

SHIRE OF CARNARVON

AGENDA

COUNCIL MEETING
Tuesday 15th December 2020

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

NOTICE OF MEETING

Notice is hereby given

Shire of Carnarvon
Ordinary Council Meeting

will be held
on Tuesday 15th December 2020
in Council Chambers, Stuart Street Carnarvon
commencing at 1.00pm



John Attwood
ACTING CHIEF EXECUTIVE OFFICER

DISCLAIMER

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

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

AGENDA

1.0 ATTENDANCES, APOLOGIES & APPLICATIONS FOR LEAVE OF ABSENCE

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

2.0 DECLARATIONS OF INTEREST

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

3.0 PUBLIC AND ELECTED MEMBER QUESTION TIME

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

3.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE

3.2 PUBLIC QUESTION TIME

4.0 QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

5.0 CONFIRMATION OF MINUTES

6.0 PRESENTATIONS, PETITIONS AND MEMORIALS

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8.4 INFRASTRUCTURE SERVICES

No Report

9.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

11.0 DATE OF NEXT MEETING

11.1 Next meeting of Council will be held on Wednesday 27th January 2021

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

13.0 CLOSURE

Date of Meeting:	15 th December 2020
Location/Address:	3 Francis Street, Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	David Burton, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

To report back to Council actions performed under delegated authority for the months of May/June 2020.

Description of Proposal:

Refer above.

Background:

To increase transparency this report has been prepared for Council and includes all actions performed under delegated authority for –

- Development Approvals issued
- Building Permits issued;
- Health Approvals issued;
- Affixing of Common Seal

Consultation:

Nil

Statutory Environment:

Local Government Act 1995 - Section 9.49A

Planning & Development Act 2005 – Part 10 Div. 2

TPS No. 10 – Section 2.4

Shire of Carnarvon Local Government Act Local Laws S.29

Health Act 1911 – S.107; Health Act 1911, Part VI

Health (Public Buildings) Regulations 1992

Relevant Plans and Policy:

Nil

Financial Implications:

There are no financial implications.

Risk Assessment:

Reporting requirement only.

Community & Strategic Objectives:

Goal 5: Civic

Strong and listening Council.

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

Comment:

The following tables outline the action performed within the organisation relative to delegated authority for the months May/June 2020 and are submitted to Council for information.

COMMON SEAL

Date Affixed	Agreement Details
03.12.20	Transfer of Land – Lots 1146 and 1205 Babbage Island Road

DELEGATIONS

ENVIRONMENTAL HEALTH

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
2-Dec-20	ICOR2039416	Change of food business owner and name: The Curry Flower, 26 Robinson St, Carnarvon (previously Galleon Cafe)	Blue Flax Pty Ltd	Burke Holla (land owner)

BUILDING

Application No.	Owners Name	Lot & Street	Type of Building Work
B20/152	CRAIG RONALD & TAMARA YVONNE MARGARET CHAPMAN	LOT 504 (53) SHALLCROSS ST, EAST CARNARVON	EXTENSION TO EXISTING SHED
B20/161	KEANU TARLYN WHITBY (C/- RAY WHITE CARNARVON)	LOT 1 (9D) BUZOLIC CRT, BROCKMAN	BOUNDARY FENCE
B20/162	ROBERT EDWARD HULL & CRAIG ALAN GALL	LOT 602 (11) CROSSLAND STREET, SOUTH CARNARVON	OUTBUILDING / SHED
B20/163	DEPARTMENT FOR HOUSING	LOT 895 (55) HUBBLE ST, SOUTH CARNARVON	FULL DEMOLITION OF CLASS 1A DWELLING
B20/164	BARRY NOEL WILKERSON	LOT 796 (28) MCNISH ST, SOUTH CARNARVON	DIVIDING FENCE
B20/165	BAYVIEW CORAL BAY PTY LTD	LOT 2 (24) ROBINSON ST, CORAL BAY	BAYVIEW LODGE BALCONY REPLACEMENT
B20/167	DUDLEY JOHN MASLEN & SUSAN PETA ROBINSON	LOT 604 (16) ROBINSON ST, CARNARVON	FAST DEPOSIT BOX INSTALLATION (INTERNAL)

SHIRE OF CARNARVON
STATUS REPORT
CURRENT AS AT AUGUST 2020

MINUTE REF	DETAIL	RESPONSIBLE OFFICER	STATUS	ANTICIPATED COMPLETION DATE
SCM 1/8/16	Gascoyne Memorial Foundation – Access Arrangements for ILUs	SJ Nixon	Relates to access arrangements over Shire land at the southern end of the site.	CAVEAT on the land has delayed progress. The department of communities have applied to lotteries commission to lift the caveat or grant permission for the easement.
20/8/16	Public Open Space Strategy	David Nielsen	Strategy public consultation results communicated. Report being finalised.	December 2020
16/9/16	Review of Local Laws	John Meggitt	Officers have engaged a WA local law specialist to review the Shire's local laws and commence drafting of new laws consistent with the State template.	The review is expected to be finalised by the end of 2020 and process completed by May 2021
23/12/16	1060 NRR – Removal of 3 buildings	Dane Wallace	Three unapproved buildings were declared unfit for habitation and ordered for removal under the Health Act in 2016. In 2017 the owner was prosecuted for failing to remove the buildings. The buildings remain on the land.	Ongoing
9/9/17	Revocation of Motion – Carnarvon Heritage Old Tramway Lease	Sj Nixon	The Heritage Group has provided a Project Brief of the Revitalisation of the One Mile Jetty to the Carnarvon Town Tramway. The brief provided requires more work to support an application for a new lease. In 2017, the Carnarvon Heritage Group requested the possibility of reinstating the Lease for the Old Tramway located on Babbage Island. The lease expired on 30 June 2016 and Council resolved not to renew the lease until a Business plan was provided.	Timing is in the hands of the Heritage Committee. On 19/02/2020 a letter was written to follow up on this to the group chair. Follow up email sent on 9 th July 2020 No response received from the heritage committee

16/9/17	Local Planning Scheme No.13	John Meggitt	LPS 13 was gazetted on 3/11/2020.	Notice of gazettal to be advertised and letters to go out to submitters.
8/2/18	Closure of PAW – Lot 302 Wheelock Way	John Meggitt	Council resolved that the Shire proceed with the process for the closure of the pedestrian accessway.	Dept. of Planning Lands and Heritage records indicate Mr Gavin Griffiths has executed and returned a Contract of Sale and deposit of monies for the purchase of Lot 302 Wheelock Way and its amalgamation with his adjoining freehold land.
20/6/18	Lotteries House – Boundary Realignment	SJ Nixon	Issue of Certificate of Titles on hold pending resolution of a caveats on the title.	A request has been put to lotteries commission and lotteries house to grant permission for the subdivision.
13-14/8/18	St John Ambulance – Land Exchange	John Meggitt	The Shire has been advised that the new Titles have been finalised.	The Shire is waiting on the receipt of Certificates of Titles from Landgate.
17/8/19	Draft Authorised Inquiry Report – DLGSC	John Attwood	80% training completed- Final report to be presented to December OCM and provided to Min for LG	15/12/2020
11/9/19 18/11/19	Notice of Motion – Removal of Blowholes Shacks Assessed as n Dangerous Condition	John Attwood	Approved by Council in September 2019 however Council has passed a new motion in 2019 to: revoke Motion FC11/9/19 – Removal of Blowholes Shacks assessed as being in a dangerous condition; the establishment of a committee to address the current condition of shacks and to resolve a development plan acceptable to all parties and stakeholders; that Council request the CEO to investigate the outcomes of the Blowholes workshop which requested clarification on State Planning Policy 2.6 (Coastal Planning); and Council instruct the CEO to re-issue leases to the registered shack owners commencing 1 July 2020 at the rate of \$1,000 per annum .Suggest	The committee is required to report back to Council within 8 months of the date of the resolution. Meetings as required by Council have commenced. Items for Blowholes development to go to Tender early March with return to Council for April/May 2020. Working with Committee to go ahead with program. Tender for works issued Thursday 21 May 2020

			meeting to bring all parties up to speed.	
15/12/19	Fascine Wall Structural Analysis	David Nielsen	Tie rod and waler beams exposed and checked. Minimal corrosion identified. Design and construct quotations sought.	February 2020
10/1/20	Lot 300 Olivia Tce – Progress Report	John Meggitt	Resolved that State Government to demolish buildings and remediate the site with possible purchase by Shire in the future.	Demolition to be undertaken late November early December 2020.
17/2/20	Review of Shire Tourism Strategy & Action Plan	David Perry	Council at the 25 February 2020 meeting agreed to “the release of the RFQ Brief Shire of Carnarvon Tourism Strategy and Action Plan and to the engagement of a suitably qualified expert to undertake the review of the August 2012 Addendum & Action Plan, noting that the RV Friendly Plan will be developed after the completion of the tourism strategy. September 2020 - Shire officers will bring the matter back to Council after considering the emerging matters and actions relating to the Covid-19 crisis/ border closures. Currently Visitors Centre staff are very busy providing advice to tourists and tourism operators.	No further updates
22/2/20	Road Asset Information – Budget Variation	David Nielsen	Report received. Under review.	December 2020
27/2/20	Street Art – Request for Signage	Jennifer Mackellin	Meeting held with Sabrina Dowling Giudici Quotes for small plaques still to be obtained. Discussion held with Ingarrda 13/03/2020, who supported progress on this matter and gave feedback. 20/03/2020 – Email sent by Paquita Boston to Council. Due to the timing, COVID-19	December 2020

			activities and response on behalf of the Shire have taken a priority. 18/05/2020 – No further updates 15/06/2020 – Working with tourism on signage. July 2020 – No further updates August 2020 – Due to other priorities this has not progressed October 2020 – Tourism is working on signage but other priorities have taken precedence December – no further update	
8/4/20	RSL Building Purchase	John Attwood	No Further action by council	Documents signed and returned to DFES for execution. Awaiting return of documents from DFES.
SCM2 – 2/5/20	Tender 03/2020 – Design & Construct Tourism Development Blowholes	David Nielsen Carolien Claassens	Carpark bulk earthworks commenced. All building materials ordered.	March 2021
8/5/20	Transfer of RSL Building	John Attwood	No Further action by council	Completed
14/5/20	Coral Bay Airstrip	David Nielsen	Tender document being finalised. Extension of Time will be required.	March 2020
37/5/20	34 Francis Street - Removal of house	Dane Wallace	On 26/5/20 the Council resolved to serve notice on the owner under s.137 of the Health Act to take down and remove the house within 6 weeks of the date of the notice. A demolition permit was issued on 16/7/2020. The building remains.	Ongoing
4/6/20	Blowholes Reserve Management Plan - Amendments	John Attwood		Staff to arrange meeting with DPLH
5/6/20	Council Property Considered for Disposal	John Attwood	Coral Bay Airport-DOT do not wish to take over airport. Fascine waterway- unlikely any interest from DOT particularly until waterway opened. 360 Health-not actioned at this stage Butcher street building- Another group interested in building which may deliver rental to council.	Have begun discussions with Department of Transport. Letter to Transport for Airport and information to DG Transport for Fascine.

18/7/20	Carnarvon Tennis Club Building Works	David Nielsen	Commenced works. Tree trimming works completed.	December 2020
19/7/20	Private Works – DPAW	David Nielsen	DPAW advised of Council decision. Works delayed due to resourcing.	January 2020
4/8/20	Blowholes Committee Schedule	John Attwood	As Above	
4/8/20	Blowholes Management Arrangements	John Attwood	As above	
5/8/20	Blowholes Reserve – Caretaker Role	John Attwood	Discussions with Blowholes Progress Association.	Ongoing
6/8/20	Coral Bay Toilet & Fish Table	John Attwood	No Easy solution-will require significant investigation to find a good location for fish cleaning facility.New ablution block required-cost est \$250K?Land tenure may need to be resolved	Ongoing
9/8/20	Lease – Carnarvon Airport – Global Navigation System	SJ Nixon	Council resolved to lease the property at 50% of the market value. This has been communicated to Geoscience Australia with a request to advice on how they wish to proceed.	Timing is in the hand of the applicant.
24/8/20	OTC Dish Structural Inspection Report	David Nielsen	Initial working group meeting held with GDC and Space museum.	
28/8/20	Local Roads & Community Infrastructure Program Project Nominations	David Nielsen	Project nomination lodgements completed. Five projects approved.	June 2021
34/8/20	Request for Road Reserve widening Banksia Drive	CEO David Nielsen	To be discussed with DPLH.	
9/9/20	Strategic Community Plan & Corporate Business Plan	CEO	Executive Manager Development services will be tasked with this project. Mr David Perry Commenced services on 18 th November 2020 .Involves significant council/community input.	May 2021
26/9/20	RFT 8/2020 – Water Pipeline Stage C and D	David Nielsen	Revised submission approved by BBRF delegate. Contract issued to successful tenderer for execution.	March 2021
7 – 8/10/20	New Lease – Carnarvon Horse & Pony Club	SJ Nixon		

9/10/20	Regulation 17 Review and Compliance Audit Return 2020	Carolien Claassens	A consultant has been appointed and the preparation of audit has been started. A budget variation has taken place to allow for the expenditure.	January 2021
10/10/20	Carnarvon Youth Strategy – Funding Agreement Budget Variation	Carolien Claassens	The budget variation has taken place to allow for the income of grant funding and expenditure. The consultant has been appointed the work has commenced	Completed
20/11/20	Australia Day 2020	Jennifer MacKellin	The Shire was successful in its application for a grant which is presented to Council for the December meeting.	26 January 2021
12/10/20	Outbuilding – Lot 602 Crossland Street	John Meggitt		Approved by Council
13/10/20	Mobile Trading Licence – Beach Road MacLeod	John Meggitt		Approved by Council
15/10/10	Dedication Vacant Crown Land – Lot 503 McGlades Road	John Meggitt		Approved by Council
16/10/20	Mobile Trader Licence Renewal – Valeria Lucchitto	John Meggitt		Approved by Council
19/10/20	Remote Airstrip Upgrade Program Funding Application	S J Nixon		Completed- application is pending assessment
20/10/20	Repeal Shire of Carnarvon Policy E004 Designated Senior Employees	John Attwood	Policy amended as per council resolution.	Completed
23/10/20	Recruitment of CEO Position	John Attwood	Consultant appointed- advertisement to be placed in West Australian 21 st November 2021.	Ongoing
CIS	Street Xmas Party	John Attwood	To be administered by others with some assistance from council staff.	Completed

OFFICER'S RECOMMENDATION

That Council accept the Status Report and the reports outlining the actions performed under delegated authority for the months November/December 2020.

Date of Meeting:	15th December 2020
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	Shire of Carnarvon
Author/s:	Dannielle Hill – Freedom of Information Coordinator
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report:	18 December 2019

Summary of Item

The purpose of this report is to seek Council endorsement of the review of the Shire of Carnarvon Freedom of Information Statement.

Description of Proposal:

N/A

Background:

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

The last review was conducted in December 2019..

A copy of the existing FOI Statement is provided at *Schedule 8.1.2*.

Consultation:

Nil

Statutory Environment:

As reflected in the Background Section above this review is undertaken in accordance the *Freedom of Information Act, 1992* – Section 96.

Relevant Plans and Policy:

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

Financial Implications:

Nil

Risk Assessment:

Should the Council not undertake and complete this review it would technically be in breach of the legislation.

Community and Strategic Objectives:

Goal 5: Civic

Strong and listening Council.

ITEM	OUTCOMES AND STRATEGIES
5.1	A well engaged and informed community and a high standard of customer service
5.1.1	Community members have access to information on their community through a range of different media
5.1.2	The community is engaged in planning for the future and other matters that affect them
5.2	The Shire has a high standard of governance and accountability
5.2	The Shire has a high standard of governance and accountability

Comment

As mentioned, a copy of the previous Freedom of Information Statement is attached to this report for the Council's information and consideration. In reviewing the document at an officer level there are no apparent changes required to the existing statement.

OFFICER'S RECOMMENDATION

That Council pursuant to Section 96 of the Freedom of Information Act, 1992 endorse the Shire of Carnarvon Freedom of Information Statement of as presented in Schedule 8.1.2.

Date of Meeting:	15 th December 2020
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	John Attwood, Acting Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

This report reviews the training undertaken by Councillors in response to the Inquiry conducted on 10th January 2018.

Background:

On being elected to Council, all newly elected members are required to complete the prescribed training course within 12 months of being elected, as per the Local Government (Administration) Regulations 1996. The courses have been developed to provide members with the skills and knowledge to perform their roles as leaders in their district. All Councillors have completed the Council Member Essentials Modules on-line as required.

However, as a result of the Probity Report conducted in 2017 and several complaints from electors, the Department of Local Government, Sports and Cultural Industries Deputy Director General authorised an inquiry on 10th January 2018. Incorporated in the recommendations was –

Inquiry Recommendations

It is recommended that:

- 1. The elected members and Shire staff undertake governance and accountability training, and any other such training, as determined appropriate by the Director General within 6 months of the report becoming final.*
- 2. Following completion of the training referred to in Recommendation 1, and within 6 months of this report becoming final, the Shire CEO is to deliver to the Director General a comprehensive report;*
 - a. demonstrating the knowledge and understanding gained by the Shire from the training; and*
 - b. outlining the steps taken by the Shire to implement such knowledge and understanding,*
 - c. such report to be endorsed by Council.*
- 3. The Shire of Carnarvon undertake a Governance Review as approved by the Director General within 6 months of the report becoming final and the report is to be made available to the Director General.*

This matter was considered by Council at its Ordinary Meeting held on 28th January 2020 wherein it was resolved –

OFFICER'S RECOMMENDATION

That Council resolves to:

- 1. Accept the Report of the Inquiry into the Shire of Carnarvon as prepared by the Department of Local Government, Sport and Cultural Industries*
- 2. Require the CEO to prepare a plan to implement the recommendations from the report as listed:*
 - 1. The elected members and Shire staff undertake governance and accountability training, and any other such training, as determined appropriate by the Director General within 6 months of the report becoming final.*

2. *Following completion of the training referred to in Recommendation 1, and within 6 months of this report becoming final, the Shire CEO is to deliver to the Director General a comprehensive report;*
 - a. *demonstrating the knowledge and understanding gained by the Shire from the training; and*
 - b. *outlining the steps taken by the Shire to implement such knowledge and understanding,*
 - c. *such report to be endorsed by Council.*
3. *The Shire of Carnarvon undertake a Governance Review as approved by the Director General within 6 months of the report becoming final and the report is to be made available to the Director General.*
4. *The Shire engage a suitably qualified person to manage any project over \$1,000,000.*

Due to COVID Council were unable to complete the training within the 6 months timeframe and accordingly approval was granted by the Director General to extend to September 2020. A further extension to 31 December 2020 was granted as a result of delays with arranging training and trainers.

The following information will be the report to the Director General.

