

SHIRE OF CARNARVON

# MINUTES

COUNCIL MEETING  
22<sup>nd</sup> June 2021

CONFIRMATION OF MINUTES

These minutes were confirmed by the Council on

.....  
as a true and accurate record

.....  
Chairman

---

## DISCLAIMER

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

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

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

---

## INFORMATION ON PUBLIC QUESTION TIME

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

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

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

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

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

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

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

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

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

---

### SPECIAL MEETINGS OF COUNCIL

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

# INDEX

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

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

## **2.0 PUBLIC AND ELECTED MEMBER QUESTION TIME**

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

### **2.1 QUESTIONS TAKEN ON NOTICE FROM PREVIOUS MEETING**

### **2.2 PUBLIC QUESTION TIME**

## **3.0 DECLARATIONS OF INTEREST**

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

## **4.0 QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**

## **5.0 CONFIRMATION AND RECEIVING OF MINUTES**

5.1 Ordinary Council Meeting Minutes – 25 May 2021

5.2 Special Meeting of Council Minutes – 14 June 2021

## **6.0 PRESENTATIONS, PETITIONS AND MEMORIALS**

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

## **8.0 DEPARTMENTAL REPORTS**

### **8.1 GOVERNANCE**

- 8.1.1 Actions Performed Under Delegated Authority .....
- 8.1.2 Workers Accommodation Coral Bay .....
- 8.1.3 Project Prioritisation .....
- 8.1.4 Governance Review .....

### **8.2 CORPORATE & COMMUNITY SERVICES**

- 8.2.1 Accounts for Payment –May 2021 .....
- 8.2.2 Management Report – May 2021 .....
- 8.2.3 DFES – Radio Tower Lease .....
- 8.2.4 Proposed Budget Variation .....
- 8.2.5 360 Health – Lease Renewal .....
- 8.2.6 Carnarvon Community Patrol (CCP) Funding .....

### **8.3 DEVELOPMENT SERVICES**

- 8.3.1 Mobile Trading Licence Application – Lot 800 Banksia Drive, Coral Bay .....
- 8.3.2 Shire of Carnarvon Cemeteries Local Law .....
- 8.3.3 Shire of Carnarvon Waste Local Law .....
- 8.3.4 Shire of Carnarvon Meeting Procedures Local Law.....
- 8.3.5 Shire of Carnarvon Bush Fire Brigade Local Law .....
- 8.3.6 Shire of Carnarvon Public Places & Local Government Property Local Law .....

### **8.4 INFRASTRUCTURE SERVICES**

- 8.4.1 RFS 01/2021 – Town Beach Kiosk Development .....
- 8.4.2 Carnarvon Yacht Club – Tip Fee Waiver Request .....

### **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 Tuesday 27 July 2021 commencing at 1.00pm

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

### **13.0 CLOSURE**



**MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBERS, STUART STREET,  
CARNARVON ON TUESDAY 22 JUNE 2021**

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

*The Shire of Carnarvon acknowledges the Yingarrda people as the Traditional Custodians of this land which we work and live on. We pay our respects to their Elders past, present and future and extend this respect to all Aboriginal people and their ongoing connection to this Country.*

**1.0 ATTENDANCES, APOLOGIES AND APPROVED LEAVE OF ABSENCE**

Cr E Smith.....Presiding Member/Shire President  
Cr B Maslen..... Councillor, Gascoyne/Minilya Ward  
Cr K Pinner ..... Councillor, Town Ward  
Cr K Simpson ..... Councillor, Coral Bay Ward  
Cr L Skender .....Councillor, Plantation Ward  
Cr J Nelson ..... Councillor, Town Ward

Mrs A Selvey..... Chief Executive Officer  
Mr D Nielsen ..... Executive Manager, Infrastructure Services  
Mrs S Mizen ..... Manager, Finance  
Mr D Perry.....Executive Manager, Development Services

Mrs D Hill .....Senior Executive Officer

**Apologies**

Cr L Vandeleur..... Councillor, Town Ward  
Cr A Fullarton ..... Councillor, Town Ward

Observers .....3  
Leave of Absence .....0

**1.1 APPLICATION FOR LEAVE OF ABSENCE – CR NELSON**

Cr Nelson requested Leave of Absence for the July 2021 Ordinary Meeting of Council

**FC 1/6/21**

**COUNCIL RESOLUTION**

***Cr Nelson/Cr Simpson***

***That Councillor Nelson be granted Leave of Absence for the July 2021 Ordinary Meeting of Council.***

**CARRIED**  
**F6/A0**

## **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.)*

Cr Skender (Impartiality Interest) – Item 8.2.3 – DFES Radio Tower Lease

Cr Skender (Impartiality Interest) – Item 8.2.5 – 360 Health – Lease Renewal

Cr Skender (Impartiality Interest) – Item 8.2.6 – Carnarvon Community Patrol (CCP) Funding

Cr Skender (Impartiality Interest) – Item 8.4.1 – RFS 01/2021 – Town Beach Kiosk Development

Cr Nelson (Impartiality Interest) – Item 8.4.2 – Carnarvon Yacht Club – Tip Fee Waiver Request

Cr Pinner (Impartiality Interest) – Item 8.4.2 – Carnarvon Yacht Club – Tip Fee Waiver Request

---

## **3.0 PUBLIC QUESTION TIME**

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

Public Question Time commenced at 1.04pm

### **2.1 QUESTIONS TAKEN ON NOTICE FROM PREVIOUS MEETING**

### **2.2 PUBLIC QUESTION TIME**

The following questions have been submitted by Jenny Walsh of Carnarvon –

**Question 1** – In the Edition 44/May 2021 Newsletter you have ruled that any complaints or requests Not be directed to councillors or staff in person but should be emailed to shire@carnarvon.wa.gov.au. The ruling or order is in contravention of the terms of the Act and I believe is illegal. You are attempting to take away our democratic right to contact our elected representatives. Councillors should comply with the Act and their role as set out in the Act and be available to the public to answer queries, make inquiries and assist ratepayers at all time where they like it or not.

**Answer 1** – Shire President responded - There is no attempt to stop the public contacting Councillors who continue to perform their role as spelt out in the Local Government Act 1995. The Shire has taken the opportunity to give the public the option to contact staff directly, in writing enabling the public to express themselves directly to the people who will deal with their issues. This ensures requests are captured in our records management system and therefore can be tracked and responded to in a timely manner. This system also enables us to do some analysis of requests and complaints in terms of the numbers received, length of time to respond and resolve and to see if there are areas of specific concern that may require additional resourcing.

**Question 2** - Why you are attempting to stop the public from contacting councillors whose job is supposed to be to reflect the wishes, desires and requests of the public who they represent? Is this an attempt to take away the democratic rights of the people to contact their elected representatives because the councillors are not worthy of the remuneration they receive from the ratepayers or because they have failed to participate in local government decisions and represent the people who elected them to anyone's satisfaction?

**Answer 2** – Shire President responded - as per question 1

**Question 3** - Why are you curtailing of our rights in accordance with the Local Government Act?

**Answer 3** – Shire President responded - The Shire is not curtailing any one's rights in accordance with the Local Government Act, it is simply facilitating an improved process of complaint management that to date has been adopted by most of the community and working extremely well.

I must also add that since 29th March 2021 to date there has been 60 issues raised with the Shire with 75% resolved within 1 to 7 days, many of these issues were raised with Councillors who then asked that because they could not resolve the issue, please email the Shire for the issue to be addressed. Councillors follow up on the issues raised with them and are regularly updated by staff.

Public Question Time was closed at 1.08pm

---

#### **4.0 QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION**

Nil

---

#### **5.0 CONFIRMATION AND RECEIVING OF MINUTES**

5.1 **ORDINARY MEETING OF COUNCIL – 25 MAY 2021**

5.2 **SPECIAL COUNCIL MEETING – 14 JUNE 2021**

**FC 2/6/21**

**COUNCIL RESOLUTION**

***Cr Maslen/Cr Nelson***

***That the minutes of the Ordinary Meeting of Council held on 25 May 2021 and the minutes of the Special Meeting of Council held on 14 June 2021 be confirmed as a true record of proceedings.***

**CARRIED**

**F6/A0**

---

#### **6.0 PRESENTATIONS, PETITIONS AND MEMORIALS**

Nil

---

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

Nil

---



## **8.0 DEPARTMENTAL REPORTS**

### **8.1 GOVERNANCE**

#### **8.1.1 ACTIONS PERFORMED UNDER DELEGATED AUTHORITY FOR THE MONTHS OF MAY/JUNE 2021**

File No:	ADM0043
Date of Meeting:	22 June 2021
Location/Address:	3 Francis Street, Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Andrea Selvey, 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 2021.

#### **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:

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

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

Community & 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 of May and June 2021 are submitted to Council for information.

## AFFIXING OF COMMON SEAL

Date Affixed	Purpose
11 June 2021	Town Planning Scheme 13 – Amendment No. 1
14 June 2021	Shire of Carnarvon Local Laws – Cats, Dogs, Health Amendment & Parking

## DELEGATIONS

### ENVIRONMENTAL HEALTH

#### Food

#### Food Act 2008

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
10/5/2021	HFO21/006	New food business registration, Mar E Sol Café Bistro, Lot L 107 Harbour Rd, South Carnarvon (previously Harbourside Restaurant)	A.L Braun & P.A. Braun	n/a
10/5/2021	HFO21/005	New food business registration, home-based low key catering, Green Grape Grazing Co, 15 Freeman St, Kingsford	Kaitlan Liddell	n/a
18/5/2021	HFO21/007	New food business registration - Cafe at the Old Post Office front kitchen, Angelika Czapp, 8-10 Robinson St Carnarvon	Angelika Czapp	n/a
26/5/2021	HFO21/008	New food business registration - Bamboo Wok, 18 Francis St, Carnarvon	Dieu Linh Pty Ltd	n/a
31/5/2021	HFO21/009	New food business registration - Fascine Café (previously Curry Flower), 26 Robinson St	Pei-Chun Wu	n/a
03/6/2021	HFO21/010	New food business registration- Blowholes Tucker Box, Blowholes.	Brett Killagallon	n/a
09/6/2021	HFO21/011	New food business registration- Fang's kitchen (Gwoonwardu mia)	Haiyan Fang/ Zhou Fang	n/a

## DELEGATIONS

### LAND USE AND PLANNING

Planning and Development Act (Local Planning Schemes) Regulations 2015 Schedule 2 Clause 68 Applications to use/develop land					
File Ref:	Application Ref:	Subject Land (Incl. Scheme No)	Purpose	Applicant/ Proponent	Date Granted
A552	P22/22	59 Hubble Street, South Carnarvon	Replacement of a Garage	Michael Torossi	3 June 2021
A952	P21/21	34 Marmion Street, East Carnarvon	Construction of outbuilding	Lance Smith	4 June 2021

DELEGATIONS  
BUILDING

Application No.	Owners Name	Lot & Street	Type of Building Work
B20/004	PAUL ANTHONY DIXON	LOT 1302 (39) GASCOYNE RD EAST CARNARVON	INSTALLATION OF SOLAR PV SYSTEM TO EXISTING DWELLING
B21/2	SHIRE OF CARNARVON	LOT 2 (35) MAHONY AVE, BROWN RANGE	EXHIBITION, VIEWING AND STORAGE ROOM
B21/021	HOUSING AUTHORITY/DEPARTMENT OF COMMUNITIES	MUNGULLAH COMMUNITY HOUSING - ACACIA WAY, GREYS PLAIN (43 UNITS)	BATTERY POWERED SMOKE ALARMS FOR 43 X UNITS AT MUNGULLAH COMMUNITY HOUSING
B21/023	JAYTAH PTY LTD	LOT 26 (26) SAILFISH DRIVE, CORAL BAY	RESIDENTIAL DWELLING
B21/025	HORIZON POWER (BENTLEY OFFICE)	LOT 30 (20) BUTCHER ST, MORGANTOWN	DIVIDING FENCE
B21/030	STATE OF WA c/- SHIRE OF CARNARVON	LOT 1220 (9) CAMEL LANE, CARNARVON	CONCRETE FOOTINGS AND STEEL FRAME TOWER FOR SES TRAINING

OFFICER'S RECOMMENDATION PART ONE

*That Council, by Simple Majority, in accordance with Section 5.46 of the Local Government Act, resolves to accept the reports outlining the actions performed under delegated authority for the months of May and June 2021.*

**FC 3/6/21**

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE

*Cr Skender/Cr Nelson*

*That Council, by Simple Majority, in accordance with Section 5.46 of the Local Government Act, resolves to accept the reports outlining the actions performed under delegated authority for the months of May and June 2021.*

CARRIED  
F6/A0

**8.1.2 WORKERS ACCOMMODATION -CORAL BAY**

File No: ADM0036  
Date of Meeting: 16 June 2021  
Location/Address: N/A  
Name of Applicant: The Shire of Carnarvon  
Name of Owner: N/A  
Author/s: A. Selvey, Chief Executive Officer  
Declaration of Interest: Nil  
Voting Requirements: Simple Majority  
Schedules: Coral Bay Structure Plan and relevant zoning map from LPS 13; and flowchart on the DA process.

Authority / Discretion

	<b>Advocacy</b>	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
--	-----------------	--

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

#### **Summary of Item:**

This item presents information in response to a Council resolution for a report on Workers Accommodation in Coral Bay. The officer's recommendation is that Council receives the report as presented.

#### **Background:**

At Council's ordinary meeting held 23 February 2021, Council directed the CEO to investigate and prepare a report on how the Shire could assist provision of affordable Workers Accommodation in Coral Bay. It was expected the report would include plans from DBCA and take into consideration stakeholder concerns, including indigenous heritage.

#### Stakeholder and Public Consultation:

A Community Forum held at Coral Bay on Thursday 4 March 2021 provided an opportunity to hear views of the community regarding worker accommodation.

#### Council's Role

The Shire of Carnarvon is the responsible statutory planning authority for Coral Bay. The relevant controlling document is Local Planning Scheme 13 (LPS13).

A copy of the Coral Bay Structure Plan and relevant zoning map from LPS 13 is attached. ***See Schedule 8.1.2(b).***

Land development, including provision of workers accommodation, is a commercial undertaking with usual associated financial considerations and risks.

Lack of workers accommodation is a product of the nature of Coral Bay. There is a small number of landowners, restrictions exist on where accommodation can be built and restricted land market is present. When the issue has been raised with the Department of Planning the response has been that the Shire is welcome to initiate a review of the Coral Bay Settlement Structure Plan.

The Shire approved a development application for eleven workers accommodation dwellings on Lot 308 in September 2020. To date there has been no initiation of works. This is the only Coral Bay application for workers accommodation lodged in recent years. Council has improved the timeframe for processing development applications through delegation of much of the approval process.

The Planning and Development Regulations specify a sixty-day determination period if the application does not require advertising. Actual processing time varies depending on the scale of the application, the amount of information provided by the applicant and if it can be dealt with through delegated authority.

Refer to ***Schedule 8.2.1(a)*** for a flowchart on the DA process.

### Coral Bay Settlement Structure Plan

Coral Bay was gazetted as a townsite in 2010. Operation of the market for workers accommodation is restricted by LPS 13 and the strategy set out in the Coral Bay Settlement Structure Plan (the CBSSP). These documents set limits on population and growth of the town. The basis of the limits is that Coral Bay should be a 'tourist node' rather than a typical town to not detract from the holiday and tourist character of the locality. The CBSSP states:

*Coral Bay is a tourist settlement and therefore not a typical town requiring essential services, emergency and social infrastructure that would be subject to normal market pressures for expansion and development.*

*Creation of a typical (or 'normalised') townsite within this location is not considered appropriate as it would trigger requirements for significant physical and social infrastructure provision, detract from the tourism and holiday fabric of the settlement, and impact the sensitive and unique environment the settlement lies within and requires careful and ongoing management. The Structure Plan proposes a population cap on both workers' accommodation and overnight visitors, thereby carefully managing its growth and development to protect the sensitive environment it lies within. (CBSSP 2014, p58)*

### **Statutory Environment:**

The definition of workforce accommodation under LPS 13 is as follows -

workforce accommodation means premises, which may include modular or relocatable buildings, used —  
(a) primarily for the accommodation of workers engaged in construction, resource agricultural or other industries on a temporary basis; and  
(b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.

### Coral Bay Land for Worker Accommodation

Under LPS 13 workforce accommodation in Coral Bay is generally limited to Lots 308 and 64 however the Scheme makes provision for a 'caretaker's dwelling' within the Tourism Zone as an 'I' use which:

*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;*

The Shire recently approved a caretaker's residence for the tourist facility manager to be established at Lot 13 (No. 20) Robinson Street.

