth and Community Centre (Town Hall) by way of a \$220 'sponsorship';
  - b) require the payment of a Facility Hire Bond (to be refunded provide the Facility is left in an appropriate manner; and
  - c) support a 'BYO' arrangement for alcohol.

## 10.4.7 WA Local Government Convention – Attendance Registrations

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<b>File Code</b>	ADM0059
<b>Author</b>	Rachael Moore, Executive Coordinator
<b>Senior Employee</b>	Robert Paull, Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	1 <a href="#">Conference Program</a>

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### SUMMARY

This report recommends that Council approve the attendance of interested Councillors to the 2023 WA Local Government Convention and meet all registration, accommodation, travel and other sundry expenses as per the Council policy

### BACKGROUND

The 2023 WA Local Government Convention will be held from 17 – 19 September 2023 at Crown Perth, Burswood. The theme for this year’s conference is ‘Local Futures’ and it will explore Local Governments can enact and drive change for the benefit of their communities and the diversity of solutions that can emerge when you start local. Programme details are provided in **Attachment 1**.

### COMMENT

Councillors are requested to express an interest in attending. Registration of the Chief Executive Officer will be undertaken as a separate exercise and does not require the approval of Council.

### CONSULTATION

Councillor Briefing (19 July 2023).

### STATUTORY IMPLICATIONS

There are no known statutory implications associated with this Item.

### STRATEGIC IMPLICATIONS

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031 (as reviewed December 2022).

*Outcome 4: Open, collaborative and empowered*

*Priority 4.2: Improvement in communication, effective community partnerships and advocacy*

*Strategy 4.2.5: Continued focus on communication, effective community partnerships and advocacy.*

### POLICY IMPLICATIONS

*Policy 1.6 Elected Members Professional Development*

- Council will pay accommodation costs of authorised delegates and their partners to conferences and functions as approved by Council;
- Council will pay meal costs for authorised delegates and their partners to conferences and functions as approved by Council; and
- Council will pay expenses (e.g. phone, taxi fares for local government business) for authorised delegates only to conferences and functions as approved by Council.

## RISK IMPLICATIONS

<b>Risk:</b> Councillors not being a position to attend the conference after registrations have been paid		
<b>Likelihood</b>	<b>Consequence</b>	<b>Acceptance Criteria</b>
Possible	Minor	Moderate
<b>Action / Strategy</b>		
Monitor the situation and seek a refund should any Councillors have to withdraw their attendance.		

## FINANCIAL IMPLICATIONS

Funding for the attendance of Councillors at conferences is included in the annual budget in Schedule 4 Governance under the 'Members of Council' under the 'Training & Development' and 'Members Travel and Accommodation' allocations. Indicative conference costs per delegate are:

### Convention registration fees:

- Full Delegate: \$1,296.00
- Monday Day Delegate: \$648.00
- Tuesday Day Delegate: \$972.00
- Corporate Delegate: \$1,620.00
- WALGA Life Member: Complimentary

### Optional Extras:

- Gala Cocktails (Monday): \$135.00
- Convention Breakfast with Michelle Payne (Tuesday): \$93.30

Accommodation and meals: \$1,000

Travel costs: \$500

## VOTING REQUIREMENT

Simple Majority

**OFFICER RECOMMENDATION**

That with respect to 2023 WA Local Government Convention – Attendance Registrations, Council approves the attendance of:

Councillor .....;

Councillor .....;

Councillor .....;

Councillor .....;

Councillor .....;

Councillor .....;

Councillor .....;

to attend the 2023 WA Local Government Convention to be held on 17 – 19 September 2023 in Perth and meet all registration, accommodation, meals and other expenses for the authorised delegates and partners, as per Council Policy 1.6.



## 10.5 CONFIDENTIAL REPORTS

### 10.5.1 Closure of the Meeting to the Public

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<b>File Code</b>	ADM0619
<b>Author</b>	Robert Paull – Chief Executive Officer
<b>Senior Employee</b>	Robert Paull - Chief Executive Officer
<b>Disclosure of Interest</b>	Nil
<b>Attachments</b>	Nil

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#### SUMMARY

This item seeks Council's approval under s5.23 (2) of the *Local Government Act 1995* to move into camera or closed session to consider confidential matters.