"REPORT TO THE DIRECTOR GENERAL

Councillors and Executive Staff have attended and completed the following training modules as prescribed within the recommendations of the Inquiry –

1. Council Member Essentials Modules – WALGA - On Line

- * *Understanding Local Government*
- * *Conflicts of Interest*
- * *Serving on Council*
- * *Meeting Procedures*
- * *Understanding Financial Reports & Budgets*

2. Australian Institute of Company Directors –

- * *Governance Essentials for Local Government*
- * *The Role of the Council and Councillor*
- * *Leadership – The Council's Role*
- * *Risk – Issues for Councillors*
- * *Introduction to Financial Statements for Councillor*

3. Paul Omodei & Associates – Governance Advice

4. Steven Tweedie

- * *Conduct and Integrity*
- * *Code of Conduct*
- * *Misconduct*
- * *Conduct of Meetings (decision making, best practice, statutory requires)*
- * *Procurement/Purchasing*
- * *Delegations*

5. Chris Liversage – Local Laws and Standing Orders

Due to the extent and quality of training undertaken by Council and staff one of the most important improvements has been the recognition by both Council and administration that they are now working together as one entity.

The quality of information provided to Council has addressed the issues of respect and trust shown between

Councillors and Staff and has resulted in an overall improvement in decision making. Regular meetings between Council and Executive Staff has broken down past historical differences. Information is now transferred freely from administration to Council and vice versa without interfering with the well understood roles and responsibilities of both parties.

As a consequence of the training, Council are reviewing a number of policies and delegations to streamline governance and expedite decision making. Staff are now more cognitive of the importance of procurement and adherence to Council procurement and tendering policies. This has resulted in the risk to Council being significantly reduced. Community and contractors are now gaining more confidence and trust in Council's procurement processes. It should be noted that all of the benefits of training are not noticeable overnight and it will take some time for the learning from training to become embedded in the organisation.

Executive Staff have been made aware of the recommendation that Council are to engage a suitably qualified person to manage any project over \$1,000,000."

Consultation:

Department Local Government

Various Councillors and Executive Staff

Statutory Environment:

Section 8.3 of the Local Government Act 1995 gives the Director General of the Department of Local Government, Sport and Cultural Industries the authority to inquire into all local governments and their operations and affairs. This function was delegated to the Deputy Director General as per Regulation 35B of the Local Government (Functions and General) Regulations 1996.

Relevant Plans and Policy:

E011 – Elected Member Professional Development

Financial Implications:

The financial implications for the Shire incurred costs associated with contracting AICD, Mr Steven Tweedie, Mr Paul Omodei and Mr Chris Liversage in relation to attending Carnarvon to conduct the training.

Risk Assessment:

The Report is of low risk as it only contains information in regard to the recommendations from the report in regard to Councillor training will assist the Shire in reducing the risk of possible similar actions in the future.

Community & Strategic Objectives:

[Goal 5: Civic](#)

[Strong and listening Council.](#)

ITEM	OUTCOMES AND STRATEGIES
5.2	The Shire has a high standard of governance and accountability
5.2.1	Robust decision-making by culturally aware, well-informed and supported Councillors
5.2.2	Highly capable executive leadership and management
5.2.3	Risks are well managed
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations
5.4	Sound financial and asset management
5.4.4	Financial transactions are accurate and timely
5.4.5	Procurement ensures probity, fairness, level playing field for local suppliers, and value for money
5.5	The right people with the right skills in a productive workplace

ITEM	OUTCOMES AND STRATEGIES
5.5.1	All staff are provided with adequate training and equipment to undertake their role, including cultural awareness training

Comment:

The Shire of Carnarvon has continued to support ongoing elected member training including training outside the parameters of the Elected Member Essential training as provided by the WA Local Government Association.

In Accordance with recommendation 3 of the Inquiry report once the Director General has been provided with the report under recommendation 2, Council will be required to complete a Governance Review and make that review available to the Director General. I would envisage that Council would engage an external consultant familiar with Local Government governance to carry out that review. It would be prudent to seek advice from the Director General on the content of the scope of review required.

The additional training as recommended by the Inquiry was undertaken by all Councillors and Executive Staff and has proven to be beneficial in that Councillors are fully conversant on their roles and responsibilities and have made progress towards restoring good governance of the Shire. The Councillors have resolved differences that have occurred in the past and are moving forward as a team for the betterment of not only the Council as a whole but instilling confidence in the community.

OFFICER'S RECOMMENDATION

That in accordance with Item 2 of the Inquiry Report, Council endorse the following report –

"REPORT TO THE DIRECTOR GENERAL

Councillors and Executive Staff have attended and completed the following training modules as prescribed within the recommendations of the Inquiry –

1. Council Member Essentials Modules – WALGA - On Line

- * *Understanding Local Government*
- * *Conflicts of Interest*
- * *Serving on Council*
- * *Meeting Procedures*
- * *Understanding Financial Reports & Budgets*

2. Australian Institute of Company Directors –

- * *Governance Essentials for Local Government*
- * *The Role of the Council and Councillor*
- * *Leadership – The Council's Role*
- * *Risk – Issues for Councillors*
- * *Introduction to Financial Statements for Councillor*

3. Paul Omodei & Associates – Governance Advice

4. Steven Tweedie

- * *Conduct and Integrity*
- * *Code of Conduct*
- * *Misconduct*
- * *Conduct of Meetings (decision making, best practice, statutory requires)*
- * *Procurement/Purchasing*
- * *Delegations*

5. Chris Liversage – Local Laws and Standing Orders

Due to the extent and quality of training undertaken by Council and staff one of the most important improvements has been the recognition by both Council and administration that they are now working together as one entity.

The quality of information provided to Council has addressed the issues of respect and trust shown between Councillors and Staff and has resulted in an overall improvement in decision making. Regular meetings between Council and Executive Staff has broken down past historical differences. Information is now transferred freely from administration to Council and vice versa without interfering with the well understood roles and responsibilities of both parties.

As a consequence of the training, Council are reviewing a number of policies and delegations to streamline governance and expedite decision making. Staff are now more cognitive of the importance of procurement and adherence to Council procurement and tendering policies. This has resulted in the risk to Council being significantly reduced. Community and contractors are now gaining more confidence and trust in Council's procurement processes. It should be noted that all of the benefits of training are not noticeable overnight and it will take some time for the learning from training to become embedded in the organisation.

Executive Staff have been made aware of the recommendation that Council are to engage a suitably qualified person to manage any project over \$1,000,000."

Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Jennifer MacKellin Executive Manager Corporate and Community Megan Shirt and Jillian Brasil – Finance
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

In accordance with Regulation 34 of the Local Government (Financial Management) Regulations, the Shire Administration is required to prepare a monthly Statement of Financial Activity for approval by Council.

Description of Proposal:

That Council receives the Financial Activity Statement for the period ending 30 October 2020.

Background:

This report provides elected members with information about operating and capital revenues and expenditures. It also links operating results with balance sheet items and reconciles with the end of month balances.

Consultation:

Nil

Statutory Environment:

Local Government (Financial Management) Regulation 34.

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

(1A) In this regulation —

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

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.

- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Relevant Plans and Policy:

Corporate Business Plan 2018 - 2022

Financial Implications:

Nil.

Risk Assessment:

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

Community & Strategic Objectives:

ITEM	OUTCOMES AND STRATEGIES
5.2	The Shire has a high standard of governance and accountability
5.2.1	Robust decision-making by culturally aware, well-informed and supported Councillors
5.2.3	Risks are well managed
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations
5.4	Sound financial and asset management
5.4.4	Financial transactions are accurate and timely

Comment:

Attached as *Schedule 8.2.2(a)* for consideration is the completed Statement of Financial Activity for the period ended 30 October 2020.

In accordance with the Local Government (Financial Management) Regulations, a report must be compiled on variances greater than the percentage agreed by Council which is currently plus (+) or minus (-) of 10%, or \$10,000, whichever is the higher.

OFFICER'S RECOMMENDATION

That Council, in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, receive the Statement of Financial Activity for the period ended 30 October 2020 as per Schedule 8.2.2(a).

Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Jennifer MacKellin Executive Manager Corporate and Community Megan Shirt and Jillian Brasil – Finance
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

In accordance with Regulation 34 of the Local Government (Financial Management) Regulations, the Shire Administration is required to prepare a monthly Statement of Financial Activity for approval by Council.

Description of Proposal:

That Council receives the Financial Activity Statement for the period ending 30 November 2020.

Background:

This report provides elected members with information about operating and capital revenues and expenditures. It also links operating results with balance sheet items and reconciles with the end of month balances.

Consultation:

Nil

Statutory Environment:

Local Government (Financial Management) Regulation 34.

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

(1A) In this regulation —

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

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.

- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Relevant Plans and Policy:

Corporate Business Plan 2018 - 2022

Financial Implications:

Nil.

Risk Assessment:

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

Community & Strategic Objectives:

ITEM	OUTCOMES AND STRATEGIES
5.2	The Shire has a high standard of governance and accountability
5.2.1	Robust decision-making by culturally aware, well-informed and supported Councillors
5.2.3	Risks are well managed
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations
5.4	Sound financial and asset management
5.4.4	Financial transactions are accurate and timely

Comment:

Attached as *Schedule 8.2.2* for consideration is the completed Statement of Financial Activity for the period ended 30 November 2020.

In accordance with the Local Government (Financial Management) Regulations, a report must be compiled on variances greater than the percentage agreed by Council which is currently plus (+) or minus (-) of 10%, or \$10,000, whichever is the higher.

OFFICER'S RECOMMENDATION

That Council, in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, receive the Statement of Financial Activity for the period ended 30 November 2020 as per Schedule 8.2.2.

Date of Meeting:	14 th December 2020
Location/Address:	Carnarvon Skate park and Hutchinson Park
Name of Applicant:	N/A
Name of Owner:	Shire of Carnarvon
Author/s:	Sj Nixon, Governance Coordinator
Declaration of Interest:	Nil
Voting Requirements:	Officers Recommendation 1 - Absolute Majority Officers Recommendation 2 – Absolute Majority Officers Recommendation 3 – Simple Majority
Previous Report:	Nil

Summary of Item:

Council approval for acceptance of grant and application for further funding for the Hutchinson park and Skate park development is sought.

Description of Proposal:

The State Premier, Hon. Mark McGowan MLA, announced during a visit to Carnarvon on 1st December 2020 that State funding would be made available for an upgrade the Carnarvon skatepark. This report seeks Council approval to accept and utilise the funding.

Further, approval is sought to apply for the Building Better Regions Fund (BBRF) to complete proposed improvements to the Skate park and Hutchinson Park.

These proposals are in accordance with Council Policy C030 – External Grants – Procurement and Management and the Local Government Act.

Background:

The Premier announced the contribution of funds for improvement to the Carnarvon skate park with the intent to provide the following:

- Painting of the skate park
- Installation of BBQ and sheltered picnic facility
- Installation of drink fountains

An application is to be submitted for further funding to complete the following proposed items:

- Installation of Pump track
- Installation of new basketball Court
- Lighting at the park
- Additional seating and shade structures
- Water Park Feature

"water park Feature"

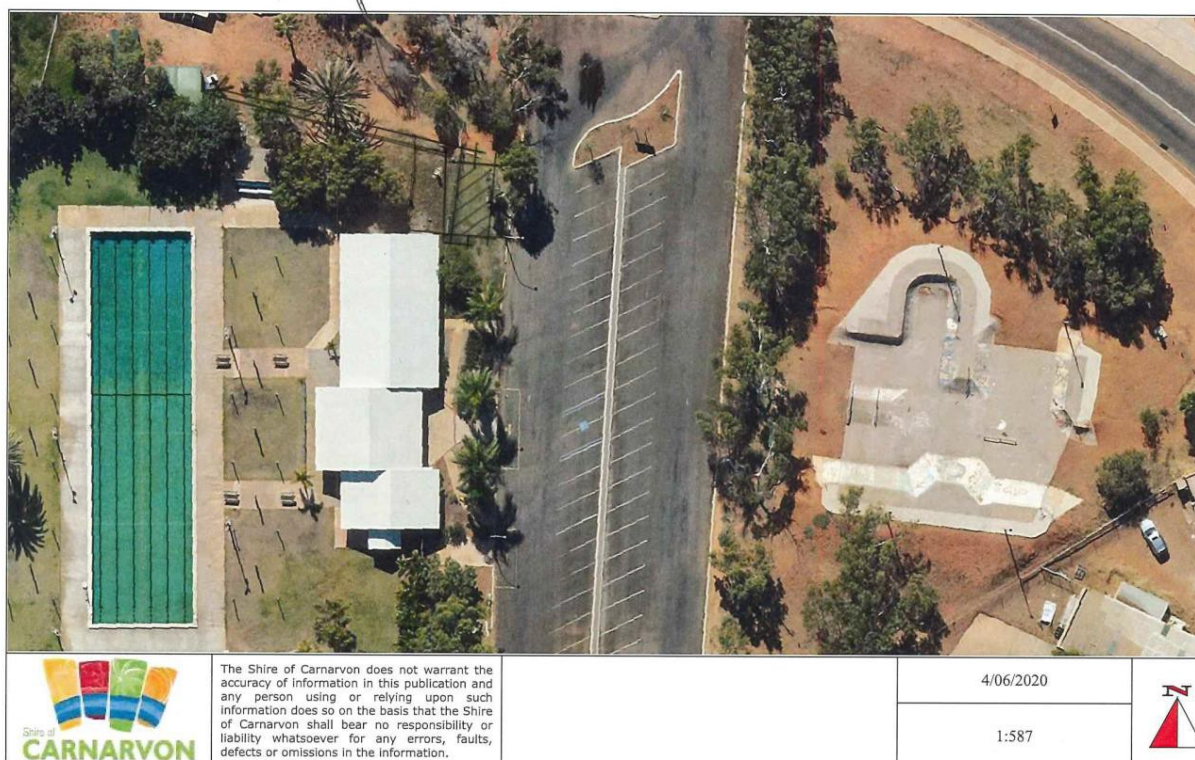


Figure 1 proposed water park feature

Consultation:

Consultation has been happened between the following agencies

- Gascoyne Development Commission
- Ngala
- Stephen Michael Foundation
- Shire of Carnarvon

The items proposed under a further grant application have been identified through feedback from local youth.

Statutory Environment:

Section 5.42 of the Local Government Act 1995 applies as follows:

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.

section 6.8(1)(b) of the Local Government Act 1995 applies as follows,

6.8(1)(b) Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
- (b) is authorised in advance by resolution*; or

* Absolute majority required.

Relevant Plans and Policy:

The Shires Purchasing Policy C002 will apply to all procurement undertaken as part of the projects.

Approval to apply for a grant is required under Policy C030 – External Grants – Procurement and Management.

Financial Implications:

The promised funding from the Premier was indicated to be \$80,000. The Building Better Regions fund provides up to \$10 million towards projects and historically has provided 100% of the cost of funding for project cost.

A budget variation would be required with income at COA 3690 and expenditure in Job R013.

Risk Assessment:

Reputational risk – Given the announcement has been made publicly that the funding would be provided, the Council may experience adverse reputational scrutiny should it not approve acceptance of the funding.

Community & Strategic Objectives:

Objective 1: Economic

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

ITEM	OUTCOMES AND STRATEGIES
1.2	Thriving tourism industry within the district/region
1.2.2	Support the development and promotion of tourism attractions in the district of the Shire of Carnarvon

Objective 2: Natural and built environment

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

ITEM	OUTCOMES AND STRATEGIES
2.6	Shire assets and facilities that support services and meet community need
2.6.4	Parks and gardens and open spaces are appropriately managed according to their need and use
2.6.5	Buildings and facilities are appropriately managed according to their need and use
2.6.6	Maintain town centre, Fascine and town beach for enjoyment of locals and visitors, that the community can take pride in

Objective 3: Social

A healthy and safe community enjoying a high quality of life

ITEM	OUTCOMES AND STRATEGIES
2.6	Shire assets and facilities that support services and meet community need
3.1.5	Provide opportunities for community participation to promote a sense of belonging.
3.4.2	Support and promote recreational and sporting events and organisations through the Club Development Program.
3.4.5	Develop and maintain a well utilised passive parkland network.

Comment:

This funding represents a significant opportunity for local amenity improvements and could prove a preventative measure to social issues such as crime reduction within the community. The funding was announced publicly by the Premier however a written confirmation or funding agreement is yet to be received.

OFFICER'S RECOMMENDATION 1

That Council, pursuant to Section 5.42 of the Local Government Act (1995) delegate authority to the CEO to make any necessary non-material amendments and finalise execution of a funding agreement between the Shire of Carnarvon and the State Government, for \$80,000 to be used for improvements to the Carnarvon Skate Park.

(Absolute Majority Required)

OFFICER'S RECOMMENDATION 2

That Council, pursuant to Section 6.8(1)(b) of the Local Government Act, adopt a budget variation to receive the grant amount of \$80,000 in COA 3690 and expenditure from Job R013.

(Absolute Majority required)

OFFICER RECOMMENDATION 3

That Council authorises the CEO to submit an application from the Shire of Carnarvon to the Department of Industry, Science, Energy and Resources for the Building Better Regions Fund (BBRF) for the completion of the proposed improvements of the Carnarvon Skatepark and Hutchinson Park

(simple Majority Required)

Date of Meeting:	15 December 2020
Location/Address	Shire of Carnarvon
Name of Applicant	Shire of Carnarvon
Name of Owner	N/A
Author/s:	Jennifer MacKellin – Executive Manager Community Services
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority

Summary of Item:

In accordance with Policy C030 – External Grants – Procurement and Management, it is required that:

Where possible external funding has been identified outside the Corporate Business Plan and the Long-Term Financial plan a formal Council resolution will be required in order to apply for the funding.

A grant opportunity for \$20,000 was available to the Shire of Carnarvon (Shire), for which staff have applied and been successful in its application. Retrospective approval is now sought for the grant application which has been made. This application is to enable the Shire to provide a COVID Safe event.

To enable the Shire to accept this grant and include the \$20,000 in the current budget, a budget variation is required to be approved by Council.

Description of Proposal:

Retrospective approval is required for a grant application submitted to Auspire – The Australia Day Council (WA), for \$20,000 to deliver a COVID Safe event on Australia Day 2021.

In order to accept this grant, a Council resolution is required for a budget variation for \$20,000.

Background:

For financial sustainability and to promote the well-being of the local community, it is important for local governments to raise revenue through grants. Council Policy C030 requires that Shire staff obtain Council approval before applying for a grant that is outside of the Corporate Business Plan and the Long Term Financial Plan.

As is often the case with grant applications, Shire staff became aware of the availability of a grant but did not have time to seek formal Council approval prior to the deadline for submissions. The CEO advised Council of this in a meeting on 29 October, with Council requesting the CEO to proceed with an application.

The grant provided by the National Australia Day Council is to demonstrate support for local governments to deliver COVID safe events 'that encourage all Australians to reflect, respect and celebrate on Australia Day 2021.' The grant is to be used to help fund resources and services to ensure that the Australia Day 2021 celebrations meet the relevant state requirements for COVID safe events. This includes the provision of additional staff, known as 'COVID Marshalls'.

Consultation:

n/a

Statutory Environment:

Local Government Act 1995

s.56 Emergency Management Act 2005 (WA)

s.167 Public Health Act 2016

Relevant Plans and Policy:

C030 – External Grants – Procurement and Management

C032 - Integrated Planning and Reporting (Planning) Policy

C033 - Financial Planning and Sustainability Policy

Financial Implications:

In the October Council meeting, the following budget was provided to Council for Australia Day 2021:

Children's Activities (additional staff wages)	\$ 2,000.00
Fireworks and Accommodation (allowing for increased costs)	\$15,000.00
Security for Australia Day (allowing for increased costs)	\$ 700.00
Sound Track for Fireworks	\$ 500.00
Catering for Australia Day Breakfast	\$ 2,200.00
Sub Total	\$20,400.00

At this meeting, Council approved monies to be allocated from COA 3572 Job 3570 Festivals and Events for Australia Day 2021.