### Lot 308 Plan 52556 (No. 19) Banksia Drive

LPS 13 Zone – Tourism

Schedule 3 of LPS13 contains Restricted Use R3 which applies to this lot and limits land uses to Holiday Houses and Workforce Accommodation. The following relevant conditions apply:

2. *Subdivision of the whole of the land holding (Parent Lot 308) shall be limited to 'superlots' with a minimum size of 4000m<sup>2</sup>.*
3. *Subdivision of the 'superlots' shall be limited to built or survey strata subdivision. No subdivision of lots in fee simple of less than 4000m<sup>2</sup> will be approved.*
4. *At 'superlot' subdivision stage, use restrictions shall be imposed to limit the use to workforce accommodation or holiday houses.*
5. *For all lots or lease areas identified for the use 'workforce accommodation' on an approved Local Development Plan, the number of workers is restricted to a maximum of 400 (including dependant family).*

Schedule 7 of LPS 13 contains Special Control Area SCA 5 which also applies to Lot 308, it includes the following additional provisions:

9. *Notwithstanding anything that may be contained elsewhere in the Scheme, workers other than the manager or caretaker of short-term accommodation, may only be accommodated in 'Workforce Accommodation'.*
10. *Notwithstanding anything contained elsewhere in the Scheme, 'Workforce Accommodation' in SCA5 means premises, which may include modular or relocatable buildings, used exclusively for the accommodation of:*
  - 10.1. *the owners and operators of commercial enterprises approved under this scheme who are permanently located and work in Coral Bay (and dependant family);*
  - 10.2. *seasonal and permanent employees engaged in providing services directly associated with uses or works approved under this Scheme (and dependant family);*
  - 10.3. *employees of the Local Government and State Government (and dependant family);*
  - 10.4. *workers engaged in construction in Coral Bay on a temporary basis.*

#### Lot 64 Plan 30121 (No. 61) Banksia Drive

LPS 13 Reserve – Public Purposes

The objective for the reserve is as follows:

*To provide for a range of essential physical and community infrastructure.*

Schedule 1 of LPS 13 contains Additional Use provision AR4 which applies to Lot 64. The additional uses being:

*Caravan park*

*Camping ground*

*Workforce accommodation*

The conditions associated with AR4 are:

*The number of overnight visitors is restricted to 280.*

Regarding possible future additional uses within Lot 64 the Shire has received legal advice to the effect that:

*LPS13 does not contain any provisions which have the effect of absolutely prohibiting specified uses of a local reserve. Nor is the permissible use of a local reserve limited to uses which are consistent with the objectives of local reserve, or with the 'additional uses' listed in Schedule 1.*

Any licence issued by the Department of Lands for use of this land for will first require establishment of an Indigenous Land Use Agreement (ILUA) requiring negotiation with the Native Title holders.

#### Managers Residences

The Caravan Parks and Camping Grounds Act and Regulations (1997) have been interpreted as there being a single manager's dwelling as per s11:

11. *Buildings on a facility*
  - (1) *Buildings on a facility may be only of the following types —*
    - (a) *manager's house;*
    - (b) *office;*

The Shire has received applications where approval is sought for the manager of the caravan park, the manager's assistant, the manager of the retail facility etc. Planning officer's views however is that if approved, this would be problematic setting a precedent to alter the number of managers houses. To date, the Shire has only permitted a single managers house. This requires other workers to be accommodated in the 'workers accommodation' sites in Coral Bay. The recommendation is that this position is maintained.

### Transportable

The Caravan and Camping Grounds Regulations (1997) s15 requires the following:

15. *Mobility of caravans*

(1) *The owner of a caravan is to ensure that the caravan has wheels attached to it, or in the case of a park home assembled from components, each component of the park home has wheels attached to it, and is maintained in such a condition that it is able to be moved under its own power or by being towed, within 24 hours of —*

(a) *any services attached to it being disconnected; and*

(b) *in the case of a park home assembled from components, it being split into components.*

(2) *A person is not to interfere with a caravan so as to render it unable to be moved, under its own power or by being towed. Penalty: \$2 000.*

Therefore, any accommodation in Caravan Parks must comply with this requirement.

### **Relevant Plans and Policy:**

As noted above

### **Financial Implications:**

There are no financial impacts in receiving this report as recommended.

### **Risk Assessment:**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A		
Health & Safety	N/A		
Reputation	The Shire's role in providing workers accommodation is not well understood and community expectation about the capacity of the Shire to directly provide accommodation is a reputational risk for the Shire.	High	Clear communication, including making this report available, to the community.
Service disruption	N/A		



<b>Compliance</b>	Any planning decisions must comply with Planning Regulations and the Shire's own Scheme and related plans. Deviation from these legislative instruments puts the Shire at risk.	High	Council is provided with advice from officer's that is compliant with legislation. Where necessary, legal advice is sought to inform the officer's report and recommendation.
<b>Property</b>	N/A		
<b>Environment</b>	N/A		
<b>Fraud</b>	N/A		

#### Community & Strategic Objectives:

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

#### *Goal 5: Civic*

*Strong and listening Council.*

ITEM	OUTCOMES AND STRATEGIES
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:

#### Future Development of Workers Accommodation.

Lot 308 remains the prime location for development of Worker Accommodation. It is appropriately zoned, has significant related development and additional land available for further development potentially allowing a variety of different options to be considered.

The land has been developed by its owner the Baiyungu Aboriginal Corporation Village (BACV) with backing from the State government with an element of being the preferred location for all future Workers accommodation until demand is met, or the land fully developed.

It is also significant that Lot 308 has ILUA status allowing further development to proceed.

Lot 64 offers some future potential for worker accommodation development but is not the prime designated site. It requires preparation of a Local Development Plan and obtaining an Indigenous Land Use Agreement (ILUA).

#### Factors affecting further development of Workers Accommodation.

Apart from the restraints and issues above, the main contributing factor for the lack of current development planning is financial viability. Any further development would require a business case that supports the financial investment required. That includes infrastructure such roads and utility services as well as the actual building of the designated accommodation units. Accommodation units may range from high end, like existing units, to a "Mining" camp type development based upon transportable "Donga" type units.

The problem confronting a developer is that the prevailing rental income at Coral Bay is relatively low compared to other locations in WA. This low rental return makes further development unviable.

Until such time as a developer can fund a project within an acceptable degree of risk it is unlikely any new workers accommodation proposal will come forward.

Growth and development of Coral Bay is constrained by the lack of worker accommodation. The designated land is controlled by the BAVC which has its own commercial interests to consider. Development of Lot 64 is more problematic than a further development of Lot 308, particularly regarding obtaining an ILUA.

The barrier to workers accommodation developments is economic viability, not land availability or an unwieldy Shire planning approval process. The view is that the Shire planning approval process is as timely as possible without compromising the need for due diligence to protect current and future community needs.

#### OFFICER'S RECOMMENDATION PART 1

*That Council, by Simple Majority pursuant to the Shire of Carnarvon Local Planning Scheme No. 13, receives the report from the Chief Executive Officer on Workers Accommodation in Coral Bay in response to the Council Resolution FC 21/2/21 from the Ordinary Meeting of Council on 23 February 2021.*

**FC 4/6/21**

#### COUNCIL RESOLUTION

*Cr Simpson/Cr Nelson*

*That Council, by Simple Majority pursuant to the Shire of Carnarvon Local Planning Scheme No. 13 resolves to-*

- 1. Receive the report from the Chief Executive Officer on Workers Accommodation in Coral Bay in response to the Council Resolution FC21/2/21 from the Ordinary Meeting of Council on 23 February 2021;*
- 2. Investigate a Scheme Amendment to allow up to two manager's residences in Short Term Accommodation in Special Control Area 5: Coral Bay Settlement, noting that the Scheme Amendment will be formally brought back to Council for further consideration; and*
- 3. Formally lodge a request with the Minister for Planning to commence a review of the Coral Bay Settlement Structure Plan.*

CARRIED

F6/AO

### **8.1.3 PROJECT PRIORITISATION**

File No:	ADM0158
Date of Meeting:	16 June 2021
Location/Address:	N/A
Name of Applicant:	The Shire of Carnarvon
Name of Owner:	N/A
Author/s:	A. Selvey, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Schedules	Schedule 8.1.3 List of Prioritised Projects

#### Authority / Discretion

	<b>Advocacy</b>	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	<b>Executive</b>	The substantial direction setting and oversight role of the

		Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	<b>Legislative</b>	Includes adopting local laws, town planning schemes and policies.
	<b>Quasi-Judicial</b>	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	<b>Information</b>	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

### Summary of Item:

Following a workshop to consider project and activity prioritisation, the attached list is presented for Council review, with an officer's recommendation that the list be endorsed by Council.

### Background:

Over the past two months, Councillors have raised legacy and emerging issues that require attention with the CEO. The Administration has also identified several activities and projects that will require resource allocation in the coming six to twelve months. Items that could not be progressed immediately or quickly, were captured on a list to ensure they were not overlooked while prioritisation and resourcing capacity is being determined. To determine which projects get priority attention, the Council and Executive team held a joint workshop to consider the items on the list in relative priority.

The Covey Time Management Matrix was used at the workshop as a tool to assist with prioritisation. This tool uses the Important/Urgent to categorise projects. The four quadrants in the matrix are as follows:

#### Quadrant 1 – urgent and important

Activities and responsibilities that require immediate attention.

#### Quadrant 2 – not urgent but important

Not urgent right now but important such as strategic planning, relationship building and preparation.

#### Quadrant 3 – urgent but not important

Items that appear to have a high urgency but are not at all important.

#### Quadrant 4 – not urgent and not important

Time-wasting activities that are not urgent and offer no value.

Also considered during the prioritisation were the following:

- Mandatory or discretionary.
- Strategic alignment.
- Risk / Opportunity.
- Previous Council decisions.
- Trade off.

The spreadsheet of projects and activities with the quadrant they have been assigned is attached for Council consideration – **see Schedule 8.1.3**. The officer's recommendation is that the list is adopted but is recognised as reflective of a point in time and that priorities will need to be flexible and responsive to changes in the external and internal environment. This includes, but is not limited to, changes in funding status such as BBRF, statutory requirements and staffing levels.

### Stakeholder and Public Consultation:

Councillor and Executive Team workshop on Tuesday 8 June 2021.

**Statutory Environment:**

S.3.18 Local Government Act 1995 – this section refers to the performing of executive functions.

**Relevant Plans and Policy:**

N/A

**Financial Implications:**

While there are no direct financial implications arising from adopting this list of priorities, implementing many of the actions and projects will be resource intensive. Resource allocation requests will be presented to Council as part of the budget process as required.

**Risk Assessment:**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Project and activity prioritise cannot be funded within the current budget.	High	Projects are prioritised within budget constraints and that it is recognised that with current resource and revenue raising capacity, projects will need to be staged.
Health & Safety			
Reputation	Community demands for projects and activities exceed current capacity.	High	Clear, proactive and precise communication with the community.
Service disruption	Prioritisation of some projects may result in disruption in the timely delivery of other services.	Moderate	Where there is an impact, this will be communicated in a timely manner to ensure understanding of the trade-off.
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

**Community & Strategic Objectives:**

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

*Goal 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
1.2	Thriving tourism industry within the district/region

*Goal 5: Civic*

***Strong and listening Council.***

ITEM	OUTCOMES AND STRATEGIES
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 workshop with Councillors provided an informal environment for the Executive and Councillors to engage in discussion about the competing priorities on human and financial resources of the organisation. The intention is for that dialogue to continue to inform resource allocation for new projects as they emerge to ensure that Shire resources are targeted in areas that are agreed priorities.

OFFICER'S RECOMMENDATION PART 1

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

- a. Adopt the prioritised list of projects as presented at Schedule 8.1.3; and*
- b. Review the prioritised list of projects in six months to ensure priorities reflect any changes to the internal and external environment.*

**FC 5/6/21**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE**

***Cr Maslen/Cr Pinner***

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

- a. Adopt the prioritised list of projects as presented at Schedule 8.1.3; and*
- b. Review the prioritised list of projects in six months to ensure priorities reflect any changes to the internal and external environment.*

**CARRIED**  
**F6/A0**

File No:	ADM1895
Date of Meeting:	16 June 2021
Location/Address:	N/A
Name of Applicant:	The Shire of Carnarvon
Name of Owner:	N/A
Author/s:	A Selvey, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Schedules:	Shire of Carnarvon Independent Governance Review Report by Hammond Woodhouse

#### Authority / Discretion

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

#### Summary of Item:

The purpose of this agenda item is to formally present the Shire of Carnarvon Governance Review Report by Andrew Hammond and John Woodhouse. The officer's recommendation is that the Report is received by Council and that Council, and the Administration develops an action plan within the next three months, to implement the recommendations in this Report.

#### Background:

On 8 January 2018, the Deputy Director General of the Department of Local Government, Sport and Cultural Industries (the Department) authorised an inquiry under section 8.3(2) of the Local Government Act 1995 involving the Shire of Carnarvon.

The nature of the Inquiry was to encompass aspects of the Shire and associated business entities that has, has had, may have, or may have had dealings with the Shire, and the operations and practices related to tendering, procurement and financial management from 1 January 2011 to the present day.

A recommendation from the Inquiry Report, was that the Shire of Carnarvon was to undertake a Governance Review which need to be made available to the Director General of the Department.

#### Stakeholder and Public Consultation:

There has been no public consultation in preparing this report. The consultants did consult with the Shire President, several Councillors, the CEO and key staff. The CEO has also consulted with a Principal Advisory

Officer at the DLGSC and his response was that the Governance Review Report appears to cover the areas identified in the scope of works endorsed by the Director General for the Governance Review and that the report is fairly comprehensive. He did note that certain findings have lost some significance due to the passing of time since the issues occurred and the persons involved. However, the report serves as an excellent opportunity to create a platform from which the Shire can positively move forward by putting in place practices and procedures to improve its operations to support good governance.

#### Statutory Environment:

The inquiry was carried out under section 8.3(2) of the Local Government Act 1995; the Governance Review considered the compliance of the Shire of Carnarvon under various aspects of the Local Government Act 1995 and various subsidiary regulations.

#### Relevant Plans and Policy:

N/A

#### Financial Implications:

While there are no direct financial implications arising from the officer's recommendation to receive this Report, there are likely to be significant financial and human resource implications associated with implementing the recommendations. These will be estimated during the development of the action plan for Council consider.

#### Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	The cost to implement recommendations will have an impact on the budget.	High	The action plan will look at implementing recommendations over a period of time that minimises the financial impact on the budget.
Health & Safety	N/A		
Reputation	The recommendations may suggest that the Shire is being poorly managed.	High	The report demonstrates that while there are improvements required, the action plan should clearly indicate that this organisation is acting promptly and efficiently to improve performance; noting that every local government should always be open to continuous improvement.
Service disruption	N/A		
Compliance	There are areas of non-compliance that have been highlighted	High	The action plan will provide a path to improving compliance.

Property	N/A		
Environment	N/A		
Fraud	N/A		

#### Community & Strategic Objectives:

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

#### 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

#### Comment:

A noteworthy finding that should be recognised is that the review has found no evidence that individual Council members were not performing their roles in accordance with s.2.8, 2.9, and 2.10 of the Act and that Council is adhering to the Council Code of Conduct. These findings by two highly experienced and qualified local government practitioners, should give the community confidence that the Council is functional and compliant. There are however, areas of improvement as would be expected. These areas are listed in detail in the report which is provided at ***Schedule 8.1.4***.

The officer's recommendation is that the Council and the Administration works together in the coming months to review all the recommendations and put a plan in place to implement the recommendations in a prioritised and systematic and manner within resource capacity. The intent is that the implementation plan will be costed and presented formally to Council within three months of this meeting.

#### OFFICER'S RECOMMENDATION PART 1

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

- a. Receive the Shire of Carnarvon Independent Governance Review Report by Hammond Woodhouse Advisory dated 2 June 2021;*
- b. Submit the Report to the Director General of the Department of Local Government, Sport and Cultural Industries; and*
- c. Work with the Chief Executive Officer to develop an action plan to implement the recommendations with the action plan to be presented to Council formally by 28 September 2021.*

**FC 6/6/21**

#### COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE

**Cr Maslen/Cr Skender**

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

- a. Receive the Shire of Carnarvon Independent Governance Review Report by Hammond Woodhouse Advisory dated 2 June 2021;*
- b. Submit the Report to the Director General of the Department of Local Government, Sport and Cultural Industries; and*
- c. Work with the Chief Executive Officer to develop an action plan to implement the recommendations with the action plan to be presented to Council formally by 28 September 2021.*

**CARRIED**  
**F6/A0**



## 8.2 CORPORATE & COMMUNITY SERVICES

### 8.2.1 CREDITORS REPORT OF ACCOUNTS PAID UNDER DELEGATION 1 TO 31 MAY 2021

File No: ADM0186  
Date of Meeting: 22 June 2021  
Location/Address: Shire of Carnarvon  
Name of Applicant: Shire of Carnarvon  
Name of Owner: Shire of Carnarvon  
Author/s: Dallas Wood Harris-Rates Officer  
Declaration of Interest: Nil  
Schedules: Nil  
Previous Reports: Nil  
Voting Requirements: Simple Majority

#### Authority / Discretion

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

#### Summary of Item:

To present the listing of accounts paid from the Municipal Fund, Visitor Centre Account and Trust Fund, in accordance with the requirements of the Local Government (Financial Management) Regulations 1996, for the month of May.