#### BACKGROUND

Under s5.23 (2) of the *Local Government Act 1995*, Council must resolve to move into camera or closed session. The following Item is considered to be a 'confidential matter' as addressed below:

- Item 10.5.1 Confidential Item – Chief Executive Officer Performance Appraisal and Performance Criteria/Key Result Areas for 2023/24 is presented under (s5.23 (2) (b) and (c) of the *Local Government Act 1995*).

#### COMMENT

Council is requested to close the meeting to the public under section 5.23 (2) of the *Local Government Act 1995* and the *Shire of Carnamah Meeting Procedures Local Law 2013* s 6.2 so that it can consider the reports as addressed.

#### CONSULTATION

Not required

#### STATUTORY IMPLICATIONS

##### ***Local Government Act 1995***

Under section 5.23 (2) of the *Local Government Act 1995*, part of a council meeting may be closed, if the meeting deals with any of the following:

- a matter affecting an employee or employees;*
- the personal affairs of any person;*
- a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
- legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
- a matter that if disclosed, would reveal —*
  - a trade secret;*
  - information that has a commercial value to a person;*

- (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
- (f) a matter that if disclosed, could be reasonably expected to —
  - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
  - (ii) endanger the security of the local government’s property;
  - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
- (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and
- (h) such other matters as may be prescribed.

### **Shire of Carnamah Meeting Procedures Local Law 2013**

The key parts include:

#### **“6.2 Meetings not open to the public**

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried –
  - (a) the presiding member is to direct everyone to leave the meeting except -
    - (i) the members;
    - (ii) the CEO; and
    - (iii) any officer specified by the presiding member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the council made while the meeting was closed is to be read out including a vote of a member to be included in the minutes.”

### **STRATEGIC IMPLICATIONS**

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031  
(reviewed December 2022)

<i>Outcome 4</i>	<i>Open, collaborative and empowered</i>
<i>Priority 4.1</i>	<i>Improvement in efficient and effective service delivery</i>
<i>Strategy</i>	<i>Continuous improvement in efficient and effective service delivery</i>

### **POLICY IMPLICATIONS**

There are no known Policy Implications associated with this Item.

## **RISK IMPLICATIONS**

There are no known risk management considerations associated with this Item.

## **FINANCIAL IMPLICATIONS**

Any known financial implications are addressed in the report.

## **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

That Council closes the meeting to the public under section 5.23 (2) of the *Local Government Act 1995* and the *Shire of Carnamah Meeting Procedures Local Law 2013* s 6.2 (3) so that it can consider the following Item:

1. Item 10.5.1 Confidential Item – Chief Executive Officer Performance Appraisal and Performance Criteria/Key Result Areas for 2023/24 is presented under (s5.23 (2) (b) and (c) of the *Local Government Act 1995*).

## 10.5.2 Confidential item - Chief Executive Officer Performance Appraisal and Performance Criteria/Key Result Areas for 2023/24

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<b>File Code</b>	ADM0076
<b>Author</b>	Rachael Moore, Executive Coordinator
<b>Senior Employee</b>	Robert Paull, Chief Executive Officer
<b>Disclosure of Interest</b>	Robert Paull (CEO) has disclosed a Financial Interest in Item as it relates to his employment as Chief Executive Officer of the Shire of Carnamah
<b>Attachments</b>	1. Confidential - Assessment Report – Robert Paull (to be provided under separate cover)

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### SUMMARY

This item is requesting Council to undertake the Chief Executive Officer's (CEO) Performance Appraisal and Performance Criteria/Key Result Areas for the 2023/24 period.

### BACKGROUND

As Council is aware, it is required under s.5.38 of the *Local Government Act 1995* (the Act) to undertake an annual review of the performance of the Chief Executive Officer (CEO). In 2021 the *Local Government (Administration) Regulations 1996* (the Regulations) were amended to require all local governments to adopt mandatory minimum standards for the recruitment, selection, performance review and early termination of CEO's.