FC 11/10/20

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION

Cr Pinner/Cr Maslen

That Council approve fireworks for Australia Day 2021 celebrations to be held on 26 January 2021, with funds allocated from COA 3572 JOB 3570 Festivals and Events.

CARRIED

F7/A0

It is now proposed that a budget variation as follows:

Program & Sub-Program	GL Account Code	Description	Classification	Job No.	Original Budget	Budget Variation	Current Budget
06 - Education and Welfare & 18- Community Development Services	6063	Grants Income	Operating income	N/A	- \$10,000	- \$20,000	- \$30,000
	3570	Festival and Events	Operating Expenditure	3570	\$ 46,034	\$20,000	\$66,034

This will provide a total of \$40,400 for the 2021 Australia Day celebrations.

Risk Assessment:

Financial – not accepting this funding may impact on the financial capacity of the Shire to meet COVID requirements for an event of this type and may reduce the size of the event.

Reputational – not accepting this funding may be seen negatively by some members of the community.

Community & Strategic Objectives:

Goal 3: Social

Healthy, safe and resilient community, where everyone belongs

Goal 5: Civic

Strong and listening Council

Comment:

The provision of events within Carnarvon was significantly interrupted throughout 2020 due to COVID and budget constraints. The Shire appreciates the opportunity to provide a safe community event through the provision of this grant.

OFFICER'S RECOMMENDATION

That Council:

1. *Provides retrospective approval for the CEO to submit an application for a grant to Auspire – The Australia Day Council (WA), for the amount of \$20,000, to be used to provide a COVID safe event on Australia Day 2021.*
2. *Approves for the CEO to accept a grant from Auspire – The Australia Day Council (WA), to be used to provide a COVID safe event on Australia Day 2021.*
3. *Approves a budget variation to the 2020/21 budget as follows:
6063 - \$20,000 Income
3570 –\$20,000 Expenditure
With budget text to identify the intended purpose being Australia Day 2021.*

File No:	A2550; P37/20
Date of Meeting:	15 December 2020
Location/Address:	Lot 18 (HN 134) Boundary Road, East Carnarvon
Name of Applicant:	Ross Edward Godden
Name of Owner:	Ross Edward Godden
Author/s:	John Meggitt, Principal Planner
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report:	Nil

Summary of Item:

The applicant is proposing to extend an existing workshop at Lot 18 (HN 134) Boundary Road, East Carnarvon. The property is occupied by Westerly Contractors who provide tree lopping and landscaping services. The workshop extension has an area of approximately 100m². See Figure 1. Plans can be seen in 8.3.1. Schedule(a) and 8.3.1 Schedule(b).

The proposal is consistent with the General Industrial zoning of the site, existing and adjoining landuses and is supported.

Description of Proposal:

The proposal is an addition to an existing industrial building within a lot within an area of 3,239m². It is noted that the site contains a dwelling which has been on the site since approximately 2005. The adjoining land to the north is vacant. Site plans and elevations are attached as Schedules 8.3.1(a) and 8.3.1(b).



Figure 1. Site of the proposed workshop extension at Lot 18 Boundary Road.

Consultation:

Consultation is not required.

Statutory Environment:

Shire of Carnarvon Local Planning Scheme 13

Under LPS 13 the site is zoned General Industry. Within this zone a building to be used for activities associated with tree lopping and landscaping services falls under the definition of 'Industry' which is a 'P' use meaning that the use is permitted provided it complies with all relevant development standards and requirements of the scheme.

The relevant objectives are:

- *To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses.*
- *To accommodate industry that would not otherwise comply with the performance standards of light industry.*
- *Seek to manage impacts such as noise, dust and odour within the zone.*

The proposed development is consistent with these objectives.

Relevant Plans and Policy:

East Carnarvon District Structure Plan

Under the structure plan the subject land is to remain zoned for industrial purposes. The objectives include:

- *Design buildings and sites to create an attractive and landscaped industrial streetscape;*
- *To provide diverse employment opportunities for Carnarvon;*
- *To provide areas for industry separated from living, business and community areas so as to reduce adverse impacts on the amenity of residents and users of land in the vicinity of industrial activities;*
- *To provide for the ongoing operation of the existing industrial area and an expansion area to be developed in the future when the demand for land justifies this;*

The proposed development is consistent with these objectives.

Financial Implications:

There is no financial liability associated with the officer's recommendation.

Risk Assessment:

There is no risk associated with the officer's recommendation.

Community & Strategic Objectives:

The matter before Council generally accords with the following Shire desired outcome as expressed in the *Carnarvon Strategic Community Plan 2011*:

Objective 2: Natural and built environment

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

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

Comment:

The proposal development of a workshop for activities associated with a landscaping and tree lopping business is permitted within the General Industrial zone. There are no objections raised to the development and the application is supported.

OFFICER'S RECOMMENDATION

That council pursuant to Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the Shire of Carnarvon Local Planning Scheme No. 13 grant development approval for application P37/20 A2550 for development of a workshop attached to an existing industrial building at Lot 18 (HN 134) BOUNDARY RD EAST CARNARVON WA 6701 subject to the following conditions:

- 1. The development is generally in accordance with the approved plans (Schedule 8.3.1), except as modified by conditions of approval.***

Advice Notes:

- a) If the development, the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.***
- b) If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 part 14. An application must be made within 28 days of the determination.***
- c) This approval does not confer approval under other relevant legislation, including but not limited to, the Building Act 2011 and Health Act 1911. It is the responsibility of the Applicant to determine any necessary approvals required and obtain such approvals prior to the commencement of development and use.***

File No:	ADM1757
Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	John Meggitt, Principal Planner
Declaration of Interest:	Nil
Voting Requirements:	Absolute majority

Summary of Item:

This report seeks to rescind Delegation No. 5004 Certain Functions relating to Shire of Carnarvon Town Planning Scheme No. 10 (LPS 10) and Delegation No. 5005 Certain Functions relating to Shire of Carnarvon District Zoning Scheme No. 11 (DZS 11) and replace them with Delegation No. 5016 - Certain Functions relating to Shire of Carnarvon Local Planning Scheme No. 13 (LPS 13). See 8.3.2 Schedule.

LPS 10 and DZS 11 were revoked when LPS 13 was published in Western Australian Government Gazette No. 186 on 3 November 2020. In accordance with s87(4) of the Planning and Development Act (2005) LPS 13 now has full force and effect.

Currently the Chief Executive Officer's planning delegations only apply to LPS 10 and DZS 11. Delegation 5016 will provide the delegation to the CEO for planning matters relating to LPS 13 which was previously afforded under delegations 5004 and 5005 to the revoked Schemes.

Description of Proposal:

The Local Government Act (1995) s5.42(1)(b) and the Planning and Development Act s214(2), (3) and (5) provide for a local government to delegate to a CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under the Regulations.

The use of delegated powers is to facilitate the effective operation of the local government. The Department of Local Government and Communities advice on Delegations (Local Government Operational Guidelines No. 17 Jan. 2007) is that:

As far as is possible and reasonable, councils should be predominantly concerned with dealing with higher level policy matters for their local governments. Duties and powers which are operational in nature, but exercise a discretion, should be delegated to the CEO.

Currently the Delegations 5004 and 5005 include the condition that:

An officer to whom delegated authority is granted is not to exercise that authority in circumstances where the Chief Executive Officer has received a request from a Councillor that the matter be referred to Council for consideration or determination.

It is proposed that this condition be omitted on the basis that it can cause significant delays in the processing of applications, it hampers the effective operation of planning functions and fails to recognise Councillors' role in dealing with higher level policy matters.

The proposed replacement delegation also reflects the revised permissibility classifications. The new classifications being:

P means that the use is permitted if it complies with all relevant development standards and requirements of this Scheme;

I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards and requirements of this Scheme;

D means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

A means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions;

X means that the use is not permitted by this Scheme.

Background:

The provisions of the Local Government Act 1995 which provide for delegations by a local government or its CEO are as follows:

- Section 5.16(1), states:
Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation.
- Section 5.42(1), states:
A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.
- Section 5.44(1), states:
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.

The Act has been framed in a way that determines whether powers and duties can be delegated or not. If the term 'council' is used then it is the council itself which must carry out that function. If the term 'local government' is used then it may be possible to use delegation, subject to any other express powers against delegation or the desirability in using 'acting through' where it may be a better way of carrying out the power or duty.

The Planning and Development Act 2005 provides for a system through the Model Scheme Text as a set of general provisions for carrying out the general objects of town planning schemes. Item 11.3.1 of the Model Scheme Text provides for a local government to delegate powers to a committee or its CEO, stating that:

The local government may...delegate to a committee or the CEO...the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.

Item 11.3.2 of the Model Scheme Text provides for a local government CEO to delegate their powers and duties to another employee, stating that: 'The 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 clause 11.3.1.'

Consultation:

In making this proposal, consideration was given to:

- Guideline 17 on Delegations by the Department of Local Government.
- The WA Local Government Association – Decision making in Local Government
- Consultation undertaken with the City of Greater Geraldton Coordinator Statutory Planning – Urban & Regional Development

Statutory Environment:

Section 5.42 of the Local Government Act (1995) provides that:

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) ...

(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 the instrument of delegation.

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.

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's 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.

Sections 214 (2), (3) and (5) of the Planning and Development Act 2005 provide that:

82. Delegations by local government

(1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.

(2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.

(3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

83. Local government CEO may delegate powers

(1) The local government 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 functions under this Scheme other than this power of delegation.

(2) A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.

(3) Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise

or discharge of which has been delegated by the local government to the CEO under that clause.

84. Other matters relevant to delegations under this Division

The Local Government Act 1995 sections 5.45 and 5.46 apply to a delegation made under this Division as if the delegation were a delegation under Part 5 Division 4 of that Act.

Relevant Plans and Policy:

There are no plans/policies associated with this matter.

Financial Implications:

There are no financial implications associated with this matter.

Risk Assessment:

The effective administration of local government powers and functions requires appropriate delegations, appointments and authorisations. Failure to have these in place will reduce the efficiency of the administration.

Community & Strategic Objectives:

Objective 2: Natural and built environment

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

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

Objective 5: Civic

Strong and listening Council.

ITEM	Outcomes and Strategies
5.2	The Shire has a high standard of governance and accountability
5.2.1	Robust decision-making by culturally aware, well-informed and supported Councillors
5.2.2	Highly capable executive leadership and management
5.2.3	Risks are well managed
5.2.5	Continual improvement in implementation of the Integrated Planning and Reporting (IPR) cycle
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations

Comment:

The proposed changes to the Shire's Delegation list is primarily in response to the gazettal of Local Planning Scheme No. 13 and the revoking of Schemes LPS 10 and DZS 11. The delegation also seeks to reflect the role of councils as being predominantly concerned with dealing with higher level policy matters for their local governments and the responsibility of the CEO for operational duties and powers.

OFFICER'S RECOMMENDATION

That Council

- 1. Revoke Delegation No. 5004 Certain Functions relating to Shire of Carnarvon Town Planning Scheme No. 10;*
- 2. Revoke Delegation No. 5005 Certain Functions relating to Shire of Carnarvon District Zoning Scheme No. 11 ; and*
- 3. Adopt Delegation No. 5016 - Certain Functions relating to Shire of Carnarvon Local Planning Scheme No. 13.*

File No: ADM 2087
 Date of Meeting: 14 December 2020
 Location/Address: N/A
 Name of Applicant: N/A
 Name of Owner: Shire of Carnarvon
 Author: Trish Ouellette, Development Support Officer
 Declaration of Interest: Nil
 Voting Requirements: Absolute Majority
 Previous Reports: N/A

Summary of Item:

Section 3.16 of the Local Government Act 1995 requires local governments to undertake a review of their local laws at least once every eight years.

At its meeting held on 22 September 2020 Council resolved to initiate the public consultation process required. Submissions closed on 16 November 2020, and while none were received, the Shire's local laws are in need of updating. Proposals will be submitted to Council for consideration on a case by case basis.

Description of Proposal:

N/A

Background:

At its meeting held on 22 September 2020, council resolved to initiate the process required by s3.16 of the Local Government Act 1995 to review all local laws at least once every 8 years (item 8.3.1 refers).

The Shire has several local laws in place, however a number are outdated and will require replacement with new local laws containing current terminology and standards. Some are clearly no longer required and can be repealed altogether, while others require amendment due to changing circumstances and/or the passage of time. A brief description of each existing local law and proposed action is summarised below:

Title	Gazetted	Amendments	Comments
Building - Schedule of Building Fees	3 Aug 1959, p2016		Repeal – fees and charges are set as part of the annual budget process under Part 6 Local Government Act 1995.
Uniform Building By-laws - Mauds Landing Townsite	16 June 1974, p1870		Repeal – overridden by Building Act 2011
Caravan Parks and Camping Grounds No. 2	18 Apr 1975, p1191		Repeal – covered by State legislation
Holiday Accommodation Draft Model No. 18	2 May 1975, p1273	18 Nov 1983, p4604; 2 May 1986 p1537	Repeal - dealt with by Health local law
Caravan Parks and Camping Grounds	6 Apr 1984, p984		Repeal – covered by State legislation
Local Government Act Local Laws	26 Feb 1998, p1000		Repeal and replace with new Local Government Property and Public Places local law

Title	Gazetted	Amendments	Comments
Stands (Taxis) Public Vehicular	18 May 1956, p1238		Repeal and replace with new Parking local law
Parking and Stands	3 August 1956, p1920		Repeal and replace with new Parking local law
Parking Near Intersections	5 Feb 1958, p192		Repeal and replace with new Parking local law
Motels	14 Jan 1969, p119	6 Dec 1985, p4562	Repeal - dealt with by Health local law
Caravan parks - Fees	1 Apr 1977, p960		Repeal – fees and charges are set as part of the annual budget process under Part 6 Local Government Act 1995.
Dogs	12 Oct 1990, p5190	20 Mar 1992, p1268; 30 Jun 1992 p2889; 9 Jul 1993 p3351	Replace with new Dogs Local Law to reflect changes to Dog Act 1976 and Dog Regulations 2013.
Carnarvon airport	22 Jan 1993, p777		Combine with proposed new Local Government Property and Public Places Local Law.
Fencing	16 Sept 1994, p4757		Review and update where necessary.
Cat control	17 Jun 1997, p2767	17 Mar 1998, p1428	Replace with new local Cats Local Law made under Cat Act 2011
Health	23 Jul 1997 p121	29 Sept 2002, p4835	Review and update where necessary.
Standing Orders	26 Feb 1998 p969		Review and update where necessary.
Advertising Devices	26 Feb 1998, p984		Review – may be better dealt with as part of Local Planning Scheme policy
Carnarvon public cemetery	26 Feb 1998, p1024		Review and update where necessary.

Table 1.

Consultation:

As part of a review of local laws under section 3.16 of the Local Government Act 1995, a local government is required to give local public notice, inviting submissions for a period of not less than 6 weeks.

Submissions from the public were duly called, and which closed on 16 November 2020. None were received.

Statutory Environment:

Section 3.16 of the Local Government Act 1995 requires a local government to review its local laws at least once every eight years.

Section 3.12 sets out the process to make or amend a local law.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with making new or amendment local laws and their Gazettal. Longer term costs

to the Shire will be reduced by the removal of outdated legislation.

Risk Assessment:

There is a risk to the Shire if reliance is made on outdated local laws and a decision may be challenged.

Community & Strategic Objectives:

The following Objectives, Outcomes and Strategies of the Strategic Community Plan 2018 – 2028 are relevant to the review of the local laws:

Objective 3: Social

Healthy, safe and resilient community, where everyone belongs

3.1	Active community
3.1.1	Provision of sport and recreation facilities
3.1.2	Support and promote opportunities for sport and recreation clubs to increase meaningful participation
3.2	Strong community identity and spirit through arts, culture and events
3.2.1	Provide and promote visual arts facilities and exhibitions/activities
3.2.2	Provide and promote performing arts and entertainment facilities and performances/activities
3.2.3	Provide and promote other opportunities for participation in social and cultural events and activities
3.2.4	Support the delivery of public art initiatives
3.2.5	Provide accessible literature and life-long learning resources through library and information services
3.3	Caring, self-reliant community
3.3.1	Support groups to deliver community-led initiatives and activities through liaison and grants
3.3.2	Facilitate volunteering opportunities within the Shire
3.3.3	Recognition and acknowledgement of community leaders and volunteers
3.4	Healthy and safe community
3.4.1	Provide emergency management planning, disaster management and disaster recovery, and associated community liaison and education
3.4.2	Collaborate with other agencies to provide a safe community
3.4.3	Ensure safety and amenity standards are upheld through Ranger Services and Environmental Health Services
3.4.4	Develop and maintain a Public Health Plan
3.5	Engaged young people
3.5.1	Provide a youth centre and activities to engage young people, particularly at risk young people
3.5.2	Collaborate with the Edmund Rice Foundation to offer alternative education for young people not succeeding in the mainstream
3.5.3	Advocate for young people and collaborate with other agencies to engage young people
3.6	Age friendly community
3.6.1	Explore options for age appropriate housing and aged care (low to high needs) in designated precinct
3.6.2	Support older residents to lead fulfilling lives and be valued members of the community
3.7	Accessible and inclusive community for people with disability
3.7.1	Provide adequate ACROD parking
3.7.2	Ensure Shire facilities and infrastructure are accessible for people with disability, where possible

Objective 2: Natural and built environment

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

ITEM	Outcomes and Strategies
2.1	Valued natural environment, for use and enjoyment by current and future generations
2.1.1	Work with other government and non-government organisations to control weeds and pests, and undertake other conservation measures
2.2	Open, accessible, healthy foreshore and waterways
2.2.1	Maintaining an open fascine entrance and internal channels
2.2.2	Work with operators and government agencies to enhance the Coral Bay Beach precinct
2.2.3	Monitoring water quality
2.3	Flood control and stormwater management practices that are efficient and sustainable
2.3.1	Provide for effective management and maintenance of Council's flood control and stormwater infrastructure
2.3.2	Make most effective use of recycled water for irrigation for open space
2.4	Waste management practices that are efficient and sustainable
2.4.1	Kerbside waste collection in Carnarvon and Coral Bay
2.4.2	Provide landfill disposal facilities in Carnarvon and Coral Bay
2.4.3	Provide education on waste reduction and reuse, and opportunities for reuse
2.4.4	Recover and dispose of car bodies in Carnarvon and Coral Bay
2.5	Assessment and future planning of the three waters
2.5.1	Modelling and future planning of the three waters (water, wastewater and stormwater) to identify requirements and meet future community need
2.6	Shire assets and facilities that support services and meet community need
2.6.1	Roads are appropriately managed according to their need and use
2.6.2	Advocate for improvements to the state road network
2.6.3	Town footpaths and verges are appropriately managed according to their need and use
2.6.4	Parks, gardens and open space appropriately managed according to their need and use
2.6.5	Buildings and facilities are appropriately managed according to their need and use
2.6.6	Maintain town centre, fascine and town beach for enjoyment of locals and visitors, that the community can take pride in
2.7	Regulated land use to meet the current and future needs of the community
2.7.1	Incorporate appropriate planning controls for land use planning and development
2.7.2	Adopt appropriate land use planning and building regulation practices
2.8	Preservation of local heritage buildings and places of interest
2.8.1	Shire's heritage register is regularly updated and appropriately maintained
2.8.2	Heritage buildings and places of interest are preserved and maintained through effective planning controls
2.8.3	Appropriate maintenance and signage for Shire-owned heritage buildings and places of interest

Comment:

From Table 1 above it is clear that there are a number of local laws that are no longer used or relevant, and these repealed or irrelevant local laws should be repealed. Of the remainder, most should be updated to reflect current circumstances and remove any conflict with 'higher order' legislation.