#### Background:

Council has previously delegated to the CEO the exercise of its power under Financial Management Regulation 12 to make payments from Municipal Fund, Visitor Centre Account and Trust Fund. A list of all payments is provided in **Schedule 8.2.1**

**Stakeholder and Public Consultation:** Nil

#### Statutory Environment:

Local Government Act 1995 – Section 5.42

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

#### Relevant Plans and Policy:

All accounts are paid as per the Shire of Carnarvon's 2020/2021 Budget.

#### Financial Implications:

Ongoing management of Council funds by providing Council with sufficient information to monitor and review payments made.

#### Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Slow payment of creditors	Low	Can impact financial statements. Set proper close off dates
Health & Safety	NA	NA	
Reputation	NA	NA	
Service disruption	NA	NA	
Compliance	NA	NA	
Property	NA	NA	
Environment	NA	NA	
Fraud	Accounting Fraud	Moderate	Regular background check and regular updates of Sundry Creditors. Sign off by SFO of any Creditor changes (Bank Accounts)

#### OFICER'S RECOMMENDATION

That Council, by Simple Majority, pursuant to S5.42 of the Local Government Act 1995 resolves to:

- a) Receive the list of payments made under delegation, as per Schedule 8.2.1 (a) totaling \$1,237,789.22 as presented for the month of April 2021 incorporating.

Payment Reference from:	Payment Reference to:	Payment Type	Payment Amount
DD38581.1	DD38581.1	Bank Direct- Muni	\$2,870.32
DD38581.2	DD38581.2	Bank Direct -Muni	\$432.63
DD38617.1	DD38617.1	Bank Direct- Muni	\$24,492.76
DD38621.1	DD38621.1	Bank Direct- Muni	\$24,761.03
47209	47211	Muni Cheque	\$505.25
EFT32936	EFT33076	Muni EFT	\$ 524,955.56
EFT	EFT	Trust EFT	\$ 0.00
Total			\$578,017.55

- b) Note Sundry Creditors as of 31 May 2021 \$566,329.10.

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE**

Cr Nelson/Cr Skender

That Council, by Simple Majority, pursuant to S5.42 of the Local Government Act 1995 resolves to:

- a) Receive the list of payments made under delegation, as per Schedule 8.2.1 (a) totalling \$1,237,789.22 as presented for the month of April 2021 incorporating.

Payment Reference from:	Payment Reference to:	Payment Type	Payment Amount
DD38581.1	DD38581.1	Bank Direct- Muni	\$2,870.32
DD38581.2	DD38581.2	Bank Direct -Muni	\$432.63
DD38617.1	DD38617.1	Bank Direct- Muni	\$24,492.76
DD38621.1	DD38621.1	Bank Direct- Muni	\$24,761.03
47209	47211	Muni Cheque	\$505.25
EFT32936	EFT33076	Muni EFT	\$ 524,955.56
EFT	EFT	Trust EFT	\$ 0.00
Total			\$578,017.55

- b) Note Sundry Creditors as of 31 May 2021 \$566,329.10.

CARRIED  
F6/A0

## 8.2.2 FINANCIAL ACTIVITY STATEMENT 31 MAY 2021

File No:  
 Date of Meeting: 22 June 2021  
 Location/Address: Shire of Carnarvon  
 Name of Applicant: Shire of Carnarvon  
 Name of Owner: Shire of Carnarvon  
 Author/s: Susan Mizen Manager Finance  
 Declaration of Interest: Nil  
 Voting Requirements: Simple Majority  
 Schedules: Schedule 8.2.2  
 Previous Report: Nil

### Authority / Discretion

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

**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 31 May 2021. That Council also notes the variance in the opening surplus actual which has increased, over the current budget figure, by \$20,444. This is due to an amendment in the Financial Statements for 30 June 2020, for the provision for Doubtful Debts which was reduced in the final Financial Statements for 30 June 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. The Audited Financial Statements for 30 June 2020 are finalised and the closing surplus figure which becomes the opening surplus figure for 2021 is now final.

**Consultation:**

Nil

**Statutory Environment:**

*Local Government (Financial Management) Regulation 34.*

Each month a local government is to prepare a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d).

The statements should show the following:

- annual budget, and the estimated year to date budget end of that month,
- the actual amount for expenditure and income,
- any variance between the actual income and expenditure, as compared to the estimated year to date budget,
- the net current assets at the end of that month.

The statements should also be accompanied by notes that explain the statements and any supporting information. Further, comments are to be made where variances are higher than the materiality thresholds set by Council which are the higher of 10% or \$10,000.

The financial statements presented as an attachment to this item are in excess to the minimum requirements to portray a fuller financial picture of the Shire at this point in time.

**Relevant Plans and Policy:**

Corporate Business Plan 2018 - 2022

**Financial Implications:**

Nil.

# Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Stakeholders may withdraw funding if the statements are not prepared according to the regulatory framework	Low	Financial Statements are prepared on time and according to the applicable Legislation and Regulations
Health & Safety	NA	NA	
Reputation	NA	NA	
Service disruption	NA	NA	
Compliance	Local Government Act requires Council receive these statements within 2 month of the end of the applicable month	NA	Financial Statements are prepared on time and according to the applicable Legislation and Regulations
Property	NA	NA	
Environment	NA	NA	
Fraud	Accounting Fraud	Low	Adequate supervision, checking and separation of duties, Legislative and regulatory requirements are adhered to.

## Community & Strategic Objectives:

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

**Comment:**

Attached as **Schedule 8.2.2** for consideration is the completed Statement of Financial Activity for the period ended 31 May 2021.

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, by Simple Majority, and in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, resolves to receive the Statement of Financial Activity for the period 1 July 2021 to 31 May 2021 as per Schedule 8.2.2.*

**FC 8/6/21**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE**

*Cr Simpson/Cr Skender*

*That Council, by Simple Majority, and in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, resolves to receive the Statement of Financial Activity for the period 1 July 2021 to 31 May 2021 as per Schedule 8.2.2.*

**CARRIED**  
**F6/A0**

**8.2.3. GROUND LEASE – DFES TELECOMMUNICATION TOWER LOT 374 NORTHWEST COASTAL HIGHWAY - A PORTION OF RESERVE 38888**

1.23pm – Cr Skender declared an Impartiality Interest in this item as his partner is the author of the report. Cr Skender was not required to leave the meeting and could participate and vote on the matter.

Date of Meeting:	22 June 2021
Location/Address:	Lot 374 North West Coastal Highway reserve 38888
Name of Applicant:	ACORRP Property Consultancy – on behalf of Department of Fire Emergency Services
Name of Owner:	Shire of Carnarvon
Author/s:	Carolien Claassens – Operations Manager Corporate & Community
Declaration of Interest:	N/A
Voting Requirements:	Simple Majority – Part 1 Absolute Majority – Part 2

**Authority / Discretion**

	<b>Advocacy</b>	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
	<b>Executive</b>	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	<b>Legislative</b>	Includes adopting local laws, town planning schemes and policies.
<b>X</b>	<b>Quasi-Judicial</b>	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.

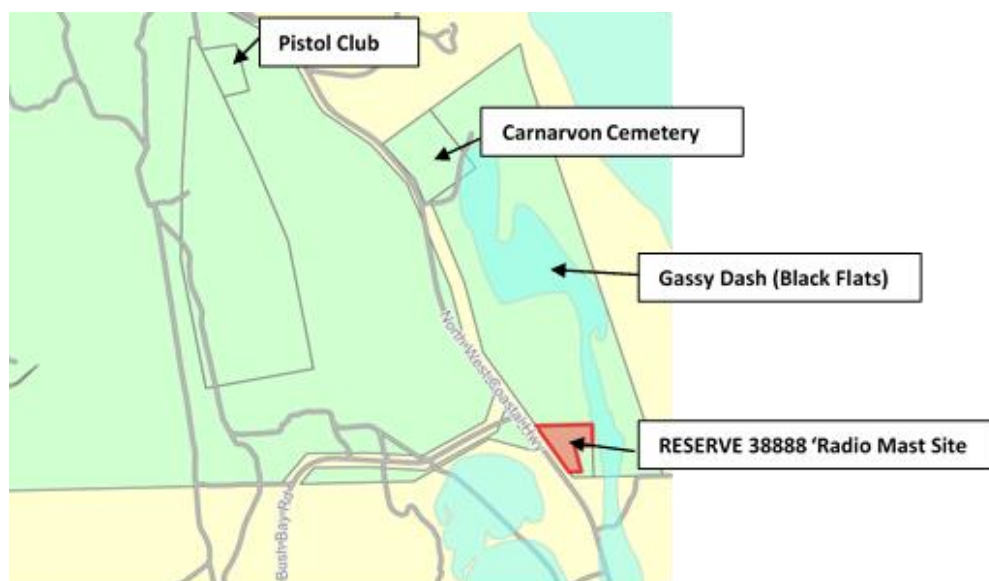
	<b>Information</b>	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).
--	--------------------	---

### Summary of Item:

This report details a request from ACROPP Property Consultancy – on behalf of Department of Fire Emergency Services (DFES) seeking Council’s approval to lease a portion of lot 374 on Northwest Coastal highway – Reserve 38888 comprising 2,020.64M<sup>2</sup> for the purpose of an existing telecommunication tower.

### Background:

Reserve 38888 has been vested to the Shire of Carnarvon for the purpose of ‘Radio Mast Site’ since October 1984. The Reserve on Northwest Coastal highway is located approximately 10km south from Carnarvon Town site. Map 1 (next page) includes more detail of the location of the reserve.



**Map 1 – location of Reserve 38888**

DFES has established a telecommunication tower on this site and is currently undertaking an internal review of all their telecommunications sites across WA. DFES has indicated that no formal ground lease is in place for the Carnarvon tower. In order to legalise DFES’ use of the land, controlled by the Shire, a request has been made to establish a ground lease over a portion of the reserve.

The total area of the reserve is over 7 hectares, DFES requested a ground lease of 2,020.64M<sup>2</sup> in the middle of the reserve. Refer to picture 1:



Picture 1 – required lease site

**The applicant has proposed the following lease terms:**

- Permitted use: Fire emergency services and all subsidiary uses
- An initial term of 5 years and further term of 5 years
- *Rent – Peppercorn (\$1)*
- *Outgoings: if any, proportionate to the area DFES lease in relation to the reserve*
- Area: a portion of reserve 3888 – Lot 374 being a total of 2,020.64M<sup>2</sup>. *Noting DFES will have the right to use roads and pathways to gain access to the telecommunication tower.*
- Special Conditions:
  - Break clause: DFES has the right to terminate the lease at any time by providing one month's written notice.
  - Make good: DFES to remove all their equipment and repair any damage caused from such removal.
  - *Legal fees: each party to pay for their own costs, noting DFES can prepare the lease.*
  - Insurance: The Shire to acknowledge DFES are covered by Risk cover due to being a government agency and are not required to carry specific insurances for this lease premises.

In review of the proposed lease terms the Shire believes most terms are reasonable. There are a few lease terms that require further negotiation.

*Peppercorn Rent*

The Shire has been in contact with the applicant to discuss the proposal of a peppercorn lease. Council's policy position as per *Policy C016 – Lease and Licensing Classification* makes allowance for peppercorn or heavily discounted leases in specific cases, e.g. small communities group with (very) limited revenue raising ability. DFES is not considered a small community group and for this reason the officer's recommendation to Council is that a commercial lease fee is appropriate.

A commercial lease will require a market valuation to establish the annual lease fee. In negotiations with the Applicant the Shire has not requested a market valuation yet. Depending on the decision of Council to potentially accept a peppercorn lease, a market valuation would not be required. It should be noted the lessee is responsible for the cost of a market valuation.

Council should be aware *S. 30 Dispositions of Property excluded from the act* of the Local Government (Function and General) Regulations which considers 'a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth' to be a disposition of property excluded from the Act - S. 3.58 'Disposing of Property' which excludes the need for public notice of the proposed disposition and ascertaining a market value (S. 3.58 (3) & (4).



#### *Legal fees & outgoings*

The applicant proposes each party to pay for their own Legal Fees and notes DFES can prepare the lease. In respect to any outgoings the applicant proposed a 'proportionate to the area DFES lease in relation to the reserve'

In accordance with Policy C016 – tier two and three the lessee pays for lease preparation. It is the officer's recommendation that Council does not accept the proposal from DFES that DFES prepares the lease; instead to ensure the preparation of the lease to be managed by the Shire with the applicant to reimburse the full cost of incurred legal fees.

The outgoings require further specification to ensure both parties are aware of its responsibilities. The Shire believes the applicant should be responsible for any outgoings including all maintenance in relation to leased site.

#### *Right to use roads and pathways to gain access*

Picture 1 indicates the existence of one access track within the reserve, likely to be established by the Lessee to ensure excess to the radio tower. This track is not a public road. The Shire has no plans to utilise, maintain or upgrade this track. The applicant will be responsible to ensure access to the leased site. The Shire will negotiate the responsibilities about the access in the lease preparations.

#### **Stakeholder and Public Consultation:**

The Shire has been in consultation with Isaac Begley a property consultant from ACORRP Property Consultancy. ACORRP Property acts on behalf of Department of Fire Emergency Services

#### **Statutory Environment.**

- S. 3.58 Disposing of Property - of the Local Government Act 1995
- S. 5.42 Delegation of some powers and duties to CEO – of the Local Government Act
- S. 30 Dispositions of property excluded from Act S. 3.58 - of the Local Government (Functions and General) Regulation 1996.

#### **Relevant Plans and Policy:**

- Policy C016 Lease and Licensing Classification; Tier Three - Commercial lease.
- Delegation No: 1034 Executing and Affixing of Common Seal to Documents.

#### **Financial Implications:**

Granting a commercial lease will result in the Lessee being responsible for all cost in relation to development of the lease (including the market valuation). An annual lease fee will be paid to Shire based upon market value. A market valuation will be instigated, pending the resolution of Council.

Should Council resolve to accept a peppercorn lease, it is recommended that all costs in relation to the development of the lease to be the responsibility of the lessee. A current market valuation would enable the Shire to establish the amount of 'loss of income' by granting a peppercorn lease.

## Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Loss of potential income.	Low	Not accepting a peppercorn lease.
Health & Safety	N/A		
Reputation	Treating this applicant differently to other applicants – i.e. inequitable application of Council policy.	Low	Not accepting a peppercorn lease; instead the lease fee should be based on market value. The Council resolved not to grant a peppercorn leases for other Government agencies in the past. For example Geoscience Australia in August 2020.
Service disruption	N/A		
Compliance	1. Granting a peppercorn lease to DFES does not comply with Policy C016. 2. Not granting a lease	Moderate	1. Not accepting a peppercorn lease. Compliance ensures transparency and consistency within the Shire's lease portfolio. 2. Granting 'disposal of property' by way of lease DFES has been occupying Reserve 38888 for a long time without having a formal tenure agreement in place. Which has resulted in certain risk for DFES but also the Shire. Understanding responsibility for this particular site is important to ensure this important asset to be protected and well maintained.
Property	N/A		
Environment	N/A		
Fraud	N/A		

## Community & Strategic Objectives:

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

### Objective 3: Social

#### 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

**Comment:**

The vesting order of reserve 38888 – includes the power to lease of 21 years upon approval of the Minister for Lands. Before execution of the lease by both parties a request of approval by the Minister will be made by the Shire.

As the application is a government agency, it is not required to provide public notice (S. 30 Local Government (F&G) regulations 1996). If the use of site was new it may have been appropriate to provide public notice. However, given the continued use of this site for the same purpose the officer recommendation, in accordance with legislation, includes the public notice not to be required.