These model standards were adopted by Council at its meeting on 17 March 2021 and are displayed on the Shire's public website in accordance with the requirements of the Regulations. Cl. 16.1 of the Standards specifies that the local government and the CEO must agree on the process by which the CEO's performance will be reviewed and any performance criteria to be met by the CEO that are in addition to the contractual performance criteria. This agreement must be set out in a written document.

The agreed process must be consistent with the following requirements:

1. The review must be carried out in an impartial and transparent manner.
2. The local government must:
  - a) Collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
  - b) Review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

Following completion of the review, the local government must, by absolute majority decision, endorse the review and inform the CEO, in writing, of the review results. If any issues are identified in the review with respect to the performance of the CEO then the written advice must also address how the local government proposes to address and manage those issues.

The Department of Local Government, Sport and Cultural Industries' Operational Guidelines on CEO Recruitment and Selection, Performance Review and Termination state as follows:

*“If a council lacks the resources and expertise to meet the expected standard of performance review, the council should engage an external facilitator to assist with the process of performance appraisal and the development of the performance agreement.*

*The local government should ensure that the consultant has experience in performance review and, if possible, experience in local government or dealing with the performance review of senior executives.*

*The consultant should not have any interest in, or relationship with, the council or the CEO.”*

At the Ordinary Meeting of 19 July 2023, Council resolved to appoint LG People Culture to conduct the CEO performance appraisal and to assist Council in preparing the Performance Criteria/Key Result Areas for 2023/24.

The process is completed (Note Confidential Attachments 1 and 2) and now requires Council to review the appraisal and review and approve the proposed Performance Criteria/Key Result Areas for the 2023/24 period.

### **COMMENT**

Council has a legislative requirement under the *Local Government Act 1995*, to review the CEO's performance on a yearly basis. The primary purpose of the performance review is to assess the performance of the CEO on key result areas, key performance indicators or goals and set new agreed objectives for the next 12 months.

As per the Standards and Guidelines for Local Government CEO Recruitment and Selection, Performance Review and Termination, an external consultant is sought to assist the Council for the purposes of the review in facilitating the process.

The process is completed (Note Confidential **Attachment 1**) and now requires Council to review the appraisal and review and approve the proposed Performance Criteria/Key Result Areas for the 2023/24 period.

### **CONSULTATION**

All Councillors via Ordinary Meeting of 19 July 2023 (OCM 20230608)

Shire President

Marg Hemsley (LG People Culture)

Chief Executive Officer.

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Part 5 – Administration*

*Division 4 – Local government employees*

*Part 4 – Local government employees*

*Regulation 18FA – Model standards for CEO recruitment, performance and termination  
(Act s.5.39A(1))*

*Schedule 2 – Model standards for CEO recruitment, performance and termination*

*Section 5.38 and 5.39(3)(b) of the Act and Regulation 18D of the Local Government*

(Administration) Amendment Regulations (No 2) 2005, which requires that:

- The performance of the CEO be reviewed at least once a year;
- The CEO will have a written contract of employment, which shall include performance criteria for the purpose of conducting a review; and
- A Local Government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the Review

## **STRATEGIC IMPLICATIONS**

Shire of Carnamah Strategic Community Plan and Corporate Business Plan 2021-2031 (reviewed December 2022)

Outcome 4.2 *Improvement in efficient and effective service delivery*

Strategy 4.1.2 *Continuous improvement in efficient and effective service delivery*

## **POLICY IMPLICATIONS**

### 9.12 CEO Performance Review Standard

#### *“Policy*

*The minimum standard for recruitment and selection will be met if:*

- S2.1 *Performance criteria is specific, relevant, measurable, achievable and time-based.*
- S2.2 *The performance criteria and the performance process are recorded in a written document, negotiated with and agreed upon by the CEO and council.*
- S2.3 *The CEO is informed about how their performance will be assessed and managed and the results of their performance assessment.*
- S2.4 *The collection of evidence regarding performance outcomes is thorough and comprehensive.*
- S2.5 *Assessment is made free from bias and based on the CEO’s achievements against documented performance criteria, and decisions and actions are impartial and transparent. S2.6 The council has endorsed the performance review assessment by absolute majority.*