The process to make, amend or repeal a local law is separate to the formal review required under s3.16 and is set out in s3.12 of the Act, which in itself requires Council to initiate any changes, advertise them, consider submissions and then decide to make the local law or amendment.

The new local laws will be submitted to Council for consideration on a case by case basis. Overall it is

considered that the Shire will have the following set of updated local laws as follows:

- Dog
- Cat
- Meeting Procedures
- Parking
- Local Government Property and Public Places
- Fencing
- Waste
- Health
- Bush Fire Brigades
- Cemeteries

OFFICER'S RECOMMENDATION

That Council:

1. *Notes the outcome of the review of local laws under s3.16 of the Local Government Act 1995; and*
2. *That amendments to various local laws and potential new local laws have been prepared.*

File No:	ADM2087
Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Trish Ouellette, Development Support Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

The Shire is in the process of reviewing its local laws. It has a volunteer bush fire brigade, but no local law as required under the Bush Fires Act 1954. A draft local law is attached as Schedule 8.3.4a.

Description of Proposal:

It is proposed to make a simple Bush Fire Brigades local law to ensure that the Shire complies with the requirements of the Bush Fires Act 1954.

Background:

Most matters relating to bush fires and the role of local governments are dealt with by the Bush Fires Act and its associated Regulations. However, section 43 of the Bush Fires Act provides that a local government which establishes a bush fire brigade shall by its local laws:

... provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of the bush fire brigade and prescribe their respective duties.

Sections of the Bush Fires Act where a local government may make local laws are:

- Under s33(5a) to require landowners to make fire breaks. Section 33(1) though allows this to be done simply by publishing a notice in the Gazette or a newspaper circulating in the district; and where a local government does so the provisions of the notice override the local law.
- Under s41(1), to establish and maintain one or more bush fire brigades and equip them with appliances, equipment and apparatus; and
- Under s62, make local laws in relation to —
 - the appointment, employment, payment, dismissal and duties of bush fire control officers; and
 - the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and
 - any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.

The use of a local law to deal with anything other than what is required under the Act is unnecessary - all critical matters are dealt with under the Bush Fires Act and Regulations. For example:

- Part 2 of the Bush Fires Act sets out the powers of the Fire and Emergency Services Commissioner, provides for the appointment of bush fire liaison officers, and sets out powers of police or authorised persons as well as providing for entry on to land or buildings for the purposes of the Act;
- Part 3 sets out measures to prevent bush fires, including restricted or prohibited burning times, fire bans, and provisions about burning of land or rubbish. Section 33 allows a local government to require occupiers of land to establish fire breaks by a notice in the Gazette and or public notice, or by local law;

- Part 4 deals with the control and extinguishment of bush fires. In particular:
 - Section 36 provides that a local government may expend funds to control and extinguish bush fires;
 - Under s37 a local government must insure volunteer fire fighters and bush fire brigade equipment;
 - Section 38 provides that a local government may appoint a person as a bush fire control officer (and who does not necessarily have to be a local government employee), and of whom can be a Chief Bush Fire Control Officer and deputy. Under s38A the FES commissioner may appoint a person as a Chief Bush Fire Control officer if requested by a local government for its district;
 - Section 39 sets out the powers of bush fire control officers;
 - Section 40 sets out the powers and duties of local governments, brigades, and bush fire control officers in the event of a bush fire;
 - Section 41 provides that Act, a local government shall keep a register of bush fire brigades and their members in accordance with the regulations, and may at any time cancel the registration of a bush fire brigade;
 - Under s42A, any group of persons, however constituted and whether incorporated or not, may be established as a bush fire brigade under section 41(1) or 42(1).
 - Section 43 is the only area of the Bush Fires Act that requires a local government to make a local law (discussed below); and
 - Sections 44 – 47 deal with fire-fighting by officers of bush fire brigades, 'CALM' and bush fire control officers.
- Part 5 deals with miscellaneous matters and among other things:
 - Allows a local government to delegate any of its powers and duties to its CEO; and
 - Provides for penalty and prosecution provisions.

Local laws are usually used to regulate activities in communities generally. They typically set out a set of requirements and include provisions for non-compliance such as notices, infringements or prosecution. Services run by volunteers are not usually 'regulated' by local laws.

The question here is the extent to which a local law is useful when it comes to assisting and encouraging a service provided by volunteers; and what could be better dealt with by agreement. In this regard the Shire is better able to manage its funding and/or support to volunteer brigades in a more flexible manner, not by use of a local law.

A draft *Shire of Carnarvon Bush Fire Brigades Local Law* is attached. It deals only with those matters required by the Bush Fires Act.

It also contains a number of notes and text boxes to assist readers to interpret what clauses mean, and what other legislation might apply, but which do not form part of the local law and will be deleted from the official version to be Gazetted.

Note that as required, it prescribes the duties of a captain of a bush fire brigade. Other matters are simply by agreement with a brigade. This could include:

- The make up of bush fire brigades (membership, structure, meetings, elections, etc);
- How funding, facilities and equipment provided by the *City* is to be dealt with and any associated requirements;
- Record, book keeping, asset management and accounting requirements;
- Office bearers such as a secretary, treasurer, training, and/or equipment officers;
- Grievance processes and membership issues;
- How and with whom liaison with the City is to occur (day to day, longer term);
- What reporting might be required in terms of brigade activities, membership lists, acquittal of funds provided, etc; and

- Operational matters or standards.

These can be drafted by the Shire but can only be implemented in agreement with the brigades. They are not intended to be punitive or overly complex – brigade members are volunteers and should not be tied up with unnecessary regulation.

In addition the rules can be more easily changed than a local law - by council resolution and/or by the CEO acting under delegated authority from Council.

In the unlikely event it became necessary for the City to take action in relation to a brigade, if all else fails it could:

- Withhold funding; and/ or
- Seek return of assets and/or equipment; and/ or
- Ultimately, deregister a brigade under s41(3) of the Bush Fires Act. This provision is wide ranging and is used mainly when a brigade merges with another or disbands, but can be applied for any reason a local government see fit.

Consultation:

Section 62 of the *Bush Fires Act 1954* provides that a local government may make local laws using the process set out in section 3.12 of the *Local Government Act 1995*. Amongst other things this requires a local government to give state-wide and local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears.

The purpose and effect of the proposed Shire of Carnarvon Bush Fire Brigades Local Law is:

Purpose

To provide for the appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of bush fire brigades in the district, and prescribe their respective duties.

Effect

The appointment or election of a captain, a first lieutenant, a second lieutenant, and such additional lieutenants as may be necessary as officers of bush fire brigades in the district is prescribed, as are their respective duties.

As part of the process, local governments are also required to send a copy of the proposed local law to the Ministers for Local Government and Emergency Services.

The results of the community consultation and feedback from the Minister(s) are to be considered by Council before it makes the local law.

Statutory Environment:

Section 62 of the *Bush Fires Act 1954* provides that a local government may make local laws using the process set out in section 3.12 of the *Local Government Act 1995*.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

By making a local law the Shire will ameliorate any risk of non-compliance with the Bush Fires Act.

Community & Strategic Objectives:

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

Objective 3: Social

Healthy, safe and resilient community, where everyone belongs

3.3	Caring, self-reliant community
3.3.2	Facilitate volunteering opportunities within the Shire
3.4	Healthy and safe community
3.4.1	Provide emergency management planning, disaster management and disaster recovery, and associated community liaison and education
3.4.2	Collaborate with other agencies to provide a safe community

Objective 5: Civic

Strong and listening Council.

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

Objective 5: Civic

Strong and listening Council.

5.6	The Shire advocates on behalf of its community
5.6.1	The Shire develops partnerships with government and non-government organisations to achieve positive outcomes for the region

Comment:

The draft local law is based on ones made by the Shires of Serpentine Jarrahdale, Gnowangerup and Coolgardie. Preparing a new Local Law based on those adopted by other local governments helped reduced costs and will be easier to update in future as any changes will affect a significant number of local governments. .

While the WA Local Government has a model Bush Fire Brigades local law, it contains a significant level of detail that does not need prescription; operational matters relating to the operation of a volunteer group can be dealt with in a far more efficient manner – it typically takes 6 – 9 months to make or amend a local law.

OFFICER'S RECOMMENDATION

That:

1. *In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:*
 - A. *It is proposed to make a Shire of Carnarvon Volunteer Bush Fire Brigade Local Law, and a summary of its purpose and effect;*
 - B. *Copies of the proposed local law may be inspected at the Shire offices;*
 - C. *Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
2. *In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Ministers for Emergency Services and Local Government;*
3. *In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and*
4. *The results of the public consultation be presented to Council for consideration of any submissions received.*

Schedules

Schedule 8.3.3a Draft Shire of Carnarvon Volunteer Bush Fire Brigades Local Law

File No:	ADM2087
Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Trish Ouellette, Development Support Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

The Shire is in the process of reviewing its local laws, including Cats. The existing provisions are out of date requiring new laws to be prepared. A draft local law is attached as 8.3.5a Schedule - Draft Shire of Carnarvon Cat Local Law

Description of Proposal:

It is proposed to replace the *Shire of Carnarvon Cat Control Local Law 1997* with new local law that reflects legislative changes.

Background:

The *Shire of Carnarvon Cat Control Local Law 1997* was published in the Government Gazette on 17 Jun 1997 and amended in the Government Gazette on 17 March 1998.

There have been a significant number of changes in this area of activity, including the introduction of the *Cat Act 2011*, the *Cat Regulations 2012* and the *Cat (Uniform Local Provisions) Regulations 2013*.

The *Cat Regulations 2012* deals with matters such as:

- Microchipping;
- Registration and registration periods;
- Applications for approval to breed cats;
- Registration fees; and
- Application fees to obtain a permit to breed cats.

In addition, the *Cat (Uniform Local Provisions) Regulations 2013* operate as if they are local laws. Amongst other things these Regulations provide for:

- Local laws to determine what is the 'standard number' of cats that can be kept, excluding cats under the age of 6 months;
- If a member of a 'cat organisation' is normally resident on the premises, then the number of cats that can be kept on premises to be 3 times the standard number;
- Catteries; and
- Applications to keep additional numbers of cats.

Local laws that deal with cats must comply with the Cat Act 2011 and associated Regulations. The matters relevant to the local laws set out in section 79 of the Cat Act 2011:

79. Local laws

(1) ...

(2) ...

(3) Without limiting subsection (1), a local law may be made as to one or more of the following

—

(a) the registration of cats;

- (b) removing and impounding cats;*
- (c) keeping, transferring and disposing of cats kept at cat management facilities; (d) the humane destruction of cats;*
- (e) cats creating a nuisance;*
- (f) specifying places where cats are prohibited absolutely;*
- (g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;*
- (h) limiting the number of cats that may be kept at premises, or premises of a particular type;*
- (i) the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;*
- (j) the regulation of approved cat breeders, including record keeping and inspection; (k) fees and charges payable in respect of any matter under this Act.*

Rather than modifying the existing local law, it is preferable to make a new Cats Local Law to ensure compliance with the Act and Regulations.

In this regard it is considered that as a priority the Shire should seek to deal with regulation of the number of cats that may be kept on premises (the 'standard number') without a permit. This will deal with most situations where problems are caused by the numbers of cats kept on premises.

A draft new Shire of Carnarvon Cat Local Law is attached. As noted above, its major provision is to set the 'standard number' of cats that may be kept at 3 (as is the case under the 1997 local law). Note that this limit does not apply to a veterinary clinic, a cat management facility operated by the Shire, or to a cat management facility operated by a body prescribed as a cat management facility operator under the *Cat Regulations 2012*.

The process for a person to keep more than the standard number of cats is set out mainly in the *Cat (Uniform Local Provisions) Regulations 2013*. Clauses 2.3 – 2.6 of the proposed local law set out possible conditions that could be applied, and which must be considered on a case by case basis.

The remainder of the draft local law deals with appeal and enforcement provisions.

Consultation:

The Shire recently initiated a review of local laws as required under s3.16 of the Local Government Act 1995. Public comments closed on 16 November 2020. No comments were received in relation to cats.

Section 3(2) of the Cat Act 2011 provides that words and expressions defined in the Local Government Act 1995 have the same meaning in the Cat Act 2011, unless the contrary intention appears.

This includes making local laws, and using the process set out in section 3.12(3) of the Local Government Act 1995. Amongst other things this requires a local government to give local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears. A copy is also to be given to the Minister for Local Government.

The purpose and effect of the local law is:

Purpose

To set a 'standard number' of cats that may be kept on premises.

Effect

Persons must not keep more than the standard number of cats unless provided for by the local law, the Cat Act, or its associated Regulations.

The results of the community consultation and feedback from the Minister are to be considered by Council before it makes the local law.

Statutory Environment:

Local laws are made using the process set out in section 3.12 of the Local Government Act 1995.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

Local laws are required to be reviewed and/or updated every eight years under the Local Government Act 1995 s3.16. However, this review is well overdue. Ensuring they remain current and comply with other legislation will reduce the risk to the Shire of inadvertently contravening other legislation.

Community & Strategic Objectives:

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

Objective 5: Civic

Strong and listening Council.

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

Comment:

As noted above, the Shire's local laws are well out of date. Preparing a new Cat Local Law based on those adopted by other local governments helped reduced costs and will be easier to update in future as any changes will affect a significant number of local governments.

In addition, it is more likely that any staff recruited from other local governments will be at least familiar with the general requirements of a local law that is in use at many of them in substantially the same form.

OFFICER'S RECOMMENDATION

That:

- In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:*
 - It is proposed to make a Shire of Carnarvon Cat Local Law, and a summary of its purpose and effect;*
 - Copies of the proposed local law may be inspected at the Shire offices;*
 - Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
- In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government;*
- In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and*
- The results of the public consultation be presented to Council for consideration of any submissions received.*

Schedules

8.3.5 a Schedule Draft Shire of Carnarvon Cat Local Law.

File No:	A2358, P39/20
Date of Meeting:	15 December 2020
Location/Address:	Lot 37 on Plan 138664 Boor Street, Wooramel
Name of Applicant:	Modularis Pty Ltd
Name of Owner:	The Ackroyd Superannuation Fund
Author/s:	John Meggitt, Planning Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple majority
Previous Report:	N/A

Summary of Item:

This item relates to a proposed workforce accommodation dwelling at Lot 37 Boor Street, Wooramel. The proposed development satisfies the development requirements of LPS 13 and it is recommended that the application be supported.

Description of Proposal:

The site is zoned Rural under the Shire of Carnarvon Local Planning Scheme No. 13, it contains a homestead dwelling, staff accommodation facilities, workshops and other station structures. The station is located approximately 100kms by road south east of Carnarvon and has an area of 259ha.

Background:

The proposed dwelling will have four bedrooms, two bathrooms and be single storey construction. The building will be located adjacent to existing station buildings. Plans relating to this development can be found as 8.3.6 Schedule.

Consultation:

There is no requirement to advertise the application under Local planning Scheme No. 13.

Statutory Environment:Local Planning Scheme 13 (LPS 13)

The subject site is zoned Rural and workforce accommodation is identified as an 'I' use meaning that the use is permitted if it consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards and requirements of this scheme.

LPS 13 includes the following additional site and development requirements for the rural zone:

In the Rural zone, the local government may, at its discretion, approve the erection of one (1) additional dwelling on a rural lot provided that:

- (a) *the total number of dwellings on the lot shall not exceed three (3) dwellings;*
- (b) *the additional dwelling(s) complies with the setback requirements not less than those specified for the Residential Design Code 'R2';*
- (c) *the lot has an area of not less than 40 hectares;*
- (d) *it can be demonstrated that the additional dwelling(s) is for workers or family members employed for agricultural activities on that lot;*
- (e) *adequate provision of potable water for and disposal of sewage from the additional dwelling(s) can be demonstrated;*
- (f) *the additional dwelling(s) shall not adversely detract from the rural character and amenity of the area or conflict with agricultural production on the subject lot or adjoining land;*
- (g) *access to the existing road network is to be provided for any additional dwelling(s) and shared with any existing dwelling(s) where practicable;*
- (h) *the existence of more than one dwelling on a lot in the Rural zone shall not be considered by*

itself to be sufficient grounds for subdivision.

The proposed development complies with these additional site requirements.

Relevant Plans and Policy:

The site falls within bushfire prone land and a BAL Assessment has been provided. The assessment determined that the calculated bushfire attack level is BAL-LOW.

Financial Implications:

There are no identified financial implications for the Shire of Carnarvon related to the officer's recommendation.

Risk Assessment:

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

Community & Strategic Objectives:

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

Objective 1: Economic

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

ITEM	Outcomes and Strategies
1.1	Local business growth
1.1.2	Work with the agriculture, aquaculture and fishing industries to improve their viability and profile

Objective 2: Natural and built environment

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

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

Comment:

Workforce accommodation is anticipated as a landuse within the rural zone, the proposed development satisfies the requirements for the additional dwellings within the Rural zone and it is recommended that the proposal be supported.

OFFICER'S RECOMMENDATION

Pursuant to Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the Shire of Carnarvon Local Planning Scheme No. 13 grant development approval for application P39/20 for the use and development the land at Lot 37 on Plan 138664, Boor Street, Wooramel for workforce accommodation subject to the following conditions, including any amendments placed thereon by the Shire of Carnarvon and except as modified by the following conditions or with the prior written approval of the Shire:

- 1. The development is to be generally in accordance with the approved plans Modular WA Drawing Nos. A101, A102, A103 and A104, dated 8/10/2020 lodged with the application, and approved by this decision, except as modified by conditions of approval.***

Advice notes:

- I. If the development, the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.***
- II. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 part 14. An application must be made within 28 days of the determination.***
- III. This approval does not confer approval under other relevant legislation, including but not limited to, the Building Act 2011 and the Health Act 1911. It is the responsibility of the applicant to determine any necessary approvals required and obtain such approvals prior to the commencement of development and use. However, to assist in understanding the necessary requirements and approvals, further information can be obtained by contacting the Shire of Carnarvon Building Services on (08) 9941 0000.***

File No:	ADM2087
Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Trish Ouellette, Development Support Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

The Shire is in the process of reviewing its local laws, including Parking. The existing provisions are out of date requiring new laws to be prepared. A draft local law is attached as 8.3.7a Schedule - Proposed Shire of Carnarvon Parking Local Law

Description of Proposal:

It is proposed to replace provisions of the *Shire of Carnarvon Local Laws Relating to Local Government Act Local Laws 1998* which relate to regulation of parking with a standalone Parking Local Law.