OFFICER'S RECOMMENDATION PART 1

*That Council, by Simple Majority, pursuant to Section 30 of the Local Government (Functions and General) Regulations 1996, resolves to approve a ground lease between Department of Fire and Emergency Services and the Shire of Carnarvon for an area of land comprising 2,020.64m<sup>2</sup> on Lot 374 on North West Coastal Highway - Reserve 38888 with the lease to include:*

- (a) Permitted Purpose: Radio Mast Site.*
- (b) An initial term of five (5) years plus an option of a 5-year extension at the CEO's discretion*
- (c) Commercial lease with Lease payments based upon market value.*
- (d) Outgoing: The lessee to be responsible for all the cost of the lease preparations, including a market valuation and any outgoings and all maintenance of the leased site.*
- (e) Break Clause: The lessee has the right to terminate the lease at any time by providing one month's written notice.*
- (f) Make Good: The lessee is to remove all equipment at the termination of the lease and repair any damage cause from such removal.*
- (g) Insurance: Acknowledgement by the Lessor that the Lessee is not required to maintain insurances specific for the leased premises with the understanding the Lessee maintains Risk cover for all its leased sites.*

OFFICER'S RECOMMENDATION PART 2

*That Council, by Absolute Majority, pursuant to section 5.42 of the Local Government Act 1995, resolves to delegate authority to the CEO to make any necessary non-material amendments and finalise execution of a lease agreement between Department of Fire and Emergency Services and the Shire of Carnarvon.*

**FC 9/6/21**

COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE

**Cr Pinner/Cr Nelson**

*That Council, by Simple Majority, pursuant to Section 30 of the Local Government (Functions and General) Regulations 1996, resolves to approve a ground lease between Department of Fire and Emergency Services and the Shire of Carnarvon for an area of land comprising 2,020.64m<sup>2</sup> on Lot 374 on North West Coastal Highway - Reserve 38888 with the lease to include:*

- (a) Permitted Purpose: Radio Mast Site.*
- (b) An initial term of five (5) years plus an option of a 5-year extension at the CEO's discretion*
- (c) Commercial lease with Lease payments based upon market value.*
- (d) Outgoing: The lessee to be responsible for all the cost of the lease preparations, including a market valuation and any outgoings and all maintenance of the leased site.*
- (e) Break Clause: The lessee has the right to terminate the lease at any time by providing one month's written notice.*
- (f) Make Good: The lessee is to remove all equipment at the termination of the lease and repair any damage cause from such removal.*
- (g) Insurance: Acknowledgement by the Lessor that the Lessee is not required to maintain insurances specific for the leased premises with the understanding the Lessee maintains Risk cover for all its leased sites.*

**CARRIED**  
**F6/AO**

*That Council, by Absolute Majority, pursuant to section 5.42 of the Local Government Act 1995, resolves to delegate authority to the CEO to make any necessary non-material amendments and finalise execution of a lease agreement between Department of Fire and Emergency Services and the Shire of Carnarvon.*

CARRIED BY ABSOLUTE MAJORITY

F6/A0

## 8.2.4 PROPOSED BUDGET AMENDMENT

File: ADM0027  
 Date of Meeting: 22 June 2021  
 Location/Address: N/A  
 Name of Applicant: N/A  
 Name of Owner: N/A  
 Author/s: Susan Mizen – Manager Finance  
 Declaration of Interest: N/A  
 Voting Requirements: Absolute Majority

### Authority / Discretion

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

### Summary of Item:

Employee costs account 0252 will be approximately \$230k over budget and a budget amendment is sought to bring the budget in line with the actual expenditure. The additional costs are the result of changes to the staffing structure, with the associated payments and expenses.

### Background:

The budget is prepared using anticipated costs of staffing and include salaries and wages, leave entitlements, superannuation, workers compensation insurance, recruitment expenses and any other foreseeable costs.

Staff resignations and contract terminations are exceeded those expected when developing the budget. The impact of contract payouts, payment of outstanding entitlements including long service leave, hiring temporary staff, recruiting new permanent staff have impacted on the budget.

During the year terminated contract payouts with their leave and other entitlements have cost in the order of \$225,000.

A budget amendment for \$230,000 is sought to bring the budget of Account 0252 Employee Costs in line with the actual expenditure. If approved, the unused portion of budgets from other areas listed on the in the upcoming table will be transferred to the Employee Costs budget.

#### Consultation:

The CEO and the Executive Manager of Infrastructure Services.

#### Statutory Environment:

Section 34 of the Local Government (Financial Management) Regulations 1996 requires Council approval for budget amendments. This agenda report ensures compliance.

Section 6.8 (1) (b) of the Local Government Act 1995

#### Relevant Plans and Policy:

Nil

#### Financial Implications:

There are no additional financial implications from this budget amendment as the additional budget sought comes from accounts where there is a positive variance between the budgeted figures and the actual figures. The budget for budget for the Runway Lighting Upgrade is being brought forward the 2021/2022 budget. Budget amendments sought to be approved are tabled below:

Account #	Account Name	Current Budget	Year to date actual	budget amendment sought	
				Dr	Cr
0132	CIVIC RECEPTIONS	\$8,000.00	\$0.00	\$8,000.00	
0212	COUNCILLORS TRAINING	\$41,500.00	\$28,694.84	\$10,000.00	
0232	TRAINEESHIP PROGRAM	\$18,337.00	\$615.00	\$18,000.00	
0382	POSTAGE AND FREIGHT	\$18,150.00	\$13,697.50	\$2,000.00	
0532	COMPUTER OPERATIONS	\$279,902.00	\$232,335.38	\$25,000.00	
06D2	CONSULTANCIES	\$199,772.00	\$138,886.96	\$10,000.00	
1192	STAFF TRNG.	\$36,663.00	\$19,047.86	\$15,000.00	
5422	INSURANCE (INCIDENT) CLAIM EXPENSES	\$0.00	\$0.00	\$15,000.00	
6242	COMMUNITY NEWSLETTER	\$24,706.00	\$0.00	\$27,000.00	
7322	PUBLIC HEALTH PLAN	\$20,000.00	\$0.00	\$20,000.00	
A001	Runway Lighting - Capital Upgrades (Renewal)	\$55,000.00	\$9,290.00	\$45,000.00	
0415	Main Airport Terminal	\$32,087.00	\$0.00	\$30,000.00	
1501	Depot Improvements	\$20,449.00	\$0.00	\$5,000.00	
0252	Employee Costs	\$1,664,351.00	\$1,767,625.00		\$230,000.00

Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	N/A	N/A	N/A
Service disruption	N/A	N/A	N/A
Compliance	Permission from Council should be sought when a specific budget will be exceeded by a substantial amount	High	A budget amendment is sought for approval by Council. Budgets are closely monitored throughout the year
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	N/A

Community & Strategic Objectives:

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

**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

**Comment:**

This budget amendment is sought to bring the budget in line with the anticipated year end actual amounts which have exceeded budget estimates due to staff leaving the employ of the Shire.

OFFICER'S RECOMMENDATION

*That Council, by Absolute Majority, pursuant to S34 Local Government (Financial Management) Regulations 1996, resolves to adopt the amendments to the 2020/2021 budget as presented in the table below:*

Account #	Account Name	Current Budget	Year to date actual	Budget amendment sought	
				Dr	Cr
0132	CIVIC RECEPTIONS	\$8,000.00	\$0.00	\$8,000.00	
0212	COUNCILLORS TRAINING	\$41,500.00	\$28,694.84	\$10,000.00	
0232	TRAINEESHIP PROGRAM	\$18,337.00	\$615.00	\$18,000.00	
0382	POSTAGE AND FREIGHT	\$18,150.00	\$13,697.50	\$2,000.00	
0532	COMPUTER OPERATIONS	\$279,902.00	\$232,335.38	\$25,000.00	
06D2	CONSULTANCIES	\$199,772.00	\$138,886.96	\$10,000.00	
1192	STAFF TRNG.	\$36,663.00	\$19,047.86	\$15,000.00	
5422	INSURANCE (INCIDENT) CLAIM EXPENSES	\$0.00	\$0.00	\$15,000.00	
6242	COMMUNITY NEWSLETTER	\$24,706.00	\$0.00	\$27,000.00	
7322	PUBLIC HEALTH PLAN	\$20,000.00	\$0.00	\$20,000.00	
A001	Runway Lighting - Capital Upgrades (Renewal)	\$55,000.00	\$9,290.00	\$45,000.00	
0415	Main Airport Terminal	\$32,087.00	\$0.00	\$30,000.00	
1501	Depot Improvements	\$20,449.00	\$0.00	\$5,000.00	
0252	Employee Costs	\$1,664,351.00	\$1,767,625.00		\$230,000.00

FC 11/6/21

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE**

*Cr Skender/Cr Nelson*

*That Council, by Absolute Majority, pursuant to S34 Local Government (Financial Management) Regulations 1996, resolves to adopt the amendments to the 2020/2021 budget as presented in the table below:*

Account #	Account Name	Current Budget	Year to date actual	Budget amendment sought	
				Dr	Cr
0132	CIVIC RECEPTIONS	\$8,000.00	\$0.00	\$8,000.00	
0212	COUNCILLORS TRAINING	\$41,500.00	\$28,694.84	\$10,000.00	
0232	TRAINEESHIP PROGRAM	\$18,337.00	\$615.00	\$18,000.00	
0382	POSTAGE AND FREIGHT	\$18,150.00	\$13,697.50	\$2,000.00	
0532	COMPUTER OPERATIONS	\$279,902.00	\$232,335.38	\$25,000.00	
06D2	CONSULTANCIES	\$199,772.00	\$138,886.96	\$10,000.00	
1192	STAFF TRNG.	\$36,663.00	\$19,047.86	\$15,000.00	
5422	INSURANCE (INCIDENT) CLAIM EXPENSES	\$0.00	\$0.00	\$15,000.00	
6242	COMMUNITY NEWSLETTER	\$24,706.00	\$0.00	\$27,000.00	
7322	PUBLIC HEALTH PLAN	\$20,000.00	\$0.00	\$20,000.00	
A001	Runway Lighting - Capital Upgrades (Renewal)	\$55,000.00	\$9,290.00	\$45,000.00	
0415	Main Airport Terminal	\$32,087.00	\$0.00	\$30,000.00	
1501	Depot Improvements	\$20,449.00	\$0.00	\$5,000.00	
0252	Employee Costs	\$1,664,351.00	\$1,767,625.00		\$230,000.00

**CARRIED BY ABSOLUTE MAJORITY**

**F6/A0**

**8.2.5****360 HEALTH COMMUNITY LIMITED – RENEWAL OF LEASE 9-11 RUSHTON STREET, CARNARVON**

1.26pm – Cr Skender declared an Impartiality Interest in this item as his partner is the author of the report. Cr Skender was not required to leave the meeting and could participate and vote on the matter.

**Date of Meeting:** 22 June 2021  
**Location/Address:** Health Centre 9-11 Rushton Street Lot 1173 and a portion of Lot 1022  
**Name of Applicant:** 360 Health Community Limited  
**Name of Owner:** Shire of Carnarvon  
**Author/s:** Carolien Claassens – Operations Manager Corporate & Community  
**Declaration of Interest:** Nil  
**Voting Requirements:** Absolute Majority – Part 2  
Simple Majority – Part 1  
**Previous reports:** April 2016

**Authority / Discretion**

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

**Summary of Item:**

This report details a request from 360 Health Community Limited (Applicant) seeking Council's approval to renew to the lease for the Health Centre located at 9-11 Rushton Street Lot 1173 and a Portion of Lot 1022.

**Background:**

In April 2016 Council granted a commercial lease to the Applicant for an initial term of 2 years including 3 further terms of 1 year. The final further term is due to expire on 31 July 2021. The Shire has received a request from the tenant to renew the lease for a term of 1 year and an option to extend for 1 year. Due to budget restraints the applicant is not able to negotiate a lease for a longer term.

The current lease has generated an annual income of \$8,000 (+ CPI upon anniversary) ex GST. A new market valuation has resulted in an annual lease fee of \$9,620 ex GST. A copy of the market valuation can be provided upon request.

In reference to the land, Lots 1022 and 1733 are held by the Shire pursuant to a Crown Grant in Trust. Therefore a 'conditional tenure of land' exists which stipulates that the land is to be 'used and held solely in trust for Municipal Purposes'. As a result of the Crown grant in Trust is a consent from the Minister of Lands is required for any leases on this land. It is not expected that the consent would not be provided, with the applicant meeting the conditional tenure requirements.



The Applicant is a not-for-profit registered charity, committed to enhance the lives of people across WA through better health, community engagement and social care. The Applicant provides health and wellbeing services to all members of the Carnarvon community. The health centre in Carnarvon is utilised by an accredited Mental Health Social worker. In order to run the programs the Applicant is depending on Government funding (State & Federal).

#### Stakeholder and Public Consultation:

John Harvey, Principal Consultant Asset Valuations

Sandy Thomas – Facilities Manager 360 Health Community Limited

#### Statutory Environment:

- S. 3.58 Disposing of Property - of the Local Government Act 1995
- S. 5.42 Delegation of some powers and duties to CEO – of the Local Government Act

#### Relevant Plans and Policy:

- Policy C016 Lease and Licensing Classification; Tier Three - Commercial lease.
- Delegation No: 1034 Executing and Affixing of Common Seal to Documents.

#### Financial Implications:

Executing a new commercial lease will generate an annual income of \$9,620 ex GST. Beside the cost of staff involved in the development and management of the lease there are no further significant cost associated with the lease. In accordance with Council Policy C016 the lessee is responsible for the cost of the preparations of the lease, including the market valuation, most maintenance, and utilities.

Currently the Shire is responsible for repair and maintenance of air conditioning units, larger structural repairs/ maintenance, and the gardens. To date the Shire has received one request for a cleanup of the garden and pruning of large trees.

The applicant has requested that Council be reminded of the fact that the applicant is a Not-For-Profit registered charity and to take this into considering when determining this application.

#### Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Loss of income, by not granting a commercial lease	Low	Granting a commercial lease.
Health & Safety	N/A		
Reputation	N/A		
Service disruption	N/A		
Compliance	N/A		
Property	Asset decline	Moderate	Granting a lease

			Not granting a lease will result in another empty building not being used for its purpose. The conditional tenure of land' has restricted the use of this building which might complicate finding a new party to utilise the building.
Environment	N/A		
Fraud	N/A		

#### 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

2.6.5 Buildings and facilities are appropriately managed according to their need and use

#### Comment:

N/A

#### OFFICER'S RECOMMENDATION PART 1

*That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, resolves to give local public notice of the proposed disposition by lease of the Health Centre located at 9-11 Rushton Street Lot 1173 and a portion of Lot 1022 with the lease to include:*

- a) Permitted use: Municipal Purposes*
- b) Commercial lease with lease payment based upon market value of \$9,620 ex GST*
- c) An initial term of 1 year and 1 further term of 1 year.*
- d) Any cost in relation to provision of the lease, e.g. legal fees, cost of advertising and market valuation to be paid by the Lessee.*
- e) Outgoings: The Lessee to be responsible for all outgoings of the leased site.*

#### OFFICER'S RECOMMENDATION PART 2

*That Council, by Absolute Majority, pursuant to section 5.42 of the Local Government Act 1995, subject to nil submissions opposing the lease being received, resolves to delegate authority to the CEO to make any necessary non-material amendments and finalise execution of a lease agreement between 360 Health Community Limited and the Shire of Carnarvon.*

**FC 12/6/21**

#### COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE

*Cr Nelson/Cr Skender*

*That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, resolves to give local public notice of the proposed disposition by lease of the Health Centre located at 9-11 Rushton Street Lot 1173 and a portion of Lot 1022 with the lease to include:*

- a) Permitted use: Municipal Purposes*
- b) Commercial lease with lease payment based upon market value of \$9,620 ex GST*
- c) An initial term of 1 year and 1 further term of 1 year.*
- d) Any cost in relation to provision of the lease, e.g. legal fees, cost of advertising and market valuation to be paid by the Lessee.*
- e) Outgoings: The Lessee to be responsible for all outgoings of the leased site.*

**CARRIED**  
**F6/AO**

*That Council, by Absolute Majority, pursuant to section 5.42 of the Local Government Act 1995, subject to nil submissions opposing the lease being received, resolves to delegate authority to the CEO to make any necessary non-material amendments and finalise execution of a lease agreement between 360 Health Community Limited and the Shire of Carnarvon.*

CARRIED BY ABSOLUTE MAJORITY

F6/A0

## 8.2.6 CARNARVON COMMUNITY PATROL – ADDITIONAL FUNDING FROM THE DEPARTMENT OF COMMUNITIES

1.27pm – Cr Skender declared an Impartiality Interest in this item as his partner is the author of the report. Cr Skender was not required to leave the meeting and could participate and vote on the matter.

Date of Meeting: 22 June 2021  
 Location/Address: N/A  
 Name of Applicant: N/A  
 Name of Owner: N/A  
 Author/s: Carolien Claassens – Operations Manager Corporate & Community  
 Declaration of Interest: N/A  
 Voting Requirements: Simple Majority – Part 1  
 Absolute Majority - Part 2  
 Absolute Majority - Part 3

### Authority / Discretion

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

### Summary of Item:

The Shire has been offered a grant of \$100,000 from Department of Communities to further support the Carnarvon Community Patrol Project (CCP) for the period 1 May until 31 December 2021. Council's approval will be required to accept the funding and the necessary budget variation.