#### *Application of the Policy*

1. *That a suitably qualified and experience HR consultant be contracted to co-ordinate the CEO Performance Review process.*
2. *That the performance of the CEO be reviewed upon the anniversary of the contract each year using the agreed performance criteria.*
3. *That part of the ordinary Council meeting prior to a review be closed to enable all councillors to have input into the review of the CEO's performance.*
4. *That the performance review be carried out by Council and the HR consultant in a closed meeting with the CEO.*
5. *That a record of the process and outcomes is prepared by the CEO and provided to all Council members on a confidential basis.”*

## RISK IMPLICATIONS

<b>Risk:</b> Legal and Reputational – That the review of the CEO is not carried out in accordance with the <i>Local Government Act 1995</i> and Council Policy.		
Likelihood	Consequence	Acceptance Criteria
Possible	Low	Moderate
<b>Action / Strategy</b>		
The risk is mitigated by employing a professional consultant to undertake the CEO's performance review.		

## FINANCIAL IMPLICATIONS

Provision was made in the adopted 2022/23 budget (and draft 2023/24 budget) for the engagement of a consultant to undertake the CEO's annual performance review.

Under the Salaries and Allowances Tribunal Determination dated 6 April 2023 (effective 1 July 2021), the Shire is classified as a Band 4 Local Government. Total Reward Package (TRP) range for a Band 4 CEO is between \$136,023 - \$213,356. Under Mr Paull's current Employment Contract, the TRP is \$201,133. This assumes a Superannuation component of 10.5%. As the Superannuation Guarantee level was raised to 11% on 1 July 2023, this represents an increase to the TRP of \$780.

Mr Paull has requested that when his current Shire allocated motor vehicle is renewed that it be replaced with a type of vehicle that has no Fringe Benefit Tax (FBT) allocation (e.g. over 1 tonne carrying capacity). As an outcome, any FBT not required to be paid to the Australian Tax Office would be instead paid to Mr Paull. This arrangement will not exceed his current agreed Total Reward Package.

## VOTING REQUIREMENT

Absolute Majority

### OFFICER RECOMMENDATION

That with respect to Confidential Item - Chief Executive Officer Performance Appraisal and Performance Criteria/Key Result Areas for 2023/24, Council:

1. Note that the appraisal of Mr Robert Paull, Chief Executive Officer (CEO), has been undertaken for the period of August 2022 to August 2023 (as per Confidential Attachment 1);
2. Accepts the outcome of 'Meets Performance Requirements';
3. Endorses the CEO's Performance Criteria/Key Result Areas for 2023/24 (as per Confidential Attachment 1);
4. Approves the following variation to Mr Paull's Employment Contract and Total Reward Package (TRP) as follows:
  - a) Part 10 Superannuation – modified to be 11% (in line with Superannuation guarantee levy) notated at \$17,160;

- b) Increase Mr Paull's TRP by \$780 (to address the increase in the Superannuation guarantee levy) to \$201,893;
  - c) Part 10 Remuneration Package (*FBT Accrued (Estimate)*) - to enable any Fringe Benefits Tax not required to be paid to the Australian Tax Office to be instead paid to Mr Paull (noting that will not change the agreed Total Reward Package); and
  - d) Part 10 Remuneration Package (*Salary (Cash Component)*) - notated to reflect 5(c) above;
5. Notes that variation to the TRP is within Band 4 Total Reward Package range of \$136,023 - \$213,356 as prescribed Salaries and Allowances Tribunal Determination dated 6 April 2023 (effective 1 July 2023);
  6. Schedules the next review of the CEO's performance to be completed by 30 August 2024; and
  7. Authorises the Shire President to advise Mr Paull in writing of 1- 6 above.



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**11.0 ORDERING OF THE COMMON SEAL**

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Nil

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**12.0 REPORTS OF COMMITTEES AND MEMBERS**

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Nil

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**13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

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Nil

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**14.0 NOTICE OF MOTIONS (FOR CONSIDERATION AT THE FOLLOWING MEETING, IF GIVEN DURING THE MEETING)**

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Nil

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**15.0 NEW BUSINESS OF AN URGENT NATURE ADMITTED BY COUNCIL**

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Nil

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**16.0 CLOSURE OF MEETING**

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Next Ordinary Council Meeting to be held on Wednesday 20 September 2023 at Eneabba commencing at 3.00pm.