Background:

Part 28 of the *Shire of Carnarvon Local Laws Relating to Local Government Act Local Laws 1998* published in the Government Gazette on 26 February 1998 deal with parking in the district.

Since then, a large number of changes to other legislation associated with parking regulation such as the Road Traffic Code and regulations that deal with parking by persons with a disability have been made. As such the current local law is outdated necessitating the preparation of a new parking local law..

In addition, most local governments have standalone local law regulating parking. This makes it easier in the long term to ensure they comply with the Road Traffic Code in particular.

In this regard it is easier and cheaper to make a new Parking Local law for Carnarvon than to bring Part 28 of the existing local law into compliance. A draft new Shire of Carnarvon Parking Local Law is attached. It is based on one made by the Shire of Coolgardie in 2019 which in turn comes from a model developed by the WA Local Government Association.

It applies to the whole district, including the Carnarvon airport.

The local law draws heavily on the provisions of the Road Traffic Code, particular with respect to how certain matters are defined and applied in thoroughfares (roads). In summary, the draft local law has sufficient scope to deal with most parking issues that may arise in the Shire.

Note that the draft contains text boxes which are for explanatory purposes only and will be deleted from the official version published in the Government Gazette. In addition, the draft contains provisions which relate to paid parking. This does not mean the Shire must establish aid parking or metered zones; simply that it has the ability to do so in future.

Consultation:

The Shire recently undertook a review of local laws as required under s3.16 of the Local Government Act 1995. Public comments closed on 16 November 2020. No comments were received in relation to parking.

A local government may make local laws about parking using the process set out in section 3.12(3) of the Local Government Act 1995. Amongst other things this requires a local government to give local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears.

The purpose and effect of the proposed Shire of Carnarvon Parking Local Law is:

Purpose

To enable the Shire to regulate the parking of vehicles within the district and provide for the management and operation of parking facilities under the Shire's care, control and management.

Effect

A person parking a vehicle within the parking region is to comply with the provisions of the local law.

The results of the community consultation and feedback from the Minister are to be considered by Council before it makes the local law.

Statutory Environment:

Local laws are made using the process set out in section 3.12 of the Local Government Act 1995.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

Local laws are required to be reviewed and/or updated every eight years under the Local Government Act 1995 s3.16. However, this review is well overdue. Ensuring they remain current and comply with other legislation will reduce the risk to the Shire of inadvertently contravening other legislation.

Community & Strategic Objectives:

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

Objective 2: Natural and built environment

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

2.6	Shire assets and facilities that support services and meet community need
2.6.1	Roads are appropriately managed according to their need and use
2.6.2	Advocate for improvements to the state road network
2.6.3	Town footpaths and verges are appropriately managed according to their need and use

Objective 3: Social

Healthy, safe and resilient community, where everyone belongs

3.7	Accessible and inclusive community for people with disability
3.7.1	Provide adequate ACROD parking

Comment:

As noted above, the Shire's local laws are well out of date. Preparing a new parking local law based on those adopted by other local governments helped reduced costs and will be easier to update in future as any changes will affect a significant number of local governments.

In addition, it is more likely that any staff recruited from other local governments will be at least familiar with the general requirements of a local law that is in use at many of them in substantially the same form.

OFFICER'S RECOMMENDATION

That:

1. *In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:*
 - A. *It is proposed to make a Shire of Carnarvon Parking Local Law, and a summary of its purpose and effect;*
 - B. *Copies of the proposed local law may be inspected at the Shire offices;*
 - C. *Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
2. *In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government;*
3. *In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and*
4. *The results of the public consultation be presented to Council for consideration of any submissions received.*

Schedules

8.3.7 a Draft Shire of Carnarvon Parking Local Law.

File No:	A4019, P40/20
Date of Meeting:	15 December 2020
Location/Address:	Lot 26 (HN 26) Sailfish Drive, Coral Bay
Name of Applicant:	Murray River North Pty Ltd
Name of Owner:	Jaytah Pty Ltd
Author/s:	John Meggitt; Principal Planner
Declaration of Interest:	Nil
Voting Requirements:	Simple majority
Previous Report:	N/A

Summary of Item:

The application is for the construction of a single level dwelling at Lot 26 (HN 26) Sailfish Drive, Coral Bay. The site contains a dwelling which will be demolished to make way for the new house. The site is zoned 'Tourism' under the Shire of Carnarvon Local Planning Scheme No. 13 and a 'Holiday House' is listed as an 'P' use. The application plans can be found as 8.3.8 Schedule(a) and 8.3.8 Schedule(b).

The application complies with LPS 13 and policy requirements and this report recommends that the application be conditionally approved.

Description of Proposal:

Survey Strata Lot 26 is located within parent Lot 50 Coral Bay. The lot has an area of 625m² and contains one dwelling which will be demolished to accommodate the holiday house, see Figure 1. Figure 2. contains a site plan showing the footprint of the proposed development. The proposed single level dwelling will have a maximum height of 4.0 metres and comprise four bedrooms and two bathrooms, parking is provided from Sailfish Drive.



Figure 1. Lot 26 Sailfish Drive showing the dwelling to be demolished.

Background:

A new dwelling on the subject land can only be approved as a 'Holiday House' as development for residential purposes within Coral Bay is not permitted. As noted above, 26 Sailfish Drive forms part of Survey Strata 70565 on Lot 50 Sailfish Drive, Coral Bay comprising of 26 survey strata lots.

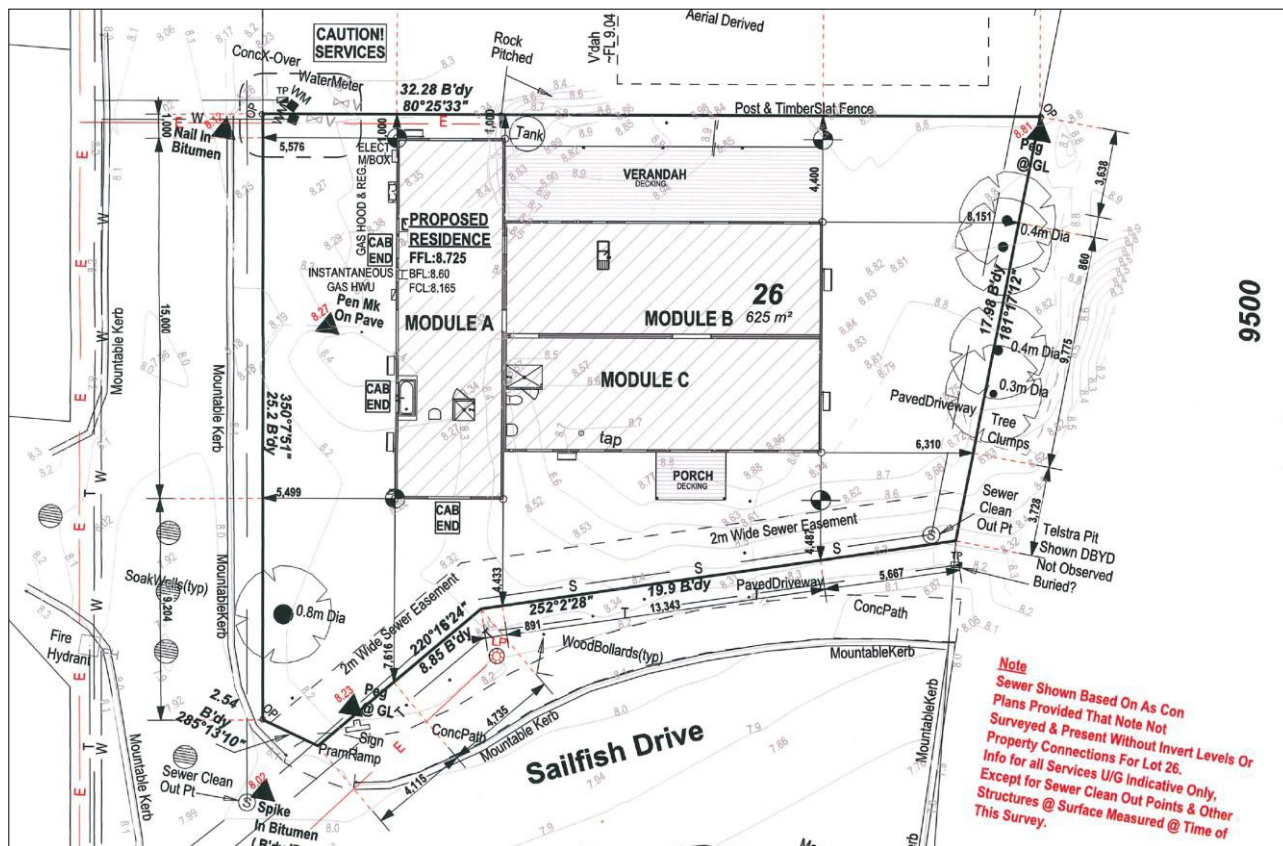


Figure 2. Site Plan

The proposed development is within a Bushfire Prone Area, the BAL assessment identifies a BAL of 12.5 as such the construction of the house on the site is acceptable.

The design of the single storey dwelling generally satisfies the Special Control provisions of LPS 13 which seeks to ensure that the siting and design of new development will blend with or be inevent in the landscape.

Under the Residential Design Codes the development is required to have a rear setback of 1.5 metres however 1.0 metres is proposed. The owners Lot 25 Wahoo Court whose property abuts the boundary of Lot 26 which has the reduced setback have provided a letter stating that they have no objection to the reduced rear setback.

Consultation:

With the exception of the rear setback the application is compliant with LPS 13 and the CBSSP and as such the application was not advertised.

Statutory Environment:

Shire of Carnarvon Local Planning Scheme 13 (LPS 13)

Under LPS 13 a 'Holiday House' is defined as being:

A single dwelling on one lot used to provide short term accommodation but does not include a bed and breakfast.

Restricted use R2 applies to the subject land. This states that:

1. Where development standards are not prescribed in a Local Development Plan approved under the Part 6 of the deemed provisions, the general development standards of the Scheme apply.
2. No workforce accommodation is permitted, other than for a manager/caretaker for all the holiday houses located on the parent lot.
3. The number of overnight visitors is restricted to 208.

The subject land is located within Special Control Area 3: Coral Bay. The key provisions relevant to this development are:

1. No subdivision or development for residential uses is permitted.
2. No permanent residential use is permitted.
3. A person cannot be an occupier of short-term accommodation for a period totalling more than 3 months in any 12-month period, other than a designated manager/caretaker of the facility.

Coral Bay Settlement Structure Plan (2014)

The Coral Bay Settlement Structure Plan (CBSSP) provides strategic guidance to land use and development within the Coral Bay Settlement area. Lot 25 (No. 26) is identified within the 'Holiday Homes' zone of the CBSSP. The objective of the Holiday Homes precinct as follows:

To provide for a holiday home precinct to enable the expansion of the existing, but limited, supply of holiday homes within Coral Bay, and to attract a larger variety of tourists seeking an alternative style of accommodation.

State Planning Policy 3.1 - Residential Design Codes (SPP 7.3 R-Codes)

SPP 7.3 Residential Design Codes (R-codes) provide a basis for the control of residential development throughout Western Australia. The R-Codes are applicable in this instance as the CBSSP allocates a blanket R-20 code over the Holiday Home Precinct as a guide to assessing applications for holiday accommodation.

With the exception of the variation to the rear setback the proposal has been assessed and found to satisfy the requirements of the R20 codes.

Relevant Plans and Policy:

State Planning Policy 6.3 – Ningaloo Coast (SPP 6.3)

SPP 6.3 applies to all land within the Ningaloo Coast policy area. The objectives of the policy are to provide guidance on acceptable and sustainable development. The policy seeks to protect the remote values of Coral Bay. The application satisfies the requirements of SPP6.3.

Financial Implications:

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

Risk Assessment:

There are no risks to the Shire associated with the development proposal.

Community & Strategic Objectives:

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

Objective 1: Economic

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

ITEM	Outcomes and Strategies
1.2	Thriving tourism industry within the district/region

1.2.1	Promote the district of the Shire of Carnarvon as a tourism destination within the wider Coral Coast tourism region
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Objective 2: Natural and built environment

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

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

Comment:

This report has detailed the relevant strategic and statutory documents pertaining to proposed 'Holiday House' on Lot 26 (HN 26) Sailfish Drive, Coral Bay.

The proposed development of the subject land will not have an unacceptable impact on the visual amenity and the landscape of the locality. Considering the statutory controls in place for Coral Bay, and the conditions associated with the officer's recommendation, it is anticipated that the development requirements of Local Planning Scheme No. 13 and the Coral Bay Settlement Structure Plan. It is recommended that the application be supported subject to conditions.

OFFICER'S RECOMMENDATION

That the Council pursuant to Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the Shire of Carnarvon Local Planning Scheme No. 13, grant development approval for application P40/20 for development and use of land at Lot 26 (HN 26) Sailfish Drive, Coral Bay for the use and development of a 'Holiday House' subject to the following conditions and except as may be modified with the prior written approval of the Shire of Carnarvon:

- 1) The development is to be generally in accordance with plans dated 09/10/20 titled Sandfire Mod. Rev. B Sheet Nos. 1- 16.***
- 2) Finished Floor Levels are to be no more than 500mm above NGL at any one point. Any proposed increase in the FFL above 500mm from NGL is a significant change to the approved development and before development commences details must be submitted to the Shire of Carnarvon.***
- 3) All verge areas abutting the boundaries of the subject site must remain clear at all times.***
- 4) During construction at all times all loading, unloading and storage of materials must take place within the boundaries of the site.***
- 5) Before the development is occupied any alternations, relocation or damage of existing infrastructure within the public road reserve must be completed and reinstated to the specification and satisfaction of the Shire of Carnarvon.***
- 6) No person shall occupy the 'Holiday House' for more than a total of three (3) months in any twelve (12) month period, or for any residential purpose.***

Advice Notes:

- i. If the development, the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.***

- ii. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 part 14. An application must be made within 28 days of the determination.*
- iii. This approval does not confer approval under other relevant legislation, including but not limited to, the Building Act 2011 and Health Act 1911. It is the responsibility of the Applicant to determine any necessary approvals required and obtain such approvals prior to the commencement of development and use.*
- iv. The applicant is to obtain a new BAL Certificate and Report is required to be submitted with the building application to confirm the indicative BAL rating of BAL- 29 has been achieved.*
- v. Before the removal of a structure, a Demolition Permit must be obtained from the Shire of Carnarvon, unless exempt under the Building Regulations 2012.*
- vi. Any demolition work involving asbestos must be in accordance with the Health (Asbestos) Regulations 1992. A licensed asbestos removalist is required for any removal or demolition which is over ten (10) square metres.*
- vii. The clearing of native vegetation in Western Australia requires a Clearing Permit under the Environmental Protection Act 1986 unless the clearing is for an exempt purpose. Proponents are advised to contact the Department of Water and Environmental Regulation on (08) 6364 7000 for further advice in this regard.*
- viii. The applicant is advised of their obligations to ensure that all sand drift, waste, building materials and equipment is contained within the boundaries of the site during construction.*
- ix. This planning approval does not remove or affect any statutory responsibility or obligation the owner may have under the Strata Titles Act 1985 as amended.*
- x. A Dial Before You Dig enquiry will assist you in determining if your proposed works are impacted by any existing or proposed underground pipes and cables in the immediate vicinity.*

File No: A2174, p41/20
Date of Meeting: 15 December 2020
Location/Address: Lot 4 (No. 12) Camel Lane, Carnarvon
Name of Applicant: Condo Produce Pty Ltd
Author/s: John Meggitt, Principal Planner
Declaration of Interest: Nil
Voting Requirements: Simple majority
Previous Report: Nil

Summary of Item:

This report relates to the Camel Lane Tavern at Lot 4 (No. 12) Camel Lane, Carnarvon. Development approval is sought for the installation of an illuminated box sign to be attached to a parapet wall above the bottleshop drive through and updates to façade signage. Figure 1. illustrates the proposed signage.

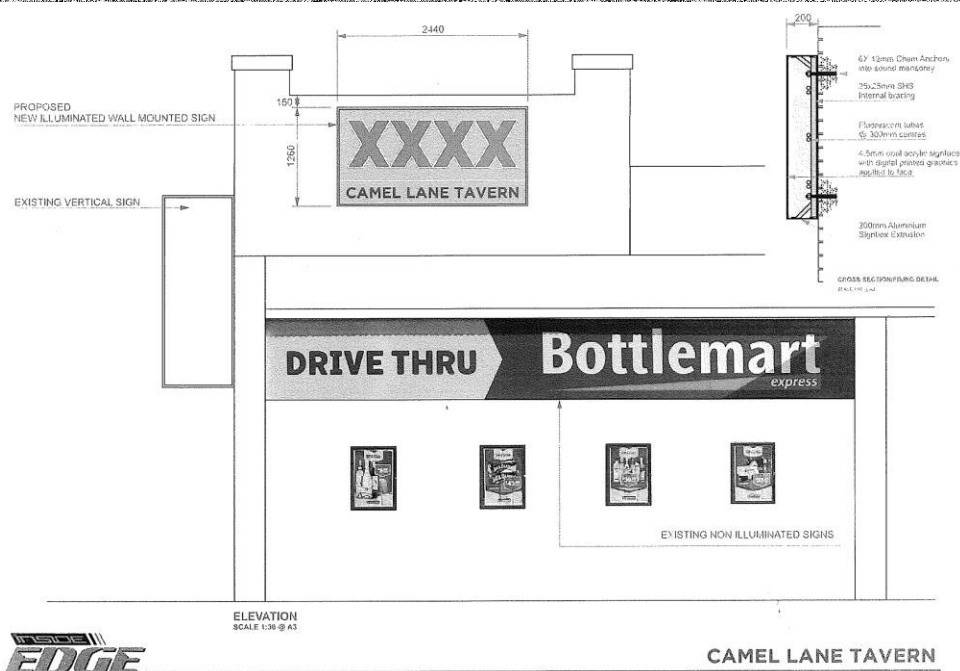


Figure 1. Proposed signage & detail of illuminated box sign

Description:

The application includes the proposed internally illuminated sign and upgraded façade signage. It is noted that the façade signs are already in place.

Background:

The Tavern has recently reopened and as part of the refurbishment of the premises the leaseholders are seeking to upgrade the signage on the building. The new signage is intended to better advertise the services offered by the operator and add colour and vitality to the locality.

The tavern is located within land defined as “Regional Centre” under the Shire of Carnarvon Local Planning Scheme No. 13.

Consultation:

Public advertising is not required for the proposed signage.

Statutory Environment:

Planning and Development (Local Planning Schemes) 2005

Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations) includes deemed provisions that apply to all operating local planning schemes in Western Australia. The Regulations allow for certain development to be exempt from the need to obtain development approval. In this instance, the signs are defined as development and the signs are not considered to be exempt from the need to obtain development approval.

Relevant Plans and Policies

Shire of Carnarvon Local Planning Scheme No. 13 (LPS 13)

The subject land is zoned Regional Centre under LPS 13. The objectives for the zone include the following:

- *To provide a range of services and uses to cater for both the local and regional community, including but not limited to specialty shopping, restaurants, cafes and entertainment.*
- *To encourage pedestrian-friendly, street-orientated development that responds to and enhances the key elements of the Regional Centre and to develop areas for public interaction.*

The established tavern is a ‘D’ discretionary use within this zone. The proposed signage is consistent with the objectives for the locality and typical of advertising associated with a tavern in the town centre.