### Background:

The CCP provides a non-coercive community intervention services to prevent and control anti-social and destructive behaviors. The CCP aims to maintain community peace, security, and safety within Carnarvon. It promotes culturally appropriate processes and works together with CTAG and WA Police. The project only extends to reach out to young people and vulnerable communities. At the moment the Shire is responsible for

the overall operation of the CCP which includes the use of a 12-seater bus, recruitment services and administrative support. CTAC and WA Police assist the Shire in its operations during the patrols.

The Shire commenced the CCP as a pilot program in early 2021. It is intended to increase CTAG involvement and eventually take over once the project has been fully developed. Future funding will need to be sourced to ensure the project is able to be sustained. At present the project has been funded with existing Carnarvon Youth Services funding (Department of Communities) and contributions from Council.

The additional funding (\$100,000) has been made available for the period 1 May until 31 December 2021. Accepting the additional funding will require the CCP to conduct four 'shifts' per week, instead of the current two shifts with opportunity for additional shifts during funerals, cultural and community events. The Shire is currently reviewing the funding agreement and anticipates the agreement to be signed depending on Council's approval.

**Stakeholder and Public Consultation:**

Bradley Mitchell – Manager Aboriginal Engagement & Regional Coordination - Department of Communities

**Statutory Environment:**

Section 34 of the Local Government (Financial Management) Regulations 1996

Section 6.8 (1) (b) of the Local Government Act 1995

**Relevant Plans and Policy:**

Policy C030 – External Grants – Procurement and Management

**Financial Implications:**

In recent years, the Council has made significant contributions to the Shire's Youth Department due to limited operational funding from external parties. At present 50% of the cost of the entire Youth Department has been funded by way of Council contributions (Year to date expenditure: \$396,177,54 and Year to date income: \$191,021.60).

The additional funding for the CCP will be utilised for two shifts (of a total four) per week. A shift consists of 2 casual staff for an average of 5 hours. The funding has room for additional shifts during funerals and other culture events. The funding will include the use of one community (12-seater) bus and a mobile phone. Administrative support in the form of recruitment, payroll and compliance are being included in the grant. Based on the requirements of the funding, it is estimated that in the period of May until December 2021 the contribution of Council would be around \$14,000 in addition to the anticipated \$270,000 in the draft budget for 2021/2022, however the portion of costs for this financial year (2 months) can be managed from current resources. Costs for next financial year will be included in the draft budget for consideration by Council during the 2021/2022 budget process.

Being able to secure additional funding will supplement Council's contribution for the CCP until at least 31 Dec 2021. The Shire is currently negotiating further funding, but no formal commitments have yet been made to this effect. Continuation of the funding will be dependent on the success of this pilot project.

With the funding agreement commencement on 1 May 2021 – a budget variation will be required, refer to the table below. The proposed budget variation will increase the Youth budget income, which will offset against the year-to-date expenditure of Youth.

Program & Sub-Program	GL Account Code	Description	Classification	Original Budget	Increase in Available budget	New Budget
06 - Education and Welfare & 19- Youth Development	1353	Grants – Service Agreement	Operating income	-\$167,000	-\$100,000	-\$267,000

Strategy						
----------	--	--	--	--	--	--

**Table 1 – Requested budget variation**

Should the Grant monies be received prior to 30<sup>th</sup> June 2021 the unspent funds will be carried forward into the 2021/22 budget with the intent to be fully spent by 31 December 2021. These unspent funds would be recognised as a contract liability at the end of the current financial year.

**Risk Assessment:**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Loss of funding and unnecessary strain to the Shire's finances.	High	Accept the additional funding.
Health & Safety	N/A		
Reputation	1. State Government -Not accepting funding from State Government might jeopardise future funding 2. Community – The CCP has been introduced as a way to prevent crime and support young and vulnerable people. The Shire has strong support from the community to provide the CCP. Jeopardising the existence of the service will have impact on the Shire's reputation.	High	Accept the additional funding.
Service disruption	Shutting down of the CCP	High	Accept the additional funding.
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

**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*

#### 3.4 Healthy and safe community

3.4.2 Collaborate with other agencies to provide a safe community

#### 3.5 Engaged young people

3.5.1 Provide a youth centre and activities to engage young people, particularly at risk young people

3.5.3 Advocate for young people and collaborate with other agencies to engage young people

#### Comment:

N/A

#### OFFICER'S RECOMMENDATION PART 1

*That Council, by Simple Majority pursuant to Policy C030 – External Grants – Procurement and Management resolves to approve the acceptance of funding from Department of Communities for \$100,000 as co-contribution to the Carnarvon Community Patrol Project.*

#### OFFICER'S RECOMMENDATION PART 2

*That Council, by Absolute Majority, pursuant to section 5.42 of the Local Government Act 1995 resolves to delegate authority to the CEO to make any necessary non-material amendments and finalise the execution of funding agreement between the Department of Communities and the Shire of Carnarvon.*

#### OFFICER'S RECOMMENDATION PART 3

*That Council, by Absolute Majority, pursuant to section 6.8(1)(b) of the Local Government Act 1995 and Regulation 33A (3) of the Local Government (Financial Management) Regulations 1996, resolves to adopt the budget variations as in table 1 in agenda item 8.2.7.*

**FC 14/6/21**

#### COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE

*Cr Maslen/Cr Pinner*

*That Council, by Simple Majority pursuant to Policy C030 – External Grants – Procurement and Management resolves to approve the acceptance of funding from Department of Communities for \$100,000 as co-contribution to the Carnarvon Community Patrol Project.*

CARRIED

F6/A0

**FC 15/6/21**

#### COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART TWO

*Cr Maslen/Cr Pinner*

*That Council, by Absolute Majority, pursuant to section 5.42 of the Local Government Act 1995 resolves to delegate authority to the CEO to make any necessary non-material amendments and finalise the execution of funding agreement between the Department of Communities and the Shire of Carnarvon.*

CARRIED BY ABSOLUTE MAJORITY

F6/A0

*That Council, by Absolute Majority, pursuant to section 6.8(1)(b) of the Local Government Act 1995 and Regulation 33A (3) of the Local Government (Financial Management) Regulations 1996, resolves to adopt the budget variations as in table 1 in agenda item 8.2.4.*

**CARRIED BY ABSOLUTE MAJORITY**

**F6/A0**

### **8.3 DEVELOPMENT SERVICES**

#### **8.3.1 MOBILE TRADING LICENCE APPLICATION – LOT 800 (NO. 79) BANKSIA DRIVE, CORAL BAY**

File No: ADM2051  
 Date of Meeting: 22 June 2021  
 Location/Address: Lot 800 (No. 79) Banksia Drive, Coral Bay  
 Name of Applicant: Lisa Michelle Eveson / Mandu Holdings Pty Ltd  
 Name of Owner: Baiyungu Aboriginal Corporation (BAC)  
 Author/s: Stefan Louw, Operations Manager Development Services  
 Declaration of Interest: Nil  
 Schedules: 8.3.1 - Coral Bay Mobile Trading Policy (Policy D003)  
 Previous Reports: 25 February 2020; 28 July 2020; 25 August 2020; 23 March 2021  
 Voting Requirements: Absolute Majority

#### **Authority / Discretion:**

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

#### **Summary of Item:**

This item relates to an application for a mobile trading licence to trade as an Australia Post and Lotterywest agent and to provide news and gifts products and merchandise sales and services at Lot 800 (No. 79) Banksia Drive, Coral Bay. The applicant currently operates from this site as a mobile trader providing Australia Post and Lotterywest products and services. This licence is due to expire on 26 June 2021.



The licence application is consistent with the site requirements set out in the “Coral Bay Mobile Trading Policy” (Policy D003) see Schedule 8.3.1. The policy is somewhat misleading in that the word “mobile” is defined in the policy as “working in one place for a short period of time” and does not refer to the mobility of an object. The licence application, therefore, complies with the Policy and this report recommends that the licence application be approved.

### Background:

The applicant is seeking approval to use the expandable trailer van used for the Australia Post/Lotterywest licence at the northern end of Banksia Drive on Lot 800, see Figure 1. The hours of operation sought are from 1:00pm until 5:00pm Monday to Friday. Mobile trading licences can be issued for a maximum period of 12 months.

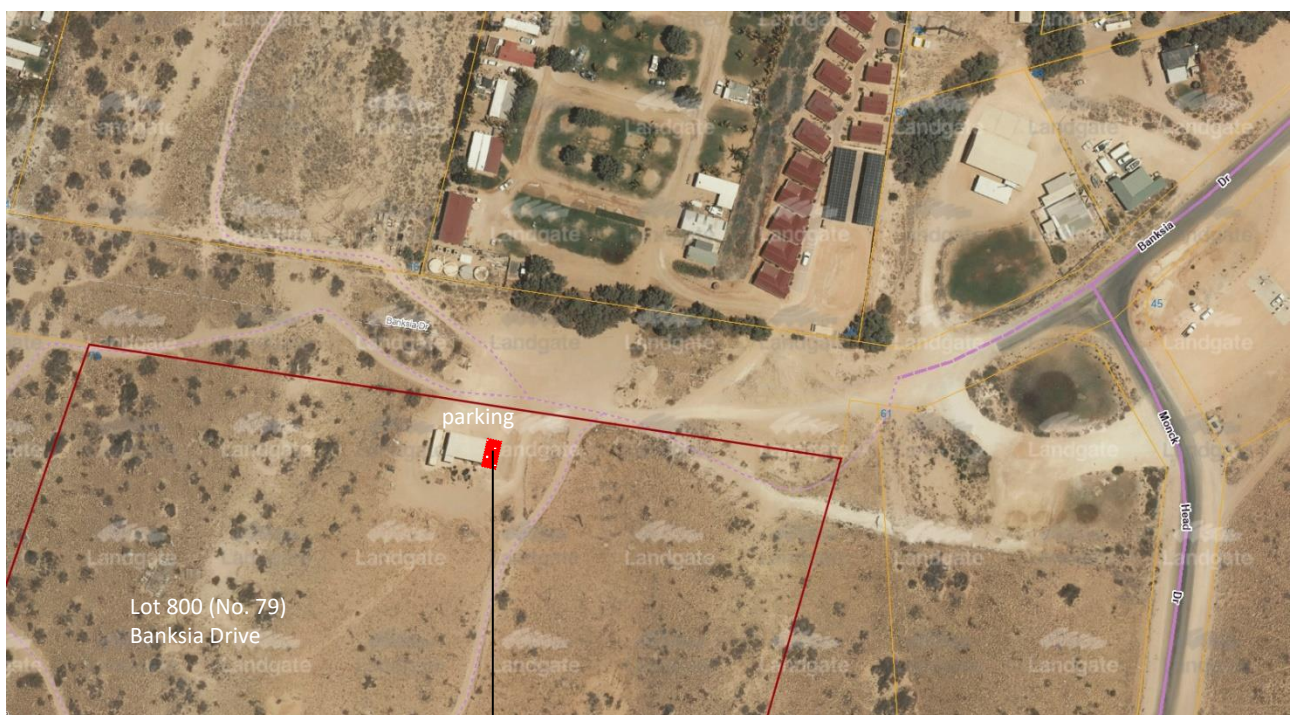


Figure 1. Proposed Mobile Trading Site

The applicant has indicated the following range of goods and merchandise that are intended to be available:

- *Australia Post products – stamps, envelopes & packaging for National and International purposes*
- *Lotterywest products – Lottery tickets and scratchies*
- *Merchandise products – newspapers, phones, phone recharge, clothing, books and stationery*

The Shire of Carnarvon Local Law ‘Hawkers, Traders and Stall Holders’ relates to the temporary occupation of land either on a long term or periodic basis for the purpose of either selling or displaying goods or providing services to customers.

The site proposed by the applicant is owned by the Baiyungu Aboriginal Corporation. The applicant has stated that permission has been granted for the van to operate from the site and remain on the site when the van is not in use for mobile trading. It is intended that the mobile trading van would be located next to the building occupied by Parks and Wildlife.



The location of the mobile trader at Lot 800 Banksia Drive satisfies the site requirements of the Shire's Coral Bay Mobile Trading Policy D003. The Policy's site requirements state that a place will only be approved if it:

1. *Is located within a place identified in the Schedule of Declared Trading Locations. (private land).*
2. *Is readily and safely accessible to customers;*
3. *Provides adequate parking for customers;*
4. *Does not present a traffic hazard or danger to the public;*
5. *Has adequate rubbish disposal facilities;*
6. *Does not breach any regulatory or signposted car parking restrictions;*
7. *Takes place where the goods displayed and the gathering of customers will not impede pedestrians or vehicle movements or cause conflict with other activities; and*
8. *Will not interfere with access to other facilities and/or businesses (including occupying car parking areas to the detriment of the public).*

#### Vehicle Access and Parking

Vehicle access is proposed from the unsealed western end of Banksia Drive. With regard to the adequacy of the proposed access the Executive Manager Infrastructure Services has advised that:

- the speed environment is low;
- a traffic volume increase from the existing condition is likely to result from the mobile trading service however overall traffic volumes are anticipated to remain low;
- the road does not have through traffic and is a dead end; and
- a small crest on the road does limit sight distances in both directions of travel however an existing widening at the crest allows for two vehicles to pass safely.

'CREST' warning signage have been put in place since the last approval, as it was a condition of the licence.

Parking is proposed within Lot 800 between the trading van and the road boundary.

#### Signage

Currently there is an Australia Post sign at the entrance to Coral Bay at the junction of Robinson Street and Banksia Drive which, if the application is supported, would be redirected towards the new site. It is also noted that the existing Australia Post mobile trading site is located on Google maps.

The applicant has indicated a desire for signage at the junction of Robinson Street and Banksia Drive, an additional signage crossbar to the Parks and Wildlife 'no thru road' sign on Banksia Drive and a banner sign at Lot 800.

If the application was to be supported, it is proposed that the Shire not provide any additional signage however the applicant may negotiate with Parks and Wildlife to modify their sign. A banner sign at the van indicating that the business is open would be acceptable.

#### **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, assessment considerations, grounds for refusing, license renewals, licence conditions, and the grounds for revoking licences; as well as fee and licence transfer management.

Cl. 29.4 of the Local Law states that in considering an application for a licence or renewal of a licence the Council shall have regard to any relevant policy statement, the desirability and location of the proposed activity and the circumstances in the case. These matters have been addressed in this report.

Cl. 29.5 of the Local Law states that the Council may grant the licence or renewal, or refuse to grant the licence or renewal and it may so refuse on any of the following grounds:

- *The applicant has committed a breach of the Local Law;*
- *The applicant is not a desirable or suitable person to hold a licence;*
- *The needs of the District of the Council or the portion thereof for which the licence is sought are adequately catered for by established shops or by persons to whom licences have been previously issued;*
- *The proposed activity or place of trading is in the opinion of Council undesirable;*
- *The proposed shed, table or structure or vehicle is in the opinion of Council unsuitable in respect to the location for which the licence is sought; or*
- *Such other grounds as may be relevant in the circumstances.*

The applicant has indicated a desire to continue trading from 26 June 2021 and is seeking Council's approval from that date.

### Relevant Plans and Policy:

Shire of Carnarvon Policy: D003 Coral Bay Mobile Trading

On 23 June 2020, the Shire adopted Policy D003 Coral Bay Mobile Trading. Policy D003 has a site requirement that states that a place will only be approved for mobile trading if it is identified in the Schedule of Declared Trading Locations. The Schedule specifies private land as the only permitted location for mobile trading in Coral Bay.

As the site identified in the application is located within private land it satisfies the site requirements of Policy D003.

### Financial Implications:

There are no identified financial implications.

### Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Setting a precedent	Moderate	Decision making that is in accordance with Council's Local Policy.
Service disruption	N/A	N/A	N/A
Compliance	Complying with conditions	Low	Including measurable conditions on the licence.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A

Fraud	N/A	N/A	N/A
-------	-----	-----	-----

### 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

#### 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
5.6	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 licence application complies with the Shire's Mobile Trading Policy and is supported. The question of convenience of the proposed mobile trading site for the Coral Bay community is not a factor in the consideration of the application. Any concerns regarding the level of service being provided by the Australia Post agency will need to be taken up with Australia Post.

The Shire's *Policy D003 Coral Bay Mobile Trading* limits trading to land in private ownership. The site subject to this licence application complies with the site requirements for mobile trading activity. It is therefore recommended that the application be approved.

### OFFICER'S RECOMMENDATION

*That Council, by Absolute Majority, pursuant to the 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 resolves that the application from Lisa Michelle Eveson / Mandu Holdings Pty Ltd to hold a 12-month, Traders Licence as an Australia Post and Lotterywest agent and for the trading of news related goods, gifts and merchandise at Lot 800 (No. 79) BANKSIA DRIVE, CORAL BAY be approved, subject to the following conditions:*

- 1) *This licence is valid for a period of 12 months from the date of approval.*
- 2) *Trading is limited to the period Monday to Friday between the hours of 1:00PM and 5:00PM.*
- 3) *The applicant will be responsible for costs associated with the provision by the Shire of two 'CREST' road signs on Banksia Drive.*
- 4) *This licence excludes the use of existing or future buildings or shipping containers on Lot 800 Banksia Drive for the storage of goods and products or the management of the mobile trading business.*
- 5) *A banner sign is permitted at Lot 800 (No. 79) Banksia Drive during trading hours.*
- 6) *External advertising on the trading van is to be limited to products and services provided by the trader.*
- 7) *The licensee must legibly and conspicuously display the licence on the vehicle used for trading.*
- 8) *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.*

- 9) The licensee must maintain a minimum of \$20 million public liability insurance covering the licensed activity for the full period of the licence.
- 10) 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.
- 11) The trading activity must not cause unreasonable nuisance considering the trading environment.
- 12) No other signage apart from the banner sign as per condition 5 of this Licence, and direction signage as per Council's Policy Statement No. 18, Clause 7.4 are permitted. Vehicle(s) must not be used to display any signage.

**FC 17/6/21**

**COUNCIL RESOLUTION**

**Cr Simpson/Cr Nelson**

***That Council, by Absolute Majority, pursuant to the 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 resolves -***

- 1. That the application from Lisa Michelle Eveson / Mandu Holdings Pty Ltd to hold a 12-month, Traders Licence as an Australia Post and Lotterywest agent and for the trading of news related goods, gifts and merchandise at Lot 800 (No. 79) BANKSIA DRIVE, CORAL BAY not be approved; and***
- 2. The Shire of Carnarvon Policy D003 - Coral Bay Mobile Trading be revoked.***

(Note to Minute – The following points were attributable to Council denying the application –

1. Councillors were in agreeance that the current site is not readily accessible to customers and presents a traffic hazard and danger to the public.
2. Shire of Carnarvon Local Laws Hawkers, Traders and Stall Holders, Clause 29.5 – *Council may refuse to grant the licence or renewal and it may so refuse if the needs of the district of the Council or the portion thereof for which the licence is sought are adequately catered for by established shops or by persons to whom licences have been previously issued.*
3. The Coral Bay Mobile Trading Policy is in contradiction to the Local Planning Scheme No. 13.

**8.3.2**

**PROPOSED SHIRE OF CARNARVON CEMETERIES AMENDMENT LOCAL LAW**

File No:	ADM2087
Date of Meeting:	22 June 2021
Location/Address:	Shire of Carnarvon
Name of Applicant:	N/A
Name of Owner:	Shire of Carnarvon
Author/s:	John Meggitt, Principal Planner Trish Ouellette, Development Support Officer
Declaration of Interest:	N/A
Schedules:	Schedule 8.3.2 (a) - Cemeteries LL 1998 MARKED V2 9 Mar 2021 MARKED Schedule 8.3.2 (b) - Cemeteries LL 1998 MARKED V2 9 Mar 2021 AMENDED
Voting Requirements:	Part One, Absolute Majority Part Two, Simple Majority

**Authority / Discretion**

	<b>Advocacy</b>	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
	<b>Executive</b>	The substantial direction setting and oversight role of the

		Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
X	<b>Legislative</b>	Includes adopting local laws, town planning schemes and policies.
	<b>Quasi-Judicial</b>	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	<b>Information</b>	Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

#### Summary of Item:

The Shire is in the process of reviewing the local laws relating to cemeteries and this item finalises the process with the officer's recommendation to Council that the local law be made.

#### Background:

The *Shire of Carnarvon Local Laws Relating to the Carnarvon Public Cemetery* was published in the *Government Gazette* on 26 February 1998. The local law used 'Council' extensively throughout it, which meant that only the Council itself could decide certain matters.

An amendment local law to deal with this and other matters was adopted by Council at its meeting held on 15 December 2020 for public consultation and feedback. Subject to some minor amendments to reflect suggestions by the WA Department of Local Government, Sport, Cultural Industries the amendment local law may now be made.

It is proposed to amend the *Shire of Carnarvon Local Laws Relating to the Carnarvon Public Cemetery 1998*, to:

- Replace 'Council' with 'local government' in most places where it occurs to 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.

An amendment local law to deal with the matters listed above was adopted by Council at its meeting held on 15 December 2020 for public consultation and feedback.

#### Consultation:

Legislation 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 sent to the Minister for Local Government.

A copy of the draft local law was sent to the Minister and local public notice duly given. Submissions closed on 25 February 2021.

No comments were received from the public, but the Department of Local Government, Sporting and Cultural Industries made a number of suggestions summarised below, as is a suggested response:

Comment	Response
The draft refers to the amendment occurring to the "Shire of Carnarvon Cemeteries Local law". However, gazetted title from 26 February 1998 is " <i>Shire of</i>	Agreed and actioned as recommended.

Comment	Response
<i>Carnarvon Local laws relating to the Carnarvon Public Cemetery</i> ". We suggest amending the citation to the gazetted version.	
Clause 4(b) requires the word "Council" to be replaced with "local government" for clause 18, 20, 30 and 33, however these clauses do not appear to have the word "Council" in it.	<p>During conversion of the 1998 version of the local law to a Word document, clause numbers from clause 15 onwards were thrown out by one which had a 'knock on' effect to the clauses listed in the Amendment Local Law.</p> <p>The intent though is the same. 'Council' was intended to be replaced with 'local government' as set out in the report to Council on 15 December and the notice calling for public comment.</p> <p>Renumbering references in the Amendment Local Law to reflect the correct clause references in the principal is a considered a minor change; the alternative would be to readvertise it but which is considered unnecessary.</p>
The word "Council" appears in several other definitions in clause 2 of the principal local law, as well as in clauses 3, 4, 17, 19, 22, 31, 34(b), 35, 36, 38, 43, 47, 51 and 52. The City ( <i>sic</i> ) should confirm that these clauses don't need to be included in the amendment.	
<p>Under section 55(1)(p) of the <i>Cemeteries Act 1986</i>, the maximum penalties for cemetery local laws are:</p> <ul style="list-style-type: none"> <li>Unmodified penalty – Maximum \$500</li> <li>Modified penalty – Maximum \$50</li> </ul> <p>Clause 6 and 7 of the amendment attempt to increase the penalties beyond the statutory maximum. It is suggested that these clauses be deleted.</p>	<p>Agreed. The modified penalties originally proposed are those provided for in the <i>Local Government Act 1995</i>.</p> <p>It is not known when an infringement was last issued or a prosecution undertaken under the local law, but penalty provisions are considered unlikely to be used, if ever.</p>

The changes required are shown 'marked' on the attached updated version of the Amendment local law – see Schedule 8.3.2 (a) - Cemeteries LL 1998 MARKED V2 9 Mar 2021 MARKED and Schedule 8.3.2 (b) - Cemeteries LL 1998 MARKED V2 9 Mar 2021 AMENDED.

#### Statutory Environment:

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*.

#### Relevant Plans and Policy:

Nil

#### Financial Implications:

A budget allocation of \$35,000 to cover all costs for reviewing, making, advertising and gazettal of the local laws.

#### Risk Assessment:

STEP 3 – Risk Tolerance Chart Used to Determine Risk						
Consequence		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme

Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Out of date local laws that do not reflect current legislative requirements	Low	The local law and associated provisions is brought up to date.
Service disruption	N/A	N/A	N/A
Compliance	Local governments are required to review local laws at least once every 8 years after their Gazettal.	Low	The local law is reviewed.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	N/A

#### 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
2.6	Shire assets and facilities that support services and meet community need
2.6.5	Buildings and facilities are appropriately managed according to their need and use

#### Objective 5: Civic

*Strong and listening Council.*

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

#### Comment:

The changes to the draft amendment local law adopted by Council in December 2020 are considered minor. The local law can now be made and will come into effect 14 days after publication in the Government Gazette.

#### OFFICER'S RECOMMENDATION PART ONE

*That Council, by Absolute Majority, pursuant to section 3.12(4) of the Local Government Act 1995, resolves that the Shire of Carnarvon Cemeteries Amendment Local Law be adopted, subject to various minor amendments as 'marked up' on the attachment to the report to Council.*

#### OFFICER'S RECOMMENDATION PART TWO

*That Council, by Simple Majority,*

- Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the local law be published in the Government Gazette and a copy sent to the Minister for Local Government.*

2. Pursuant to s3.12(6) of the Local Government Act 1995, resolves that after Gazettal local public notice be given:
  - a. Stating the title of the local law;
  - b. Summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and
  - c. Advising that copies of the local law may be inspected or obtained from the Shire offices.
3. Pursuant to the Local Laws Explanatory Memoranda Directions as issued by the Minister for Local Government on 12 November 2010, resolves that a copy of the local law and a duly completed explanatory memorandum signed by the Shire President and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.

**FC 18/6/21**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE**

**Cr Maslen/Cr Pinner**

*That Council, by Absolute Majority, pursuant to section 3.12(4) of the Local Government Act 1995, resolves that the Shire of Carnarvon Cemeteries Amendment Local Law be adopted, subject to various minor amendments as 'marked up' on the attachment to the report to Council.*

**CARRIED BY ABSOLUTE MAJORITY**

**F6/A0**

**FC 19/6/21**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART TWO**

**Cr Maslen/Cr Pinner**

*That Council, by Simple Majority,*

1. Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the local law be published in the Government Gazette and a copy sent to the Minister for Local Government.
2. Pursuant to s3.12(6) of the Local Government Act 1995, resolves that after Gazettal local public notice be given:
  - a. Stating the title of the local law;
  - b. Summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and
  - c. Advising that copies of the local law may be inspected or obtained from the Shire offices.
3. Pursuant to the Local Laws Explanatory Memoranda Directions as issued by the Minister for Local Government on 12 November 2010, resolves that a copy of the local law and a duly completed explanatory memorandum signed by the Shire President and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.

**CARRIED**

**F6/A0**



File No:	ADM2087
Date of Meeting:	22 June 2021
Location/Address:	Shire of Carnarvon
Name of Applicant:	N/A
Name of Owner:	Shire of Carnarvon
Author/s:	John Meggitt, Principal Planner Trish Ouellette, Development Support Officer
Declaration of Interest:	N/A
Schedules:	Schedule 8.3.3(a) Shire of Carnarvon Waste Local Law Draft Schedule 8.3.3(b) - Dept Water Environment Rivers DG196-21 Local Law
Voting Requirements:	Part One, Absolute Majority Part Two, Simple Majority

#### Authority / Discretion

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

#### Summary of Item:

The Shire is in the process of reviewing the local law relating to waste.

Regulation of waste, collection, disposal and related matters was previously undertaken via the Shire's Health Local Law, but legislative change (in particular the *Waste and Resource Recovery Act 2006*) meant that a new local law is required.

#### Background:

A draft new Waste Local Law was adopted by council at its meeting held on 15 December 2020 for public consultation and feedback. Subject to some minor amendments to reflect suggestions by the WA Department of Local Government, Sport, Cultural Industries the new local law can now be made.

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*.

At its meeting held on 16 December 2020 council adopted a draft new Waste Local law, based on a model made by the WA Local Government Association.

#### Consultation:

Legislation 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 sent to the Ministers for Local Government and the Environment. 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.

A copy of the draft local law was sent to the Ministers and local public notice duly given. Submissions closed on 25 February 2021.

No comments were received from the public. The Department of Local Government, Sporting and Cultural Industries noted that the Waste Authority (part of the Department of Water and Environmental Regulation or DWER) would make comment on the proposed local law.

Comments from Department of Water and Environmental Regulation were subsequently received and related to the format and appearance of the proposed local law. Subject to these changes, on 2 March the CEO of the Waste Authority gave consent to it being made. The attached copy of the draft local law incorporates these changes.

#### Statutory Environment:

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*.

#### Relevant Plans and Policy:

Nil.

#### Financial Implications:

A budget allocation of \$35,000 to cover all costs with reviewing, making, advertising and gazettal of the local laws.

#### Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Out of date local laws that do not reflect current legislative requirements	Low	The local law and associated provisions is brought up to date.

Service disruption	N/A	N/A	N/A
Compliance	Local governments are required to review local laws at least once every 8 years after their Gazettal.	Low	The local law is reviewed.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	N/A

### 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
<b>2.4</b>	<b>Waste management practices that are efficient and sustainable</b>
<b>2.4.1</b>	Kerb side waste collection in Carnarvon and Coral Bay
<b>2.4.2</b>	Provide landfill disposal facilities in Carnarvon and Coral Bay
<b>2.4.3</b>	Provide education on waste reduction and reuse, and opportunities for reuse
<b>2.4.4</b>	Recover and dispose of car bodies in Carnarvon and Coral Bay

#### Objective 5: Civic

*Strong and listening Council.*

ITEM	Outcomes and Strategies
<b>5.2</b>	<b>The Shire has a high standard of governance and accountability</b>
<b>5.2.6</b>	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations

### Comment:

The changes to the draft local law adopted by Council in December 2020 are considered minor. The local law can now be made and will come into effect 14 days after publication in the Government Gazette.

#### OFFICER'S RECOMMENDATION PART ONE

*That Council, by Absolute Majority, pursuant to section 3.12(4) of the Local Government Act 1995, resolves that the Shire of Carnarvon Waste Local Law be adopted, subject to:*

- a. Various minor amendments as 'marked up' on the attachment to the report to Council; and*
- b. Deletion of page numbers in the index and body in the version to be officially Gazetted.*

#### OFFICER'S RECOMMENDATION PART TWO

*That Council, by Simple Majority,*

- 1. Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the local law be published in the Government Gazette and a copy sent to the Ministers for Local Government and the Environment*
- 2. Pursuant to s3.12(6) of the Local Government Act 1995, resolves that after Gazettal local public notice be given:*
  - d. Stating the title of the local law;*
  - e. Summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and*
  - f. Advising that copies of the local law may be inspected or obtained from the Shire offices.*

3. Pursuant to the Local Laws Explanatory Memoranda Directions as issued by the Minister for Local Government on 12 November 2010, resolves that a copy of the local law and a duly completed explanatory memorandum signed by the Shire President and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.

**FC 20/6/21**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE**

**Cr Nelson/Cr Pinner**

That Council, by Absolute Majority, pursuant to section 3.12(4) of the Local Government Act 1995, resolves that the Shire of Carnarvon Waste Local Law be adopted, subject to:

- a. Various minor amendments as 'marked up' on the attachment to the report to Council; and
- b. Deletion of page numbers in the index and body in the version to be officially Gazetted.

**CARRIED BY ABSOLUTE MAJORITY**

**F6/A0**

**FC 21/6/21**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART TWO**

**Cr Pinner/Cr Nelson**

That Council, by Simple Majority,

1. Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the local law be published in the Government Gazette and a copy sent to the Ministers for Local Government and the Environment
2. Pursuant to s3.12(6) of the Local Government Act 1995, resolves that after Gazetted local public notice be given:
  - a. Stating the title of the local law;
  - b. Summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and
  - c. Advising that copies of the local law may be inspected or obtained from the Shire offices.
3. Pursuant to the Local Laws Explanatory Memoranda Directions as issued by the Minister for Local Government on 12 November 2010, resolves that a copy of the local law and a duly completed explanatory memorandum signed by the Shire President and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.

**CARRIED**

**F6/A0**

File No: ADM2087  
 Date of Meeting: 22 June 2021  
 Location/Address: Shire of Carnarvon  
 Name of Applicant: N/A  
 Name of Owner: Shire of Carnarvon  
 Author/s: John Meggitt, Principal Planner  
 Trish Ouellette, Development Support Officer  
 Declaration of Interest: N/A  
 Schedules: Schedule 8.3.4 - Shire of Carnarvon Meeting Procedures Local Law  
 Voting Requirements: Part One, Absolute Majority  
 Part Two, Simple Majority

#### Authority / Discretion

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

#### Summary of Item:

The Shire is in the process of reviewing the local law relating to meeting procedures (previously known as 'standing orders') and this item finalises the process with the officer's recommendation to Council that the local law be made.

A draft new meeting procedures local law that reflects current provisions of the Local Government Act 1995 and its associated regulations was adopted by Council at its meeting held on 15 December 2020 for public consultation and feedback. Subject to some minor amendments to reflect suggestions by the WA Department of Local Government, Sport, Cultural Industries the officer's recommendation is that the new local law may now be made by Council.

#### Background:

It is proposed to replace the *Shire of Carnarvon Local Laws Relating to Standing Orders 1998* with a new local law that reflects legislative changes and current practice.

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

At its meeting held on 16 December 2020 Council adopted a draft new Meeting Procedures Local law, based on a model made by the WA Local Government Association given that the extent of changes required to the existing local law were such that it is easier to make a new local law than to amend the current one.

### Consultation:

Legislation 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 sent to the Minister for Local Government.

A copy of the draft local law was sent to the Minister and local public notice duly given. Submissions closed on 25 February 2021.