Policy Statement No. 18 – Shire of Carnarvon Town Planning Scheme No. 10 Advertising and Signage

The Policy was adopted under TPS No. 10 and applies to the publication, display, or presentation of any sign or advertising device. TPS 10 has been superseded by LPS 13 and as such the policy no longer has statutory authority however it remains useful as a guide for the assessment of applications.

The illuminated box sign is described in the Policy as an “Illuminated Sign” which means a posted or painted advertisement capable of being lighted either from within or without the sign by artificial light provided, or mainly provided, for that purpose. The requirements for illuminated signs are as follows:

- *Have any boxing or casing in which it is enclosed constructed of incombustible material;*
- *Have its electrical installation constructed and maintained to the satisfaction of Horizon Power;*
- *Be maintained to operate as an illuminated sign; and*
- *Not produce light of such intensity or colour as to create annoyance to a neighbouring property, the general public and/or interfere with passing traffic.*

The remaining signs fall within the definition of a 'horizontal and vertical signs' the requirements for which are:

- *Afford a minimum headway of 2.10 metres from ground level;*
- *Be affixed or attached parallel to the wall of the building or structure to which it is approved;*
- *Not project more than 1.0m from the face of the building to which it is affixed or attached;*
- *Not exceed a maximum size of 1.0 metres by 2.0 metres;*
- *Not project more than 0.6m from the wall to which it is attached;*
- *Be a minimum of 3.0m from the edge of bitumen sealed roadways;*
- *Not be within 4.0m of another vertical or horizontal sign on the same building;*
- *Not form more than one line of signs facing any one street, footpath, public place or private property on any building or structure; and*
- *Not be lit or illuminated unless approved by the local government.*

The following assessment is provided of the proposed signs:

Proposed Sign	Dimensions	Size	Permitted Size
XXXX - Illuminated box sign	2.44m by 1.26m	3.1m ²	N/A
Drive Thru Bottlemart	7.4 x 1.0m	7.4m ²	2.0m ²
Camel Lane Tavern	4.4m x 2.2m	9.7m ²	2.0m ²
Liquor product signs (x4)	0.5m x 0.8m	0.4m ²	2.0m ²

The proposed illuminated sign satisfies the requirements of the Policy. The horizontal and vertical signs exceed the coverage permitted. However, the tavern has been characterised by oversized signage for a number of years and it is considered that within this locality the nature of the signage does not adversely impact of the amenity on the streetscape.

Financial Implications:

There are no financial implications associated with the proposed signage.

Risk Assessment:

There are no risk implications associated with the proposed signage.

Community & Strategic Implications:

The request generally accords with the following Shire desired outcome as expressed in the *Carnarvon Strategic Community Plan 2011*:

Objective 2: Natural and built environment

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

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

Voting Requirements

Simple majority

Comment:

In line with the current review of Local Laws the Shire will be looking to revise the Shire's planning policies in

the new year as they do not currently accurately reflect contemporary community expectations for building and urban design in Carnarvon. The current application is not consistent with the current policy in terms of the size and number of signs.

However, the tavern has long been associated with this form of signage and it is considered that the signage will not have an adverse impact of the amenity of the locality and furthermore the urban environment will benefit from the illuminated signage as it adds to vitality to the town centre.

It is recommended that the Development Application be approved with conditions as set out below.

OFFICER'S RECOMMENDATION

Pursuant to Schedule 2, Clause 68(2)(b) of the Planning and Development (Local Planning Schemes) Regulations 2015 and the Shire of Carnarvon Local Planning Scheme No. 13 grant development approval for application P41/20 for development of the signage within Lot 4 (No. 12) Camel Lane, Carnarvon subject to the following conditions:

- 1) The development is to be generally in accordance with the approved plans as submitted to Council by Condo Produce Pty Ltd and lodged with the application, and approved by this decision, except as modified by conditions of approval.***

Advice Notes:

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

File No: ADM2087
 Date of Meeting: 15 December 2020
 Location/Address: N/A
 Name of Applicant: N/A
 Name of Owner: Shire of Carnarvon
 Author/s: Trish Ouellette, Development Support Officer

Declaration of Interest: NIL

Voting Requirements: Simple Majority

Summary of Item:

The Shire is in the process of reviewing its local laws, including Standing Orders (Meeting Procedures). The existing provisions are out of date requiring new laws to be prepared. A draft local law is attached. 8.3.10a Schedule Proposed Shire of Carnarvon Meeting Procedures Local Law.

Description of Proposal:

It is proposed to replace the current Standing Orders Local Law with an up to date version, and in doing so refer to them as 'meeting procedures'.

Background:

The *Shire of Carnarvon Local Laws Relating to Standing Orders* was published in the Government Gazette on 26 February 1998. They have not been amended since Gazettal but there have been a number of changes to the provisions of the *Local Government Act 1995* and the associated *Local Government (Administration) Regulations 1996* which deal with how councils meet and conduct their business.

For example, declarations of interest and the different types that may arise (financial, impartiality, proximity) is not dealt with the current local law although they are properly dealt with in practice.

There are also matters listed on current agendas which could be more efficiently dealt with via a simple information bulletin where a decision by council itself is not required – and note that if an elected member feels that an issue needs to be discussed at council it is a simple matter of giving a notice of motion to that effect.

The changes required are such that it will be easier to make a new local law than to amend the current one.

Consultation:

The Shire recently undertook a review of local laws as required under s3.16 of the Local Government Act 1995. Public comments closed on 16 November 2020. No comments were received in relation to standing orders.

A local government may make local laws about meetings using the process set out in section 3.12(3) of the Local Government Act 1995. Amongst other things this requires a local government to give local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears.

The purpose and effect of the proposed Shire of Carnarvon Meeting Procedures Local Law is:

Purpose

The purpose of this local law is to regulate the conduct of council, committee and electors meetings.

Effect

Meetings of council, committees and electors are to be conducted in accordance with the local law.

The results of the community consultation and feedback from the Minister are to be considered by Council before it makes the local law.

Statutory Environment:

Local laws are made using the process set out in section 3.12 of the Local Government Act 1995.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

Local laws are generally stable, but the Shire's are well out of date. Ensuring they remain current and comply with other legislation will reduce the risk to the Shire of inadvertently contravening other legislation.

Community & Strategic Objectives:

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

Objective 5: Civic

Strong and listening Council.

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

Comment:

Attached is a draft Shire of Carnarvon Meeting Procedures Local Law based on a model developed by the WA Local Government Association. 8.3.10a Schedule Proposed Shire of Carnarvon Meeting Procedures Local Law.

Note that it contains text boxes which make extensive references to the Act and Regulations. While this makes for a longer document, given the degree of matter regulated by these pieces of legislation placing as much as possible in one location may help to demystify what can be a confusing array of rules for councillors and the public.

The draft local law is divided into Parts, summarised as follows:

- Part 1 – Deals with preliminary matters such as definitions
- Part 2 – Relates to the establishment and membership of committees
- Part 3 - Calling and convening meetings
- Part 4 – Presiding Member and quorum
- Part 5 - The business of a meeting; in particular clause 5.2 sets out the order of business at meetings
- Part 6 - Public participation in meetings
- Part 7 - Questions by Members
- Part 8 – Conduct of Members
- Part 9 - Preserving order
- Part 10 - Debate of substantive motions
- Part 11 - Procedural motions

- Part 12 - Disclosure of interests
- Part 13 - Voting
- Part 14 – Minutes of meetings
- Part 15 - Adjournment of meeting
- Part 16 – Revoking or changing decisions
- Part 17 - Suspension of Local Laws
- Part 18 - Meetings of electors
- Part 19 - Enforcement

Where possible the draft local law has been adapted to reflect current practice at the Shire. There are some matters that are subject to feedback from council, in particular:

Participation in Public Question Time by councillors

The consultant reviewing the Shire's local laws has noted that:

While not provided for in the Shire's current Standing Orders Local Law (clause 5.2 deals with Public Question Time only), the current practice at the Shire appears to be to allow for a combined public question time and questions from councillors at council meetings (item 2 of the agenda).

The Local Government Act 1995 and the Local Government (Administration) Regulations 1996 require local governments to provide for question time for members of the public at council and certain committee meetings. Even though Councillors are not members of the public when attending these meetings, it is considered best practice to separate questions from the public with questions from councillors as this can lead to adversarial behaviour. The WALGA model local law provides for them to be separate, and which appears as item 11 in the proposed draft new local law.

Note too that if a councillor feels strongly enough about an issue to require a council decision or to raise it at a council meeting, then he/she can give a notice of motion which, if supported by council, can then be implemented as a council decision.

Similarly if a member of the public is unable to attend a council meeting then the procedures for public question time can be easily modified for them to be put in writing and read out by another member of the public, the CEO or other employee rather than a councillor.

Finally, section 5.92(1) of the Act provides for councillors to have a greater right of access to information than the public and overrides a local law:

5.92. Access to information by council, committee members

(1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.

Limit on questions by the public

Clause 6.7(8) of the draft new local law suggests a time limit for questions of two minutes at a council meeting. Council does not presently place a time limit on questions.

Similarly, clause 6.12 provides for a longer period at committee meetings (3 minutes).

Order of Business

The proposed Order of Business set out in clause 11 of the draft new local law is as per the WALGA model and reflects (subject to feedback about the above) wherever possible current practice at the Shire. Amongst other things note that:

- Declarations of interest have been placed above Public Question Time in order to comply with legislation;
- Public Question Time is separate from Questions from Members; and
- Provision has been made for decisions made when a meeting might be closed to the public to be read out in order to comply with legislation.

Current Standing Orders local law	Current practice	Proposed draft local law
(a) Oath; (b) Apologies and Leave of Absence; (c) Public Question Time; (d) Questions of Which Due Notice Has Been Given Without Discussion; (e) Urgency Questions without Discussion; (f) Confirmation of Minutes; (g) Business Arising from Minutes Which Does Not Appear Subsequently in the Agenda; (h) Disclosure of Members' Financial Interests; (i) Petitions & Memorials; (j) Announcements by the President Without Discussion; (k) Matters for Which Meeting May be Closed; (l) Reports of Committees; (m) CEO's Report; (n) Motions of Which Previous Notice Has Been Given; (o) Notice of Motion for Consideration at the Following Meeting without Discussion; (p) Urgent Business Approved by the Presiding Member or By Decision of Council; (q) Matters Behind Closed Doors; (r) Date of Next Meeting; (s) Closure;	1.0 Attendances , Apologies & Applications For Leave Of Absence 2.0 Public And Elected Member Question Time 2.1 Responses To Questions Taken On Notice 2.2 Public Question Time 3.0 Declarations Of Interest 4.0 Questions Of Which Due Notice Has Been Given 5.0 Confirmation Of Minutes 6.0 Presentations, Petitions And Memorials 7.0 Announcements By The President Without Discussion 8.0 Departmental Reports 8.1 Governance 8.2 Corporate & Community Services 8.3 Development Services 8.4 Infrastructure Services 9.0 Motions Of Which Previous Notice Has Been Given 10.0 Urgent Business Approved By The Presiding Member Or By A Decision Of The Council 11.0 Date Of Next Meeting 12.0 Matters For Which Meeting To Be Closed To Members Of The Public 13.0 Closure	1. Declaration of Opening/Announcement of Visitors 2. Attendance 2.1 Apologies 2.2 Approved leave of absence 3. Declarations of interest 3.1 Declarations of Financial Interests 3.2 Declarations of Proximity Interests 3.3 Declarations of Impartiality Interests 4. Public Question Time 4.1 Response to previous public questions taken on notice 4.2 Public question time 5. Confirmation of minutes of previous meetings 6. Announcements from the Presiding Member without discussion 7. Presentations 7.1 Petitions 7.2 Presentations 7.3 Deputations 7.4 Delegates' reports 8. Reports 8.1 Reports of Committees 8.2 Reports of Officers 9. Applications for leave of absence 10. Motions of which previous notice has been given 11. Questions from Members without notice 12. New business of an urgent nature introduced by decision of the meeting 13. Meeting closed to public

Current Standing Orders local law	Current practice	Proposed draft local law
		13.1Matters for which the meeting may be closed 13.2Public reading of resolutions that may be made public 14.Closure

As noted above, the Shire's local laws are well out of date. Making a meeting procedures local law that has been developed by other local governments will help in ensuring the Shire does not incur unnecessary costs by maintaining a unique version, and which will be easier to update in future as any changes will affect a significant number of local governments.

In addition, it is more likely that any staff recruited from other local governments will be at least familiar with the general requirements of a local law that is in use at many of them in substantially the same form.

OFFICER'S RECOMMENDATION

That:

1. *In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:*
 - A. *It is proposed to make a Shire of Carnarvon Meeting Procedures Local Law, and a summary of its purpose and effect;*
 - B. *Copies of the proposed local law may be inspected at the Shire offices;*
 - C. *Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
2. *In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government;*
3. *In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and*
4. *The results of the public consultation be presented to Council for consideration of any submissions received.*

Schedules

8.3.10 a Draft Shire of Carnarvon Meeting Procedures Local Law.

File No:	ADM2087
Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Trish Ouellette, Development Support Officer
Declaration of Interest:	NIL
Voting Requirements:	Simple Majority

Summary of Item:

The Shire is in the process of reviewing its local laws, including provisions about waste. The existing provisions are out of date requiring new laws to be prepared. A draft local law is attached as 8.3.11a Schedule – Proposed Shire of Carnarvon Waste Local Laws

Description of Proposal:

It is proposed to replace the parts of the *Shire of Carnarvon Health Local Law 1997* with a new local law that reflects legislative changes.

Background:

Division 2 of Part 4 of the *Shire of Carnarvon Health Local Law 1997* deals with waste.

Health local laws were made under the *Health Act 1911*. This Act was substantially replaced with the *Public Health Act 2016*, which repealed various provisions of the Health Act that dealt with the powers of local governments in relation to the collection and removal of rubbish, and had the effect of transferring the ability of a local government to make local laws about waste to the *Waste Avoidance and Resource Recovery Act 2006*.

Consultation:

The Shire recently initiated a review of local laws as required under s3.16 of the Local Government Act 1995. Public comments closed on 16 November 2020. No comments were received in relation to waste.

Section 61 of the Waste Avoidance and Resource Recovery specifies that waste local laws are to be made in accordance with the process set out by sections 3.11 to 3.17 of the *Local Government Act 1995*.

That Act requires the person presiding at a Council meeting to give notice of the purpose and effect of the proposed local law by ensuring that the purpose and effect is included in the agenda for the meeting and that the minutes of the meeting include the purpose and effect of the proposed local law:

Purpose

The objective of this local law is to regulate the storage, collection and disposal of waste and refuse from premises and on waste facilities in the Shire.

Effect

Unless otherwise authorized, the storage, collection and disposal of waste and refuse within the Shire must be carried out in accordance with the provisions of the local law.

As part of the process, local governments are required to send a copy of the proposed Amendment local law to the Ministers for Local Government and the Environment. The results of the community consultation and feedback from the Minister are to be considered by Council before it makes the local law.

The Shire is also required to obtain the consent of the CEO of the Waste Authority before finally making the local law under s3.12(4) of the Local Government Act.

Statutory Environment:

Waste local laws are made using the process set out in section 3.12 of the Local Government Act 1995.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

Local laws are required to be reviewed and/or updated every eight years under the Local Government Act 1995 s3.16. However, this review is well overdue. Ensuring they remain current and comply with other legislation will reduce the risk to the Shire of inadvertently contravening other legislation.

Community & Strategic Objectives:

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

Objective 5: Civic

Strong and listening Council.

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

Comment:

A proposed new Shire of Carnarvon Waste Local Law is attached. It is based on a WALGA model local law, updated to suit the Shire. 8.3.11a Proposed Shire of Carnarvon Waste Local Law. The draft local law is divided into 5 Parts:

1. Definitions.
2. Disposal of refuse – this Part deals with rubbish receptacles, placement on streets for collection, the use of receptacles and what may be placed in them, and other provisions to ensure that waste is able to be removed efficiently.
3. General duties of owners and occupiers in relation to waste.
4. Operation of Waste facilities; and
5. Enforcement provisions – including a Schedule of modified penalties that may be imposed. These provisions are a significant improvement on the provisions allowable under the existing Health Local Law.

Note that the draft contains an index, page numbers and text boxes which are for explanatory purposes only and will be deleted from the official version published in the Government Gazette.

In summary, there are few practical differences between how current provisions relating to waste are dealt with; the proposed new local law simply puts them into a more up to date legislative framework.

OFFICER'S RECOMMENDATION

That:

1. *In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:*
 - A. *It is proposed to make a Shire of Carnarvon Waste Local Law, and a summary of its purpose and*

effect;

- B. Copies of the proposed local law may be inspected at the Shire offices;*
- C. Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
- 2. In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government , the Minister for the Environment and the CEO of the Waste Authority;*
- 3. In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and*
- 4. The results of the public consultation be presented to Council for consideration of any submissions received.*

Schedules

8.3.11 a Proposed Shire of Carnarvon Waste Local Law.

File No:	ADM2087
Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Trish Ouellette, Development Support Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

The Shire is in the process of reviewing its local laws. Following major updates to the Health Act 1911, model local laws are being developed and while no major changes are therefore planned to the Shires Health Local laws, amendments to restrict the release of pigeons in the district are proposed.

Description of Proposal:

It is proposed to make a Health Amendment Local Law to the effect that a person who is not an owner or occupier of property in the district may not release pigeons. 8.3.12a Schedule – Proposed Shire of Carnarvon Health Local Law Amendment.

Background:

The *Shire of Carnarvon Health Local Laws 1997* were published in the Government Gazette on 23 July 1997 and last amended in 2002.

It was made under *the Health Act 1911* which was substantially replaced by the *Public Health Act 2016* and reflects a model by-law that a large number of local governments used. The 2016 Act had the effect of transferring local law-making powers in the old 1911 legislation to the Local Government Act.

The Regulations associated with the 2016 Act are still being made; and there is no WALGA model health local law yet. As such, it is considered that while the Shire should wait until model local laws are made before making any major changes, an amendment to the existing Health Local law may assist the Shire in dealing with pigeons.

Clauses 69 – 75 of the Health Local Laws 1997 deal with the keeping of pigeons and poultry in the district. The Shire is experiencing problems associated with homing pigeons released outside the district that become lost, feral and nest in the Carnarvon district.

A local government is required to obtain the approval of the WA Governor under section 3.6 of the Act to make a local law that might apply outside its district. It is considered highly unlikely that approval would be given for a local law that seeks to prevent the release of homing pigeons in other local government areas but the Shire may be able to exercise some controls over their release from locations within the Shire of Carnarvon by prohibiting releases by persons who are not an owner or occupier of property in the district, and whose pigeons are therefore more likely to become lost and/or feral.

In addition, there is an error in clause 70(3) of the local law which has had the effect of reversing its intent. The clause should have the word 'not' inserted in an appropriate place and as shown below.

Consultation:

A local government may make or amend local laws using the process set out in section 3.12 of the *Local Government Act 1995*. Amongst other things this requires a local government to give local public notice

stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears.