No comments were received from the public. The Department of Local Government, Sporting and Cultural Industries suggested a number of minor edits in relation to the appearance of the local law, formatting and clause numbers. These, and the changes that are recommended to the draft local law are shown 'marked' on the attached updated version of the local law see Schedule 8.3.4 - Shire of Carnarvon Meeting Procedures Local Law.

### Statutory Environment:

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

### Relevant Plans and Policy:

Nil.

### Financial Implications:

A budget allocation of \$35,000 to cover all costs for reviewing, making, advertising and gazettal of the local laws.

### Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Out of date local laws that do not reflect current legislative requirements	Low	The local law and associated provisions is brought up to date.
Service disruption	N/A	N/A	N/A
Compliance	Local governments are required to review local laws at least once every 8 years after their Gazettal.	Low	The local law is reviewed.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	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.*

<b>5.1</b>	<b>A well engaged and informed community and a high standard of customer service</b>
<b>5.1.3</b>	The community can readily access friendly and efficient bookings, registers, applications, advice and other customer services
<b>5.2</b>	<b>The Shire has a high standard of governance and accountability</b>
<b>5.2.1</b>	Robust decision-making by culturally aware, well-informed and supported Councillors
<b>5.2.6</b>	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations

### Comment:

The changes to the draft local law adopted by Council in December 2020 are considered minor. The local law can now be made and will come into effect 14 days after publication in the Government Gazette.

### OFFICER'S RECOMMENDATION PART ONE

*That Council, by Absolute Majority, pursuant to section 3.12(4) of the Local Government Act 1995, resolves that the Shire of Carnarvon Meeting Procedures Local Law be adopted, subject to:*

- a. Various minor amendments as 'marked up' on the attachment to the report to Council; and*
- b. Deletion of text boxes, page numbers in the index and notes in the version to be officially Gazetted.*

### OFFICER'S RECOMMENDATION PART TWO

*That Council, by Simple Majority,*

- 1. Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the local law be published in the Government Gazette and a copy sent to the Minister for Local Government.*
- 2. Pursuant to s3.12(6) of the Local Government Act 1995, resolves that after Gazetted local public notice be given:*
  - a. Stating the title of the local law;*
  - b. Summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and*
  - c. Advising that copies of the local law may be inspected or obtained from the Shire offices.*
- 3. Pursuant to the Local Laws Explanatory Memoranda Directions as issued by the Minister for Local Government on 12 November 2010, resolves that a copy of the local law and a duly completed explanatory memorandum signed by the Shire President and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.*

**FC 22/6/21**

### COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE

*Cr Nelson/Cr Skender*

*That Council, by Absolute Majority, pursuant to section 3.12(4) of the Local Government Act 1995, resolves that the Shire of Carnarvon Meeting Procedures Local Law be adopted, subject to:*

- a. Various minor amendments as 'marked up' on the attachment to the report to Council; and*
- b. Deletion of text boxes, page numbers in the index and notes in the version to be officially Gazetted.*

**CARRIED BY ABSOLUTE MAJORITY**

**F6/A0**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART TWO***Cr Skender/Cr Pinner**That Council, by Simple Majority,*

- 1. Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the local law be published in the Government Gazette and a copy sent to the Minister for Local Government.*
- 2. Pursuant to s3.12(6) of the Local Government Act 1995, resolves that after Gazettal local public notice be given:*
  - a. Stating the title of the local law;*
  - b. Summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and*
  - c. Advising that copies of the local law may be inspected or obtained from the Shire offices.*
- 3. Pursuant to the Local Laws Explanatory Memoranda Directions as issued by the Minister for Local Government on 12 November 2010, resolves that a copy of the local law and a duly completed explanatory memorandum signed by the Shire President and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.*

**CARRIED****F6/0****8.3.5****PROPOSED SHIRE OF CARNARVON BUSH FIRE BRIGADES LOCAL LAW**

File No: ADM2087  
 Date of Meeting: 22 June 2021  
 Location/Address: Shire of Carnarvon  
 Name of Applicant: N/A  
 Name of Owner: Shire of Carnarvon  
 Author/s: John Meggitt, Principal Planner  
 Trish Ouellette, Development Support Officer  
 Declaration of Interest: N/A  
 Schedules: Schedule 8.3.5 - proposed Shire of Carnarvon Bush Fire Brigade Local Law  
 Voting Requirements: Part One, Absolute Majority  
 Part Two, Simple Majority

**Authority / Discretion**

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



**Summary of Item:**

The Shire is in the process of reviewing the local law relating to volunteer bush fire brigades. A draft local law was adopted by council in December 2020 and advertised for public comment. Subject to some minor amendments to reflect suggestions by the WA Department of Local Government, Sport, Cultural Industries the local law may now be made.

**Background:**

Most matters relating to bush fires and the role of local governments are dealt with by the Bush Fires Act 1954 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.*

A draft *Shire of Carnarvon Bush Fire Brigades Local Law* was adopted by council at its meeting held on 15 December 2020 and deals only with those matters required by the Bush Fires Act to be addressed in a local law. Other matters are to be dealt with by agreement with a brigade. Agreements that might then be made are not intended to be punitive or overly complex – brigade members are volunteers and should not be tied up with unnecessary regulation. An agreement can also 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 Shire 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:**

Legislation 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 Ministers for Local Government and Emergency Services.

A copy of the draft local law was sent to the Ministers and local public notice duly given. Submissions closed on 25 February 2021.

No comments were received from the public. The Minister for Emergency Services advised that neither he nor the Department of Fire and Emergency Services had any comments either. The Department of Local Government, Cultural and Sporting Industries suggested a number of minor edits in relation to the appearance of the local law, formatting and clause numbers. These are shown 'marked' on the attached updated version of the local law, are considered minor and the draft local law should be amended accordingly.

**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:**

A budget allocation of \$35,000 to cover all costs for reviewing, making, advertising and gazettal of the local laws.

Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	Out of date local laws that do not reflect current legislative requirements	Low	The local law and associated provisions is brought up to date.
Service disruption	N/A	N/A	N/A
Compliance	Local governments are required to review local laws at least once every 8 years after their Gazettal.	Low	The local law is reviewed.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	N/A

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

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:

The changes to the draft local law adopted by Council in December 2020 are considered minor. The local law can now be made and will come into effect 14 days after publication in the Government Gazette.

OFFICER'S RECOMMENDATION PART ONE

*That Council, by Absolute Majority, pursuant to section 3.12(4) of the Local Government Act 1995, resolves that the Shire of Carnarvon Bush Fire Brigades Local Law 2021 be adopted, subject to:*

- a. Various minor amendments as 'marked up' on the attachment to the report to Council; and*
- b. Deletion of text boxes, page numbers in the index and notes in the version to be officially Gazetted.*

OFFICER'S RECOMMENDATION PART TWO

*That Council, by Simple Majority,*

- 1. Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the local law be published in the Government Gazette and a copy sent to the Ministers for Local Government and Emergency Services.*
- 2. Pursuant to s3.12(6) of the Local Government Act 1995, resolves that after Gazettal local public notice be given:*
  - a. Stating the title of the local law;*
  - b. Summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and*
  - c. Advising that copies of the local law may be inspected or obtained from the Shire offices.*
- 3. Pursuant to the Local Laws Explanatory Memoranda Directions as issued by the Minister for Local Government on 12 November 2010, resolves that a copy of the local law and a duly completed explanatory memorandum signed by the Shire President and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.*

**FC 24/6/21**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE**

**Cr Maslen/Cr Nelson**

*That Council, by Absolute Majority, pursuant to section 3.12(4) of the Local Government Act 1995, resolves that the Shire of Carnarvon Bush Fire Brigades Local Law 2021 be adopted, subject to:*

- a. Various minor amendments as 'marked up' on the attachment to the report to Council; and*
- b. Deletion of text boxes, page numbers in the index and notes in the version to be officially Gazetted.*

**CARRIED BY ABSOLUTE MAJORITY**

**F6/A0**

**FC 25/6/21**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART TWO**

**Cr Maslen/Cr Pinner**

*That Council, by Simple Majority,*

- 1. Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the local law be published in the Government Gazette and a copy sent to the Ministers for Local Government and Emergency Services.*
- 2. Pursuant to s3.12(6) of the Local Government Act 1995, resolves that after Gazettal local public notice be given:*
  - a. Stating the title of the local law;*
  - b. Summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and*
  - c. Advising that copies of the local law may be inspected or obtained from the Shire offices.*
- 3. Pursuant to the Local Laws Explanatory Memoranda Directions as issued by the Minister for Local Government on 12 November 2010, resolves that a copy of the local law and a duly completed explanatory memorandum signed by the Shire President and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation.*

**CARRIED**

**F6/A0**

**8.3.6****PROPOSED SHIRE OF CARNARVON PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW – EXTENSION OF APPLICATION OUTSIDE THE DISTRICT**

File No: ADM2087  
 Date of Meeting: 22 June 2021  
 Location/Address: Shire of Carnarvon  
 Name of Applicant: N/A  
 Name of Owner: Shire of Carnarvon  
 Author/s: John Meggitt, Principal Planner  
 Trish Ouellette, Development Support Officer  
 Declaration of Interest: N/A  
 Schedules: Schedule 8.3.6 - Proposed Shire of Carnarvon Public Places and Local Government Property Local Law Draft  
 Voting Requirements: Simple Majority

**Authority / Discretion**

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

**Summary of Item:**

The Shire is in the process of reviewing the local law relating to property owned by, or under its care control and management and this item finalizes the process with the officer's recommendation to Council that the local law be made.

**Background:**

The WA Department of Local Government, Sporting and Cultural Industries (DLG) has suggested it may be appropriate to seek the State Governors approval to extend application of the local law outside the district boundary to allow the Shire to regulate activities on any jetties that may be under its care, control and management in future.

While there are few matters that might be regulated under this extension, doing so while the local law is being made is considered appropriate. After the approval is given, the local law can then be finally adopted by Council and made under s3.12(4) of the Local Government Act 1995 (the Act).

It is proposed to request approval of the State Governor to apply the proposed *Shire of Carnarvon Public Places and Local Government Property Local Law* under s3.6 of the Act to extend 200m from the low water mark of the Indian Ocean and Gascoyne River at an ordinary spring tide.

At its meeting held on 15 December 2020 Council adopted a draft *Shire of Carnarvon Public Places and Local Government Property Local Law*. Amongst other things, it contains provisions to regulate jetties and activities on beaches.

In terms of regulating activities in the water off beaches such as separating wind surfers/ jet skis etc from swimmers the Shire does not have any surf clubs, but Fascine is a popular swimming area mostly near town beach. There have been shark and stonefish sightings in the area in the past and the Shire has closed beaches to swimmers.

The WA Department of Transport manages the marina and the Carnarvon Jetty, but the Shire has licences for three jetties (Fascine jetty/Olivia Terrace, Pelican Point jetty and Yardi), a deed of management for “Northwater Estate” and maintaining the Fascine Channel for which it has responsibility for running, cleaning and maintenance of all aspects including edge treatment and beaches, but excluding navigation aids, jetty licensing approvals and boating safety.

Extension of the local law outside the district boundary will reduce any risk that (if required to be used) it may be considered not to apply to these areas and facilities that are under the Shires care, control and management.

#### **Consultation:**

Legislation 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.

A copy of the draft local law was sent to the Minister and local public notice duly given. Submissions closed on 25 February 2021.

In relation to application of local laws outside a local government’s district, s3.6(1) of the Act provides that ‘if the Governor’s approval has been first obtained, a local government may make a local law under this Act that applies outside its district’. Note that ‘make a local law’ means the final decision under s3.12(4) of the Act; in this instance Council should resolve to seek the required approval before passing a resolution under s3.12(4).

When submitting an application for approval under s3.6 to extend application of a proposed local law outside the district, a local government should present a final copy of it a proposed local law. In this regard, some minor amendments from the version of the local law adopted by Council in December 2020 are necessary. No comments were received from the public, but as well as suggesting that the Shire make application for approval to apply the proposed local law outside the district, the DLG suggested a number of other changes:

Comment	Recommended response
<b>Assistance Animals</b> Clause 6.12(4) and 9.2(4) relates to assistance animals. The Parliament’s Delegated Legislation Committee are strict on the wording of clauses relating to the use of assistance animals. We suggest changing the wording of clause 9.2(4) to represent the Committee’s preferred wording as follows: <i>“This clause is subject to any written law and law of the Commonwealth about assistance animals as defined in the Disability Discrimination Act 1992 (Commonwealth) section 9(2).”</i>	Agreed and change made.
<b>Reversing onus of proof – Shopping trolleys</b> Clause 9.6 provides that a shopping trolley is presumed to belong to whoever’s name is marked on the trolley. The Delegated Legislation Committee has not objected to this clause. However, it has concluded that the clause is	Noted. This provision is in a large number of similar local laws administered by other local governments.

Comment	Recommended response
unlikely to be upheld in court since it reverses the onus of proof in a way the Act doesn't explicitly authorise. The Committee's findings can be found in item 4 of their 16th Report. The Shire should keep this mind when relying on the clause.	It is highly unlikely that any prosecutions will be undertaken under this provision, the objective being to provide the Shire with means to request removal of shopping trolleys by their owner(s).  The risk is minimal.

The DLG also made a number of recommendations in relation to the appearance of the local law, formatting and clause numbers. These are shown 'marked' on the attached updated version of the local law and are considered minor. The draft local law should be amended accordingly.

#### Statutory Environment:

In relation to application of local laws outside a local government's district, s3.6(1) of the Act provides that 'if the Governor's approval has been first obtained, a local government may make a local law under this Act that applies outside its district'.

Note that 'make a local law' means the final decision under s3.12(4) of the Act; in this instance Council should resolve to seek the required approval before passing a resolution under s3.12(4).

#### Relevant Plans and Policy:

Nil.

#### Financial Implications:

A budget allocation of \$35,000 to cover all costs for reviewing, making, advertising and gazettal of the local laws.

#### Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	1.Out of date local laws that do not reflect current legislative requirements. 2. Reversing onus of proof – Shopping trolleys is unlikely to be able to upheld if contested.	Low  Low	The local law and associated provisions are bought up to date.  It is highly unlikely that any prosecutions will be undertaken under this provision, the objective being to provide the Shire with

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
			means to request removal of shopping trolleys by their owner(s).
Service disruption	N/A	N/A	N/A
Compliance	Local governments are required to review local laws at least once every 8 years after their Gazettal.	Low	The local law is reviewed.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	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.*

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

#### Comment:

The DLG advise that if agreed, it will make the request to the Governor on the Shire's behalf and that approval will take 2 – 4 weeks. Assuming the Governors approval is then given, the draft local law will then be referred back to Council for a final decision to 'make' it under s3.12(4).

#### OFFICER'S RECOMMENDATION

*That Council, by Simple Majority,*

- Pursuant to section 3.6(1) of the Local Government Act 1995, resolves that an application be made to the Governor to extend application of the proposed Shire of Carnarvon Public Places and Local Government Property Local Law 2021 as attached to the report to Council a distance of 200 metres seawards from the low water mark at ordinary spring tides into the Indian Ocean and that portion of the Gascoyne River known as the Fascine Channel and its tributaries.*
- Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the outcome of the application and the final version of the draft local law be referred to Council, as soon after the outcome of the application is communicated to the Shire as practical, for a decision to be made.*

**FC 26/6/21**

#### COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE

*Cr Pinner/Cr Maslen*

*That Council, by Simple Majority,*

- Pursuant to section 3.6(1) of the Local Government Act 1995, resolves that an application be made to the Governor to extend application of the proposed Shire of Carnarvon Public Places and Local Government Property Local Law 2021 as attached to the report to Council a distance of 200 metres seawards from the low water mark at ordinary spring tides into the Indian Ocean and that portion of the Gascoyne River known as the Fascine Channel and its tributaries.*

2. Pursuant to s3.12(5) of the Local Government Act 1995, resolves that the outcome of the application and the final version of the draft local law be referred to Council, as soon after the outcome of the application is communicated to the Shire as practical, for a decision to be made.

CARRIED  
F6/A0

---

#### 8.4 INFRASTRUCTURE SERVICES

##### 8.4.1 REQUEST FOR SUBMISSIONS RFS01/2021 – DEVELOPMENT OF THE TOWN BEACH KIOSK

1.48pm – Cr Skender declared an Impartiality Interest in this item as his partner is co-author of this report. Cr Skender was not required to leave the meeting and could participate and vote on the matter.