The purpose and effect of the proposed Shire of Carnarvon Health Amendment Local Law is:

Purpose

To amend the *Shire of Carnarvon Health Local Laws 1998* to prohibit the release of pigeons within the district by a person who is not also an owner or occupier of property in the district, and to correct an error in clause 70(3) of the local law.

Effect

The *Shire of Carnarvon Health Local Laws 1998* are amended.

As part of the process, local governments are also required to send a copy of the proposed local law to the Minister for Local Government.

The results of the community consultation and feedback from the Minister is to be considered by Council before it makes the local law.

Statutory Environment:

A local government may make local laws using the process set out in section 3.12 of the Local Government Act 1995.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

N/A.

Community & Strategic Objectives:

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

Objective 5: Civic

Strong and listening Council.

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

Comment:

An extract from the Health local laws 1997 showing the proposed changes 'marked' is shown below:

Division 4-Keeping of Poultry and Pigeons

Interpretation

69. In this Division, unless the context otherwise requires-

"poultry" includes fowls, peafowls, turkeys, geese, ducks and other domestic fowls;

Limitation on Numbers of Poultry and Pigeons

70. (1) An owner or occupier of premises-

- (a) Who is not an affiliated person, shall not keep a combined total of more than 12 poultry and pigeons; or

- (b) who is affiliated person shall not keep a total of more than 75 pigeons and 12 poultry on any lot or land.
- (2) In this Section, "affiliated person" means a person who is a member of any properly constituted pigeon club.
- (3) This Section shall not apply to land zoned Rural under Councils Town Planning Scheme, or poultry kept on premises approved and registered by Council for poultry farming on land suitable for that purpose under its Town Planning Scheme.

.....

Pigeons or Doves

73. A person who keeps, or permits to be kept, pigeons or doves shall ensure that-
- (a) none is able to approach within 15 metres of a dwelling, public building or premises where people are employed or where food is stored, prepared, manufactured or sold; and
 - (b) the pigeons or doves are kept in a properly constructed pigeon loft or dove cote that--
 - (i) does not exceed 3.6 metres in height from the ground; and
 - (ii) is in a yard having an otherwise unobstructed area of at least 30 square metres.
- 73A. A person shall not release a pigeon or pigeons anywhere in the district unless that person is also an owner or occupier of property in the district.

.....

Note to that clause 75 provides that:

Restrictions on Pigeon Nesting or Perching

75. (1) The Council may order an owner or occupier of a house in or on which pigeons are, or are in the habit of, nesting or perching to take adequate steps to prevent them continuing to do so.
- (2) An owner or occupier shall comply with the Council order issued under this Section.

This existing clause gives the Shire powers to deal with pigeons that may have become feral, but the additional measure above seeking to prevent their release in the district by persons who do not own or occupy property in the Shire will also assist.

OFFICER'S RECOMMENDATION

That:

1. *In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, local public notice be given stating that:*
 - A. *It is proposed to make a Shire of Carnarvon Health Amendment Local Law, and a summary of its purpose and effect;*
 - B. *Copies of the proposed local law may be inspected at the Shire offices;*
 - C. *Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
2. *In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government;*
3. *In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and*
4. *The results of the public consultation be presented to Council for consideration of any submissions received.*

Schedules

8.3.12 a Proposed Shire of Carnarvon Health Amendment Local Law.

File No:	ADM2087
Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Trish Ouellette, Development Support Officer
Declaration of Interest:	NIL
Voting Requirements:	Simple Majority

Summary of Item:

The Shire is in the process of reviewing its local laws. It has a Cemeteries Local Law which requires some minor amendments to keep it up to date.

Description of Proposal:

It is proposed to make some amendments to the *Shire of Carnarvon Local Laws Relating to the Carnarvon Public Cemetery 1998*.

Background:

The *Shire of Carnarvon Local Laws Relating to the Carnarvon Public Cemetery* was published in the *Government Gazette* on 26 February 1998.

Comments

Some minor amendments are required to:

- Replace 'council' with 'local government' in most places where it occurs otherwise a council decision is required wherever 'council' is mentioned. This will allow council to delegate authority to the CEO to make decisions under s5.42 of the Local Government Act 1995 in relation to burials, permits etc;
- Amend clause 50 to allow 'assistance animals' into the cemetery as provided for under Commonwealth legislation; and
- Amend penalties for a prosecution under the local law to the maximums allowed in the Local Government Act in clause 57, and the modified penalties listed in the First Schedule to a uniform \$100. Although rarely used amending during the process of updating local laws now will negate having to do so later as it is unlikely, they will be further amended for the foreseeable future.

Attached is a draft Shire of Carnarvon Cemeteries Amendment Local Law reflecting the above suggestions.
8.3.13a Schedule – Proposed Shire of Carnarvon Cemeteries Local Law Amendment.

Consultation:

Section 54 of the *Cemeteries Act 1986* provides that a local government may make or amend local laws about cemeteries, using the process set out in section 3.12(3) of the *Local Government Act 1995*.

Amongst other things this requires a local government to give local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears.

The purpose and effect of the amendment local law is:

Purpose

To amend the *Shire of Carnarvon Local Laws Relating to the Carnarvon Public Cemetery 1998* to replace 'council' with 'local government' wherever it occurs, to amend provisions relating to

assistance animals, and to update applicable penalties under the local law.

Effect

The *Shire of Carnarvon Local Laws Relating to the Carnarvon Public Cemetery 1998* is amended.

The results of the community consultation and feedback from the Minister are to be considered by Council before it makes the local law.

Statutory Environment:

A local government may make or amend local laws using the process set out in section 3.12 of the Local Government Act 1995.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

Nil.

Community & Strategic Objectives:

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

Objective 5: Civic

Strong and listening Council.

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

Comment:

Nil.

OFFICER'S RECOMMENDATION

That:

- In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, local public notice be given stating that:*
 - It is proposed to make a Shire of Carnarvon Cemeteries Amendment Local Law, and a summary of its purpose and effect;*
 - Copies of the proposed local law may be inspected at the Shire offices;*
 - Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
- In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government;*
- In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and*
- The results of the public consultation be presented to Council for consideration of any submissions received.*

Schedules

8.3.13 a Schedule – Proposed Shire of Carnarvon Cemeteries Local Law Amendment.

File No:	ADM2087
Date of Meeting:	15 December 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Trish Ouellette, Development Support Officer
Declaration of Interest:	NIL
Voting Requirements:	Simple Majority

Summary of Item:

The Shire is in the process of reviewing its local laws, including Dogs. The existing provisions are out of date requiring new laws to be prepared. A draft local law is attached as 8.3.14a Schedule – Proposed Shire of Carnarvon Local Law

Description of Proposal:

It is proposed to replace the *Shire of Carnarvon Dog Local Law 1990* with a new local law that reflects legislative changes.

Background:

The *Shire of Carnarvon Dogs Local Law* was made in 1990 and last amended in 1993. A number of activities dealt with by this local law have been affected by changes to other legislation, and in particular changes to the *Dog Act 1976* and the *Dogs Regulations 2013*.

This includes:

- Registration of dogs;
- 'Dangerous dogs' as defined by the Act;
- Operation of dog management facilities (pounds), including:
 - Issues in relation to the impounding of dogs;
 - Attendance of a pound keeper at the pound; and
 - Release of impounded dogs is dealt with by the Dog Act 1976, and in particular section 29.
- Registration fees (although fees for the seizure and impounding of a dog may be set by a local government in its annual budget under section 6.16 of the Local Government Act 1995);
- How off leash dog exercise areas are established;
- Dogs wandering at large;
- Dogs not under control;
- Dog attacks;
- Provisions about assistance animals such as guide dogs;
- Modified penalties applicable for minor offences.

The only matters that a local government may now make local laws about are listed in section 51 of the Dog Act:

51. *Local law making powers*
A local government may so make local laws —
 (a) *providing for the registration of dogs;*
 [(b) deleted]
 (c) *specifying areas within which it shall be an offence (unless the excreta are removed) for any person liable for the control of a dog to permit that dog to excrete on any street or public place or on any land without the consent of the occupier;*

- (d) requiring that in specified areas a portion of the premises where a dog is kept must be fenced in a manner capable of confining the dog;
- (e) providing for the establishment and maintenance of dog management facilities and other services and facilities necessary or expedient for the purposes of this Act;
- (f) providing for the detention, maintenance, care and release or disposal of dogs seized; (g) as to the destruction of dogs pursuant to the powers hereinbefore conferred;
- [(h) deleted]
- (i) providing for the licensing, regulating, construction, use, and inspection of approved kennel establishments.

In reality it is only necessary to make a local law that deals with confinement, the requirement to pick up dog excreta, and kennels.

A draft local law is attached. It is based on one made by the City of Greater Geraldton in 2020 (in itself based on a WALGA model local law) modified slightly to suit the Shire. Note that it contains text boxes and extracts from other legislation that do not form part of the local law and will be deleted from the official gazetted version.

In addition, areas where dogs are prohibited and where dogs may be exercised off leash are set by council resolution and by the giving of local public notice under s31(3A) of the Dog Act and no longer prescribed by local law. The current local law (as amended) contains highly technical descriptions that are difficult to follow and can be simplified. A draft list is attached. 8.3.14b Schedule - DRAFT Shire of Carnarvon Public notice - dog-exercise-map-2020, 8.3.14c Schedule - Proposed List of Prohibited and Off Leash Exercise Areas Shire of Carnarvon

Consultation:

The Shire recently initiated a review of local laws as required under s3.16 of the Local Government Act 1995. Public comments closed on 16 November 2020. No comments were received in relation to dogs.

Section 51 of the Dog Act 1976 provides that a local government may make local laws about dogs using the process set out in section 3.12 of the Local Government Act 1995.

Amongst other things this requires a local government to give public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears. A copy is also to be sent to the Minister for Local Government.

The purpose and effect of the proposed *Shire of Carnarvon Dogs Local Law* is:

Purpose

To make provisions about the confinement of dogs, control the number of dogs that can be kept on premises in the district, regulate dog kennels and to require removal of dog excreta.

Effect

To extend the controls over dogs which exist under the Dog Act 1976 and Regulations.

The results of the community consultation and feedback from the Minister are to be considered by Council before it makes the local law.

In addition, as noted above local public notice is required of areas where dogs are prohibited and where they may be exercised off leash under s 31(3A) of the Dog Act is also required. There is no requirement to receive feedback, simply the giving of notice. A list that reflects the current provisions in the Shire is attached to this report. 8.3.14b Schedule - DRAFT Shire of Carnarvon Public notice - dog-exercise-map-2020, 8.3.14c Schedule - Proposed List of Prohibited and Off Leash Exercise Areas Shire of Carnarvon

Statutory Environment:

Local laws are made using the process set out in section 3.12 of the Local Government Act 1995.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

Local laws are required to be reviewed and/or updated every eight years under the Local Government Act 1995 s3.16. However, this review is well overdue. Ensuring they remain current and comply with other legislation will reduce the risk to the Shire of inadvertently contravening other legislation.

Community & Strategic Objectives:

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

Objective 5: Civic

Strong and listening Council.

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

Comment:

As noted above, the Shire's local laws are well out of date. Preparing a new Dog Local law based on those adopted by other local governments helped reduced costs and will be easier to update in future as any changes will affect a significant number of local governments.

In addition, it is more likely that any staff recruited from other local governments will be at least familiar with the general requirements of a local law that is in use at many of them in substantially the same form.

OFFICER'S RECOMMENDATION

That:

- In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:*
 - It is proposed to make a Shire of Carnarvon Dogs Local Law, and a summary of its purpose and effect;*
 - Copies of the proposed local law may be inspected at the Shire offices;*
 - Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
- In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government;*
- In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and*
- The results of the public consultation be presented to Council for consideration of any submissions received.*
- Local public notice under s31(3A) of the Dog Act 1976 of the areas where dogs are prohibited and where dogs may be exercised off leash as attached to the report of the CEO be given.*

Schedules

8.3.14 a Schedule – Proposed Shire of Carnarvon Dog Local Law List of areas where dogs are prohibited and

8.3.14b Schedule - DRAFT Shire of Carnarvon Public notice - dog-exercise-map-2020

8.3.14 c Schedule - Proposed List of Prohibited and Off Leash Exercise Areas Shire of Carnarvon

File No: ADM2087
 Date of Meeting: 15 December 2020
 Location/Address: Shire of Carnarvon
 Name of Applicant: Shire of Carnarvon
 Name of Owner: Shire of Carnarvon
 Author/s: Trish Ouellette, Development Support Officer
 Declaration of Interest: NIL

Voting Requirements: Simple Majority

Summary of Item:

The Shire is in the process of reviewing its local laws, including those that relate to property owned by, or under its care control and management. The existing provisions are out of date requiring new laws to be prepared. A draft local law is attached as 8.3.15a Schedule - Proposed Shire of Carnarvon Public Places and Local Government Property Local Law.

Description of Proposal:

It is proposed to replace provisions of the *Shire of Carnarvon Local Laws Relating to Local Government Act Local Laws 1998* which relate to regulation of the use of property under the Shire's care, control and management and the *Municipality of the Shire of Carnarvon Carnarvon Airport By-laws 1993* with an updated local law that reflects current legislation.

Background:

The *Shire of Carnarvon Local Laws Relating to Local Government Act Local Laws 1998* published in the Government Gazette on 26 February 1998 deal with (amongst other things) the use of property under the Shire's care, control and management such as swimming pools, reserves, libraries, and the like.

Similarly, the *Municipality of the Shire of Carnarvon Carnarvon Airport By-laws 1993* were published in the Government gazette on 22 January 1993 and deals with the Carnarvon airport only.

Updating their provisions to reflect changes to the Local Government Act and its associated raft of regulations since the local laws were made and combining them will remove duplication and different provisions that could be made uniform.

Attached is a draft Shire of Carnarvon Public Places and Local Government Property Local Law. It is based on one made by the City of Greater Geraldton in 2020 which in turn comes from a model developed by the WA Local Government Association but modified to suit the Shire. Rather than devising a set of rules for each type of property, its provisions apply across all areas with specific provisions about particular locations that might be unique such as golf courses, beaches, jetties, and the like. 8.3.15a Schedule - Proposed Shire of Carnarvon Public Places and LG Property Local Law

Common items like definitions, modified penalties, notices and enforcement provisions apply to all areas of the local law, regardless of where a matter might physically be located or the subject dealt with.

In summary it reflects the provisions of the local laws it is intended to replace, and deals with:

- A process to make 'determinations' about particular properties in terms of what they may or may not be used for (an initial list appears in 8.3.15a Schedule - Proposed Shire of Carnarvon Public Places and LG Property Local Law);
- Activities that are prohibited;

- Activities where a permit is required, including street stalls, alfresco dining and the like;
- Placing of advertising signs;
- Behaviour on all property under the Shire's care, control and management;
- Matters that relate to particular Shire property such as:
 - Where functions are being held;
 - Golf courses;
 - Beaches;
 - Airports;
 - Jetties and boat launching ramps; and
 - Roadside conservation (wildflowers on verges or on local government property);
- Activities in streets such as verge treatments, removal of crossovers, property numbering and the like;
- Leaving animals and shopping trolleys in public places;
- Permits and conditions that could be applied;
- Enforcement provisions such as:
 - Notices to do certain things (remove items from a thoroughfare, repair damage);
 - Modified penalties or 'on the spot' fines; and
 - Penalties that might apply where the Shire prosecutes a person for an offence or fails to comply with a notice.

Note that the draft contains text boxes which are for explanatory purposes only and will be deleted from the official version published in the Government Gazette.

Consultation:

The Shire recently undertook a review of local laws as required under s3.16 of the Local Government Act 1995. Public comments closed on 16 November 2020. No comments were received in relation to the local laws that are being replaced by this proposed local law.

A local government may make local laws about property it owns or is under its care, control and management using the process set out in section 3.12(3) of the Local Government Act 1995. Amongst other things this requires a local government to give local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears. A copy is also to be given to the Minister for Local Government.

The purpose and effect of the Shire of Carnarvon proposed Public Places and Local Government Property Law is:

Purpose

To regulate the care, control and management of property of and under the care, control and management of the Shire including thoroughfares.

Effect

Some Shire property is set aside for particular uses, some activities are allowed only under a permit or under a determination, and others are restricted or prohibited. The local law also establishes offences for inappropriate behaviour in or on Shire property.

The results of the community consultation and feedback from the Minister are to be considered by Council before it makes the local law.

Statutory Environment:

Local laws are made using the process set out in section 3.12 of the Local Government Act 1995.

Relevant Plans and Policy:

Nil.

Financial Implications:

There are costs associated with the drafting, giving of public notice and the Gazettal of a new local law.

Risk Assessment:

Local laws are required to be reviewed and/or updated every eight years under the Local Government Act 1995 s3.16. However, this review is well overdue. Ensuring they remain current and comply with other legislation will reduce the risk to the Shire of inadvertently contravening other legislation.

Community & Strategic Objectives:

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

Objective 5: Civic

Strong and listening Council.

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

Comment:

As noted above, the Shire's local laws are well out of date. Preparing a new Public Places and Local Government Property Local Law based on those adopted by other local governments helped reduced costs and will be easier to update in future as any changes will affect a significant number of local governments.

In addition, it is more likely that any staff recruited from other local governments will be at least familiar with the general requirements of a local law that is in use at many of them in substantially the same form.

OFFICER'S RECOMMENDATION

That:

- In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:*
 - It is proposed to make a Shire of Carnarvon Local Government Property and Public Places Local Law, and a summary of its purpose and effect;*
 - Copies of the proposed local law may be inspected at the Shire offices;*
 - Submissions about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;*
- In accordance with s3.12(3)(b) of the Act, as soon as the notice is given a copy of the proposed local law be sent to the Minister for Local Government;*
- In accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and*
- The results of the public consultation be presented to Council for consideration of any submissions received.*

Schedules

8.3.15 a Schedule Proposed Shire of Carnarvon Public Places and LG Property Local Law.

File No:	A3977, P43/20
Date of Meeting:	15 December 2020
Location/Address:	Lot 304 (No. 64) Banksia Drive, Coral Bay
Name of Applicant:	ABC Foundation Ltd
Name of Owner:	State of WA
Author/s:	John Meggitt, Principal Planner
Declaration of Interest:	Nil
Voting Requirements:	Simple majority
Previous Report:	N/A

Summary of Item:

This item relates to an application for a mobile traders licence for the operation of a pop-up refund point 'Containers for Change' facility at Lot 304 (No. 64) Banksia Drive, Coral Bay. The applicant is intending to operate the collection facility initially on fortnightly basis and later expanding to a weekly service.

The location complies with the Shire's Policy D003 Coral Bay Mobile Trading which identifies private land as the only 'specified location' within the Schedule of Declared Trading Locations deemed to be suitable for this type of activity. This report recommends the application be approved with conditions.



Figure 1: Locality for the proposed mobile trader at the Coral Bay carpark.

Description of Proposal:

The pop-up mobile refund point will operate as part of the Containers for Change scheme. It will allow people to come to the refund point and exchange containers for cash-in-hand or cash deposited directly into their bank account via their Scheme ID. The ABC (Aboriginal Biodiversity Conservation) Foundation Ltd (ABCFL) has been awarded the contract to deliver the Containers for Change scheme through the Gascoyne region. The site plan is included as 8.3.16 Schedule.

The subject land is a Public Purposes reserve under Local Planning Scheme No 13, it is leased by the Coral Bay Volunteer Fire and Emergency Services (VFES) facilities. The Officer in Charge of the VFES has advised that they will permit the ABCFL to operate the pop-up facility from the site. See Schedule 8.3.16 for the site

plan.

Containers for Change is a new State-wide container deposit scheme that lets the public cash in eligible containers. Launched on 1 October 2020, the scheme aims to reduce litter and landfill, increase recycling, create jobs, and provide opportunities for social enterprise and benefits for community organisations. The program is funded by the WA Department of Water and Environmental Regulation.

Pop-Up Refund Points provide a scheduled service where refund point operators meet customers every week, fortnight or month. They allow customers, community groups and charities to return their containers for a refund either in cash, or through their scheme ID. Some operators count the containers on the spot, whereas others will take the containers back to their sorting point to count later and process refunds.

The ABCFL will set up trestle tables, marquees, signage and sorting and collection infrastructure for the container refunds. ABCFL will also be providing the IT and technology required to process the refunds.



Figure 2. An example of an existing pop-up Refund Point

Planning Assessment Summary:

The proposal to locate on private land is consistent with the Shire's Coral Bay Mobile Trading Policy's schedule of specified locations. There are currently no container recycling facilities in Coral Bay; it is considered that the mobile trader will make a positive contribution to the locality.

The applicant has requested permission to operate the business from 10:00am to 4:00pm fortnightly on Tuesdays commencing January 2021.

The Shire's Mobile Trading Policy provides for approval periods to be restricted to four hours per day in any one location. The additional hours of operation are considered to be acceptable on the basis that:

- Containers for Change will only operate one day per fortnight as such the extended hours will make the service more accessible to those living in and visiting Coral Bay.
- There is no alternative formal can and bottle recycling service in Coral Bay.
- The proposed site is not in a location where vehicle congestion is considered to be a problem.

Consultation:

No public consultation is required for mobile trading applications.

Statutory Environment:

Shire of Carnarvon Local Government Act Local Laws, s.29 – Hawkers, Traders & Stall Holders

The local law provides guidance on the method and information required for applications; licence assessment considerations; grounds for refusing, renewing or granting licences; licence conditions; additional conditions that can be included in licences; grounds for revoking licences; and fee and licence transfer management. If the application is approved and the applicant receives a licence, they and their assistants will be required to comply with the Local Law.

Relevant Plans and Policy:

Shire of Carnarvon Policy: D003 Coral Bay Mobile Trading

The application has been assessed against the Shire's Mobile Trading Policy. The application complies with the Schedule of Declared Trading locations being 'Private land'.

The policy limits trading to 4 hours in any one location on any one day. The applicant proposes that the pop-up refund point would operate on a fortnightly basis on Tuesdays for a period of 6 hours.

Financial Implications:

There are no identified financial implications associated with the officer's recommendation

Risk Assessment:

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

Community & Strategic Objectives:

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

Objective 1: Economic

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

ITEM	Outcomes and Strategies
1.1	Local business growth
1.1.1	Work with the Gascoyne Development Commission, Chamber of Commerce, Aboriginal Corporations and local businesses to identify opportunities for business growth

Objective 2: Natural and built environment

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

ITEM	Outcomes and Strategies
2.1	Valued natural environment, for use and enjoyment by current and future generations
2.1.1	Work with other government and non-government organisations to control weeds and pests, and undertake other conservation measures
2.7	Regulated land use to meet the current and future needs of the community
2.7.1	Incorporate appropriate planning controls for land use planning and development
2.7.2	Adopt appropriate land use planning and building regulation practices

Comment:

Mobile trading can provide significant benefits to communities through enriching the vibrancy of public spaces, encouraging economic activity and increasing the diversity of goods and services on offer to the public. The Containers for Change scheme will help reduce litter in the community and reduce pressure on

the Coral Bay waste disposal facility. The operation of the business for a period of 6 hours on a fortnightly basis for is considered acceptable as it will make the services more accessible for those living in and visiting Coral Bay, there is no alternative recycling facility in the locality and the site is not prone to traffic congestion.

It is recommended that the application be approved with conditions as outlined in the officer's recommendation.

OFFICER'S RECOMMENDATION

Pursuant to Shire of Carnarvon Local Government Act Local Laws, s.29 – Hawkers, Traders & Stall Holder and the Shire of Carnarvon Policy D003 Coral Bay Mobile Trading approve the application from the ABC Foundation Ltd to hold a 12-month, Traders Licence for a pop-up mobile refund point operating as part of the Containers for Change scheme at LOT 304 (No. 64) BANKSIA DRIVE, CORAL BAY subject to the following conditions:

- 1) This licence is valid for a period of 12 months from the date of this approval.*
- 2) Trading is to be undertaken fortnightly on Tuesdays between the hours of 10:00AM and 4:00PM.*
- 3) The proponent is to remove all recycling containers at the completion of business each trading day.*
- 4) The licensee must legibly and conspicuously display his/her licence on the stall used for trading.*
- 5) The licensee must on demand produce this licence to any authorised person of the Shire or any police officer or the person in charge of the place where the licensed activity is carried out.*
- 6) The licensee must remove the trading stall and all goods, wares, merchandise and signs from the place to which the licence applies and leave that place clean and vacant in all respects whenever not trading at the place, unless with the written approval of the Council to the contrary.*
- 7) The licensee must maintain a minimum of \$20 million public liability insurance covering the licensed activity for the full period of the licence.*
- 8) When trading on a carriageway (where it is safe to do so), the licensee may not attach or erect any projection from the vehicle towards the centre of the carriageway and may not serve customers from the side of the vehicle facing the centre of the carriageway.*
- 9) The licensee must not trade at any given place and time unless it is safe to do so and must consider the safety of other vehicles and pedestrians.*
- 10) The trading activity must not cause unreasonable nuisance considering the trading environment. Advice*

Notes:

- a) Trading licences are issued subject to the Local Laws of the Shire of Carnarvon and applies only within the Shire of Carnarvon district.*
- b) Trading licences are not transferable without the written consent of the Council.*
- c) Trading licensees must comply with all the requirements of s.29 of the Shire of Carnarvon Local Government Act Local Laws including traffic, parking and planning laws and laws relating to advertising signs, obstruction of thoroughfares and food safety. This licence does not authorise the sale of food under the Food Act 2008. A copy of the Shire's Local laws may be obtained from the Council office at 3 Francis St, Carnarvon WA.*

8.3.17**BUILDING WORKS - LOT 384 (NO. 19) CLEAVER STREET, SOUTH CARNARVON**

File No:	A639, P42/20
Date of Meeting:	15 December 2020
Location/Address:	Lot 384 (No. 19) Cleaver Street, South Carnarvon
Name of Applicant:	ADC Projects Pty Ltd
Name of Owner:	Dept. of Education
Author/s:	John Meggitt, Principal Planner
Declaration of Interest:	Nil
Voting Requirements:	Simple majority
Previous Report:	N/A

Summary of Item:

Proposed construction of widened access drive and additional vehicle parking, construction of free-standing workshop plus internal alterations and renovations to two buildings on the Whitlock Street frontage of the old Carnarvon High School at Lot 384 (No. 19) Cleaver Street, South Carnarvon. The proposed works are to accommodate the relocation of the Police and Citizens Youth Centre (PCYC) from its current location at 406 Robinson Street, East Carnarvon to the subject site. See Schedules 8.3.17(a),(b), (c),(d),(e) and (f).

The application for the proposed building works is consistent with the provisions of Local Planning Scheme 13 (LPS 13) and it is recommended for approval.

Description of Proposal:

The subject site is an Education Reserve under the Shire of Carnarvon Local Planning Scheme No. 13 (LPS 13). See Figure 1. The existing Performing Arts and Recreation Centre has been vacant for over a year, however, it is still in good condition having been refurbished circa 2009. It comprises a reception area and office, performing arts space, a full sized indoor sports facility, a kitchen and meeting room and associated storage and amenities. The existing arts and crafts building comprises a set of arts and crafts rooms and facilities and associated storage and amenities.



Figure 1. The subject site



Figure 2. Site Plan showing new workshop, parking and buildings to be refurbished.

Design Statement:

The submitted design statement identifies the following works:

Within the recreation centre building it is proposed to convert the former performing arts space into a fitness gym and convert a green room into a second universal access toilet. In addition it is proposed to upgrade the existing kitchen.

It is proposed to utilise the former Arts and Crafts building for programmed youth activities, including learning and personal development.

A stand-alone workshop is proposed for hands on learning activities located between the two existing buildings to be occupied. An existing small pergola in this area will be demolished.

In order to accommodate staff and visitors closer to work locations and to allow to operate and park the two buses that pick up and drop off youth participants it is proposed to upgrade the driveway and access between the Arts and Crafts building and the Recreation Centre.

The existing carparking and access to the east of the Recreation Centre will be retained.

Consultation:

Public consultation is not required for this development proposal.

Statutory Environment:

Planning and Development Act 2005

As defined under the Act, 'Development' means the *development or use of any land*. The proposal is not exempt from the requirement for development approval under the *Planning and Development Act 2005*.

Planning and Development (Local Planning Schemes) Regulations 2015

Part 9 – Procedures for dealing with applications for development approval. Clause 67. Matters to be considered by local government.

Shire of Carnarvon Draft Local Planning Scheme No. 13

Under draft LPS 13 the subject land is designated as an Education Reserve. The proposed use of the facilities at the subject site for youth activities, including learning and personal development is consistent with the site's classification as an Education Reserve.

Relevant Plans and Policy:

Shire of Carnarvon Local Planning Strategy

Under the theme of Community Needs – and education and training to meet the needs of current and local community the objectives include:

- *Education and training opportunities are recognised as performing a critical role in community well-being, economic development and ensuring a skilled local and empowered workforce.*
- *Community well-being is improved through the provision of services and facilities that are specific to community needs.*

Specific planning actions include:

Ensure that existing school sites, previous school sites and educational facilities (e.g. the Durack Institute) are appropriately zoned and reserved under the new LPS and allow sufficient room for expansion or the co-location of compatible uses into the future.

Financial Implications:

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

Risk Assessment:

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

Community & Strategic Objectives:

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

Objective 3: Social

Healthy, safe and resilient community, where everyone belongs

3.1	Active community
3.1.1	Provision of sport and recreation facilities
3.1.2	Support and promote opportunities for sport and recreation clubs to increase meaningful participation
3.5	Engaged young people
3.5.1	Provide a youth centre and activities to engage young people, particularly at risk young people
3.5.2	Collaborate with the Edmund Rice Foundation to offer alternative education for young people not succeeding in the mainstream
3.5.3	Advocate for young people and collaborate with other agencies to engage young people

Objective 2: Natural and built environment

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

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

Comment:

Under draft LPS 13 the subject land is designated as an Education Reserve. The proposed use of the facilities at the subject site for youth activities, including learning and personal development is consistent with the site's classification under LPS 13 as an education Reserve.

In light of the above it is recommended that the application be approved.

OFFICER'S RECOMMENDATION

That the Council pursuant to Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and Local Planning Scheme No. 13 grants development approval for application P42/20 for construction of widened access drive and additional vehicle parking, construction of free-standing workshop plus internal alterations and renovations at LOT 384 (NO. 19) CLEAVER STREET, SOUTH CARNARVON subject to the following conditions:

- 1. The development is to be generally in accordance with ADC Projects Drawing Nos. A01, A02, A03, A04, A05 and EX01 dated August 2020 including any amendments placed thereon by the Shire of Carnarvon and except as may be modified by any other conditions of this approval or with prior written approval of the Shire of Carnarvon.*

Advice notes:

- i) If the development the subject of this approval is not substantially commenced within a period of two (2) years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.*
- ii) If an applicant is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of determination.*
- iii) This approval does not confer approval under other relevant legislation, including but not limited to, the Building Act 2011 and the Health Act 1911. It is the responsibility of the applicant to determine any necessary approvals required and obtain such approvals prior to the commencement of development and use. However, to assist in understanding the necessary requirements and approvals, further information can be obtained by contacting the Shire of Carnarvon Building Services on (08) 9941 0000.*

File No:	A341, P45/20
Date of Meeting:	15 December 2020
Location/Address:	Lot 752 (HN11) McLeod Street, South Carnarvon
Name of Applicant:	Ray Stent
Name of Owner:	Rachel Norriss
Author/s:	John Meggitt, Principal Planner
Declaration of Interest:	Nil
Voting Requirements:	Simple majority
Previous Report:	N/A

Summary of Item:

This item relates to an application for retrospective approval for a dwelling addition and carport at Lot 752 (HN 11) McLeod Street, South Carnarvon. The development works that have been undertaken comply with the requirements of the Residential Design Codes (R Codes) with the exception of the carport structure which is non-compliant with the side setback requirement. Notwithstanding this noncompliance, the application for retrospective approval for the unauthorised structures is recommended to be approved.

Description of Proposal:

The site is zoned Residential R12.5 under the Shire of Carnarvon Local Planning Scheme 13 (LPS 13). The subject land has an area of 862m² and contains a dwelling. Refer to Figure 1. and the plans in 8.3.18 Schedule.

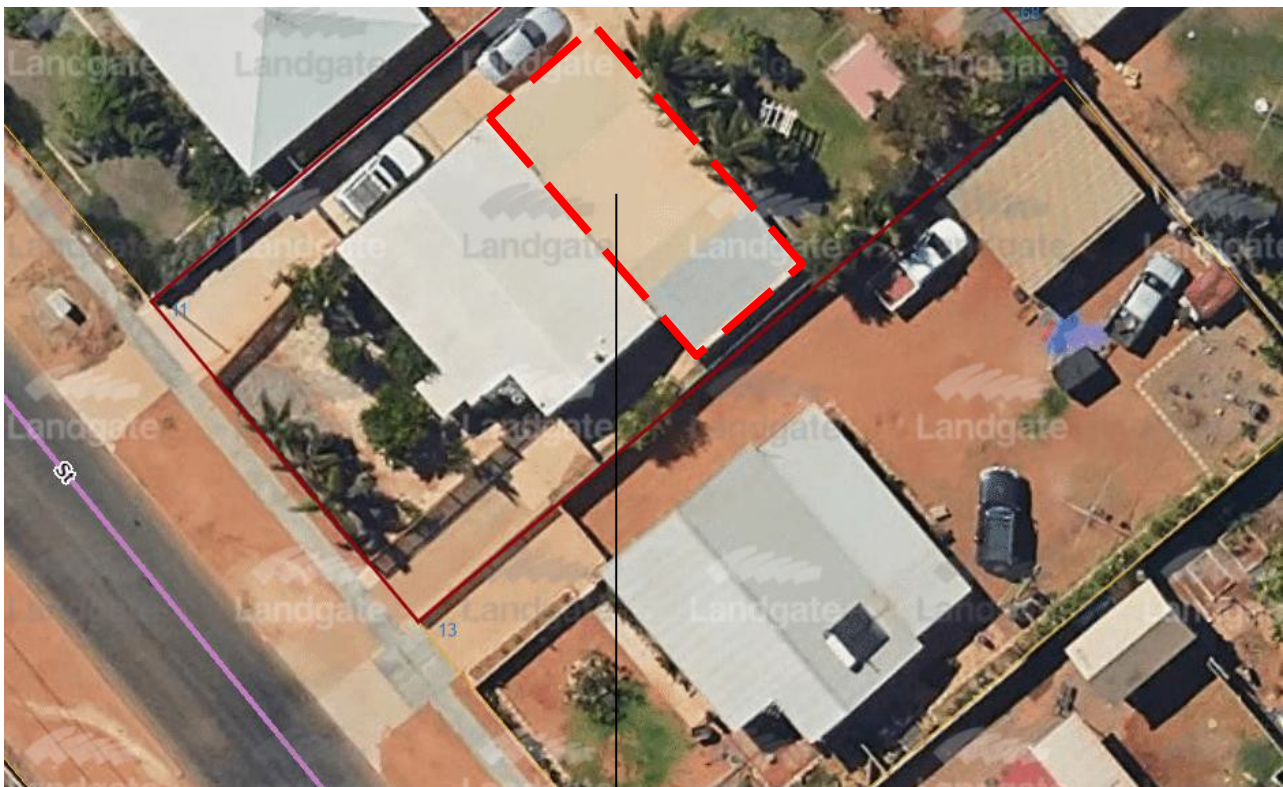


Figure 1. Lot 752 and the dwelling addition /carport

The additions satisfy the requirements set out Residential Design Codes (the R Codes) with the exception of the side setback requirement for the carport, a requirement of 1.0m is required and 0.9m is provided. The addition to the rear of the dwelling is fully enclosed and as such the area forms part of the dwelling, notwithstanding this, the development of the site complies with the open space requirements of the R

Codes where 55% is required and 76% is provided.

Consultation:

The neighbour whose property abuts the carport has provided a letter raising no objection to the reduced side setback.

Statutory Environment:

Planning and Development Act 2005

As defined under the Act, 'Development' means the *development or use of any land*; the development and use of this land in this instance being works to construct an outbuilding on a residential lot. The proposal is not exempt from the requirement for development approval under the *Planning and Development Act 2005*.

Planning and Development (Local Planning Schemes) Regulations 2015

Part 9 – Procedures for dealing with applications for development approval. Clause 67. Matters to be considered by local government.

Shire of Carnarvon Draft Local Planning Scheme No. 13

Under draft LPS 13 the subject land is zoned 'Residential' with an R-Code of R12.5.

Relevant Plans and Policy:

State Planning Policy 7.3 Residential Design Codes

This application does not meet the deemed-to-comply provisions for outbuildings as set out in the Residential Design Codes. Provision exists under the R-Codes for local government to establish variations through policies to the provisions of the R Codes.

Financial Implications:

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

Risk Assessment:

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

Community & Strategic Objectives:

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

Objective 2: Natural and built environment

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

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

Comment:

The additions to the dwelling will not detract from the streetscape or amenity of adjacent property. The adjoining neighbour has raised no objection to the reduced side setback. With the exception of the side setback variation the development complies with the requirements of the R Codes.

It is recommended that the application be approved.

OFFICER'S RECOMMENDATION

That the Council pursuant to Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the Shire of Carnarvon Local Planning Scheme No. 13 grants retrospective

development approval for application P45/20 for the dwelling addition and carport at LOT 752 (HN11) MCLEOD STREET, SOUTH CARNARVON subject to the following conditions:

- 1. The development is to be generally in accordance with plans A1.1, A2.1 and A4.1 dated 27/02/19, including any amendments placed thereon by the Shire of Carnarvon and except as may be modified by any other conditions of this approval or with prior written approval of the Shire of Carnarvon.**

Advice notes:

- i) If the development the subject of this approval is not substantially commenced within a period of two (2) years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.**
- ii) If an applicant is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of determination.**
- iii) This approval does not confer approval under other relevant legislation, including but not limited to, the Building Act 2011 and the Health Act 1911. It is the responsibility of the applicant to determine any necessary approvals required and obtain such approvals prior to the commencement of development and use. However, to assist in understanding the necessary requirements and approvals, further information can be obtained by contacting the Shire of Carnarvon Building Services on (08) 9941 0000.**