File No. ADM2120  
Date of Meeting: 22 June 2021  
Location/Address: Town Beach Kiosk, Olivia Terrance, Carnarvon  
Name of Applicant: Multiple  
Name of Owner: Shire of Carnarvon  
Author/s: Kate Russell - Procurement and Compliance Officer  
Carolien Claassens – Operations Manager Corporate and Community  
David Nielsen – Executive Manager Infrastructure Services  
Declaration of Interest: Nil  
Voting Requirements: Recommendations 1-4 - Simple Majority

---

#### Authority / Discretion

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

#### Summary of Item:

This report details evaluation of a Request for Submissions for development of Town Beach Kiosk. It recommends Council accepts the business case submission from Ningaloo Coastal Surfaris and recommends the CEO be authorised to develop and execute the necessary funding agreements and property lease to allow the proposal to be implemented.



**Background:**

At its August 2020 ordinary meeting, Council resolved to allocate \$20,000 ex GST from its Phase 1 Federal Government Local Roads and Community Infrastructure (LRCI) grant program to a Town Beach Kiosk Upgrade Project.

The stated project aim is to “refurbish the kiosk at Town Beach so it can be used for a new business to be established.”

To ensure monies are allocated to directly benefit establishment of a specific business, a public request for submissions was conducted. The aim of this process was to:

- a) invite submissions to establish a business at the kiosk;
- b) assess and evaluate the relative merits of those submissions and their likelihood of success; and
- c) provide a recommendation to council based on the outcome of the request for submissions process.

Prior to advertising the Request for Submission, a commercial market rental valuation for the kiosk property was sought. The weekly rental of \$95 was included in the submission documentation.

The Request for Submission process has now been completed. This report provides a recommendation to Council on progression of the LRCI project in accordance with the results of the evaluation process.

**Stakeholder and Public Consultation:**

The Request for Submissions was publicly advertised. Direct consultation was undertaken with the shortlisted submitters.

**Statutory Environment:**

Local Government Act 1995 Section 3.58 - Disposing of Property

Local Government Act 1995 Section 5.41 Functions of CEO

**Relevant Plans and Policy:**

Nil applicable.

**Financial Implications:**

Rental for the property was determined by independent valuation as \$95/week. The \$20,000 ex GST contribution to the successful applicant to refurbish the kiosk is fully funded under the Phase 1 of the Local Roads Community Infrastructure (LRCI) Federal Government funding program. The project is listed in the current 20/21 budget and will carry forward to the 21/22 budget. The project is identified internally as LRCI Phase 1 Project No LRC004.

The proposed mechanism for delivery of the contribution is as follows:

- a) Activities eligible for funding will be agreed and specified to the successful applicant under a Shire funding agreement.
- b) Eligible activities will be limited to works of a fixed and/or permanent nature including but not limited to:
  - i. structural modifications such as ceilings lining of walls and minor wall extensions and installation of additional door and/or window openings;
  - ii. installation of flooring;
  - iii. installation of insulation and/or ventilation;
  - iv. utility service provision and/or augmentation;
  - v. plumbing and electrical fittings and fixtures;
  - vi. signage framing available for skinning;
  - vii. painting and general refurbishment; and
  - viii. fixed working benches or seating.
- c) The successful applicant would be required to claim their expenditure and provide verification and documentation of completed eligible activities for reimbursement up to the \$20,000 ex GST funding limit.

In addition to specific Kiosk improvements, under its LRCI Phase 1 approved projects Council also allocated up to \$319,000 toward Town Amenity Improvements. That is internally identified as project LRC007 and includes public toilet refurbishments in its scope of works.

The public toilet at Town Beach adjoins the kiosk facility via a covered breezeway. It has always been envisioned that a general amenity and cosmetic improvement of the entire building would be carried out regardless of the success or otherwise of the kiosk Request for Submissions process.

This refurbishment work may now be planned, costed, and implemented to coordinate with the kiosk development. This refurbishment work would include but is not limited to:

- a) corrosion removal and treatment;
- b) corroded fixing and flashing replacements;
- c) timber feature renewal and oiling;
- d) painting;
- e) landscaping;
- f) toilet fittings and fixture replacement/upgrades; and
- g) provision of additional street and park furniture.

#### Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Proper accountability of public monies.	Moderate	Public monies will fund fixed items only that will remain with the facility. Funding agreement with applicant will be based on principal of reimbursement only for approved verifiable and documented eligible activities.
Health & Safety	Public health risk associated with Café safe food practices.	High	Requirement for Licence as Food business with normal regimen of compliance inspections.
Reputation	Possible public perception of unfair advantage.	Moderate	The Request for Submission was open to the public, is an open, accountable, and documented process with no conflict of interest being identified during the evaluation process. A commercial market rental valuation was obtained and will be applied for the property rental.

Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

#### Community & Strategic Objectives:

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

##### *Goal 1: Economic*

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

ITEM	OUTCOMES AND STRATEGIES
1.1	Local business growth
1.1.1	Work with the Gascoyne Development Commission, Chamber of Commerce, Aboriginal Corporations and local businesses to identify opportunities for business growth
1.2	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

##### *Goal 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
2.6.6	Maintain town centre, fascine and town beach for enjoyment of locals and visitors, that the community can take pride in

#### Comment:

The evaluation report provided in **Schedule 8.4.1** documents the process undertaken to advertise the Request for Submissions and evaluate submissions received.

The evaluation recommends acceptance of the submission by the applicant Ningaloo Coastal Surfari for development of a café and adventure hub.

This proposal is considered an achievable and desirable outcome for the site meeting Council's aim to promote local business and provide additional activation of key public areas.

It was noted during the evaluation process that the building containing the kiosk and Town Beach public toilet is constructed across three properties, namely the Olivia Terrace Road Reserve, and Reserves R6049 and R42702. This complicates establishment of a formal lease agreement for the kiosk. Under the management orders for these reserves, Ministerial approval for the grant of a lease is required. The simpler rental agreement mechanism is therefore recommended in this instance.

#### OFFICER'S RECOMMENDATION PART 1

*That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, and in response to Request for Submissions RFS01/2021 for Development of the Town Beach Kiosk, accepts the submission from Ningaloo Coastal Surfari for development of the facility as a Café and Adventure Hub subject to:*

- a) provision of all specified insurances prior to the commencement of the proposed activity; and*
- b) all certificates, licences, and approvals applicable to the proposed development being obtained by Ningaloo Coastal Surfari for the proposed activity prior to commencement of operations.*

#### OFFICER'S RECOMMENDATION PART 2

That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, directs the CEO to give local public notice of the proposed disposition of the Town Beach Kiosk being the part of the building identified in Request for Submissions RFS01/2021 documentation for a rental consideration of \$95/week.

#### OFFICER'S RECOMMENDATION PART 3

That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, subject to nil submissions being received to the public notification of the proposed disposition, authorises the CEO to negotiate and finalise execution of a rental agreement between Ningaloo Coastal Surfari and the Shire of Carnarvon for rent of the Town Beach Kiosk being the part of the building identified in Request for Submissions RFS01/2021 for a consideration of not less than \$95/week.

#### OFFICER'S RECOMMENDATION PART 4

That Council, by Simple Majority pursuant to Section 5.41 of the Local Government Act 1995 authorises the CEO to prepare, negotiate, execute, implement, and manage:

- a) An agreement for funding of up to \$20,000 ex GST for Ningaloo Coastal Surfari to undertake eligible activities to develop Town Beach Kiosk as a Café and Adventure Hub including but not limited to:
  - i. structural modifications such as ceilings lining of walls and minor wall extensions and installation of additional door and/or window openings;
  - ii. installation of flooring;
  - iii. installation of insulation and/or ventilation;
  - iv. utility service provision and/or augmentation;
  - v. plumbing and electrical fittings and fixtures;
  - vi. signage framing available for skinning;
  - vii. painting and general refurbishment; and
  - viii. fixed working benches or seating.

**FC 27/6/21**

#### COUNCIL RESOLUTION

Cr Pinner/Cr Skender

That Officer's Recommendations Part One to Part Four inclusive be considered en-bloc.

CARRIED

F6/A0

**FC 28/6/21**

#### COUNCIL RESOLUTION

Cr Pinner/Cr Skender

That Officer's Recommendations Part One to Part Four inclusive be adopted by Council as follows -

#### OFFICER'S RECOMMENDATION PART ONE

That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, and in response to Request for Submissions RFS01/2021 for Development of the Town Beach Kiosk, accepts the submission from Ningaloo Coastal Surfari for development of the facility as a Café and Adventure Hub subject to:

- c) provision of all specified insurances prior to the commencement of the proposed activity; and
- d) all certificates, licences, and approvals applicable to the proposed development being obtained by Ningaloo Coastal Surfari for the proposed activity prior to commencement of operations.

#### OFFICER'S RECOMMENDATION PART TWO

That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, directs the CEO to give local public notice of the proposed disposition of the Town Beach Kiosk being the part of the building identified in Request for Submissions RFS01/2021 documentation for a rental consideration of \$95/week(GST exc)

### OFFICER'S RECOMMENDATION PART THREE

*That Council, by Simple Majority, pursuant to Section 3.58 of the Local Government Act 1995, subject to nil submissions being received to the public notification of the proposed disposition, authorises the CEO to negotiate and finalise execution of a rental agreement between Ningaloo Coastal Surfaris and the Shire of Carnarvon for rent of the Town Beach Kiosk being the part of the building identified in Request for Submissions RFS01/2021 for a consideration of not less than \$95/week(GST exc).*

### OFFICER'S RECOMMENDATION PART FOUR

*That Council, by Simple Majority pursuant to Section 5.41 of the Local Government Act 1995 authorises the CEO to prepare, negotiate, execute, implement, and manage:*

- b) An agreement for funding of up to \$20,000 ex GST for Ningaloo Coastal Surfaris to undertake eligible activities to develop Town Beach Kiosk as a Café and Adventure Hub including but not limited to:*
  - ix. structural modifications such as ceilings lining of walls and minor wall extensions and installation of additional door and/or window openings;*
  - x. installation of flooring;*
  - xi. installation of insulation and/or ventilation;*
  - xii. utility service provision and/or augmentation;*
  - xiii. plumbing and electrical fittings and fixtures;*
  - xiv. signage framing available for skinning;*
  - xv. painting and general refurbishment; and*
  - xvi. fixed working benches or seating.*

CARRIED  
F6/AO

## **8.4.2 CARNARVON YACHT CLUB TIP FEE WAIVER REQUEST**

1.58pm – Cr Nelson declared an Impartiality Interest in this item as members of her family are members of the Carnarvon Yacht Club. Cr Nelson was not required to leave the meeting however chose to leave and did not participate or vote on the matter.

1.38pm – Cr Pinner declared an Impartiality Interest in this item as he is a member of the Carnarvon Yacht Club. Cr Pinner was not required to leave the meeting and could participate and vote on the matter.

File No:	ADM0122
Date of Meeting:	22 June 2021
Location/Address:	Corner of West and Cleaver St Carnarvon
Name of Applicant:	Carnarvon Yacht Club
Name of Owner:	Not Applicable
Author/s:	David Nielsen – Executive Manager Infrastructure Services
Declaration of Interest:	The author is an ordinary member of the Carnarvon Yacht Club.
Voting Requirements:	Simple Majority

### Authority / Discretion

	<b>Advocacy</b>	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
X	<b>Executive</b>	The substantial direction setting and oversight role of the Council. E.g., adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
	<b>Legislative</b>	Includes adopting local laws, town planning schemes and policies.

	<b>Quasi-Judicial</b>	When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.
	<b>Information</b>	Includes items provided to Council for information purposes only that do not require a decision of Council (i.e. – for noting).

#### Summary of Item:

Carnarvon Yacht Club (CYC) have formally requested a waiver of waste disposal fees at the Browns Range waste facility. It is recommended Council does not approve the fee waiver request.

#### Background:

Correspondence is provided in **Schedule 8.4.2** as follows:

- a) from the Shire of Carnarvon to the CYC advising its intention to apply adopted fees and charges to the organisation for waste disposal at the Browns Range waste facility commencing 1 July 2021; and
- b) from the CYC to the Shire requesting consideration of a waiver of the tip fees for the club.

#### Consultation:

No direct consultation has been undertaken. Follow up email correspondence was forwarded to the CYC on 9 June 2021. This correspondence recommended CYC provide greater detail in support of their waiver request to assist Council in making a more informed decision.

At the time of writing, no response had been received from the CYC.

#### Statutory Environment:

Local Government Act 1995 Section 6.16. - Imposition of fees and charges and Section 6.12 - Power to defer, grant discounts, waive or write off debts.

#### Relevant Plans and Policy:

Nil applicable.

#### Financial Implications:

A calculation of fees and charges that would be payable by the club is provided below.

This calculation is based upon the CYC actual disposal quantities for the month of May assuming that the waste type is putrescible.

Date	Weight (Tonnes)	Service Charge	Disposal Charge	Total
2/5/21	0.46	\$ 35	\$ 18.40	\$ 53.40
7/2/21	0.32	\$ 35	\$ 12.80	\$ 47.80
9/5/21	0.34	\$ 35	\$ 13.60	\$ 48.60
16/5/21	0.36	\$ 35	\$ 14.40	\$ 49.40
21/5/21	0.32	\$ 35	\$ 12.80	\$ 47.80
23/5/21	0.40	\$ 35	\$ 16.00	\$ 51.00
28/5/21	0.26	\$ 35	\$ 10.40	\$ 45.40
<b>Total</b>	<b>2.46</b>	<b>\$ 245.00</b>	<b>\$ 98.40</b>	<b>\$ 343.40</b>

This will translate to an approximate annual fee and charge of \$4,200.

## Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Loss of operating revenue for service delivery	High	Fees and charges for services applied consistently to all users of the service.
Health & Safety	N/A		
Reputation	Perception of singling out CYC.	Moderate	Multiple not for profit/club organisations have been advised of the intention to apply the adopted fees and charges from 1 July 2021.
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	Poor waste management practices as no consequence to waste disposal.	High	Lower fees and charges for separated waste maximising reuse and recycling. Higher fees and charges for mixed waste.
Fraud	N/A		

## Community & Strategic Objectives:

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

### 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
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations
5.4	Sound financial and asset management
5.4.2	The Shire's Long Term Financial Plan shows financial sustainability, with realistic renewals expenditure and a realistic rates profile

**Comment:**

A review of operational practices at Browns Range waste facility was conducted. It identified several not-for-profit organisations disposing of waste at the facility without application of Council adopted fees and charges. This included not for profit organisations who operate at least to some extent, commercial type activities.

This practice has been maintained through several staffing changes at the facility. It appears to be an inherited work practice for at least five years or more. Staff at the facility sought clarification of fee application from management to ensure consistent practice.

When investigated, no formal resolution from Council that a waiver was applicable to these organisations was located. The adopted fees and charges do not make positive or clear distinction that fees and charges do not apply to not-for-profits. The fees and charges clearly state that free waste disposal applies to domestic waste. To remove ambiguity, amendments have been made to the 2021/22 draft fees and charges.

Formal correspondence was then forwarded to the identified organisations, including the CYC. Several groups have responded questioning the proposal however the CYC is the first to lodge a formal waiver request.

The Australian Charities and Not-for-profits Commission is the national regulator of charities. Regarding not-for-profit organisations, they define these as organisations where, "The assets and income of the organisation shall be applied solely to further its objects and no portion shall be distributed directly or indirectly to the members of the organisation except as genuine compensation for services rendered or expenses incurred on behalf of the organisation." A not-for-profit can make a profit, but any profit made must be used for its purposes.

Clubs such as the CYC provide a valuable element to community life. Waste management and disposal is also however a part of community life and there is a cost associated with provision of that service. Fees and charges applied consistently across the community ensures users of the service contribute to its ongoing operation.

As a waste management alternative, the club can elect to pay for the collection and disposal of waste via the kerbside collection service. The current rate for this service is \$475 p.a. per bin for one collection per week. The number of bins and collection frequency can be amended to suit.

Note that should Council determine to waive the waste disposal fees and charges for the CYC specifically, an absolute majority is required in accordance with Section 6.12 of the Local Government Act 1995.

Council may review the application of fees and charges to not-for-profit organisations more generally as part of the budget process.

OFFICER'S RECOMMENDATION PART 1

*That Council, by Simple Majority pursuant to Section 6.16 of the Local Government Act 1995, refuse the Carnarvon Yacht Club request for the waiver of waste facility fees and charges.*

**FC 29/6/21**

**COUNCIL RESOLUTION & OFFICER'S RECOMMENDATION PART ONE**

**Cr Maslen/Cr Pinner**

*That Council, by Simple Majority pursuant to Section 6.16 of the Local Government Act 1995, refuse the Carnarvon Yacht Club request for the waiver of waste facility fees and charges.*

**CARRIED**  
**F5/A0**

2.03pm – Cr Nelson returned to the meeting and was advised of Council's decision in regard to this item.

---



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

Nil

---

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

Nil

---

**11.0 DATE OF NEXT MEETING**

11.1 The next meeting will be held on Tuesday 27 July 2021 commencing at 1.00pm

---

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

Nil

---

**13.0 CLOSURE:**

The Presiding Member declared the meeting closed at 2.04pm