



SHIRE OF CARNARVON

AGENDA

COUNCIL MEETING
Tuesday 22 September 2020

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

NOTICE OF MEETING

Notice is hereby given

Shire of Carnarvon Ordinary Council Meeting

will be held
on Tuesday 22nd September 2020
in Council Chambers, Stuart Street Carnarvon
commencing at 1.00pm



David Burton
CHIEF EXECUTIVE OFFICER

DISCLAIMER

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

AGENDA

1.0 ATTENDANCES, APOLOGIES & APPLICATIONS FOR LEAVE OF ABSENCE

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

2.0 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 RESPONSES TO QUESTIONS TAKEN ON NOTICE

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 OF MINUTES

- 5.1 Ordinary Council Meeting – 25th August 2020
- 5.2 Special Meeting of Council – 31st August 2020
- 5.3 Special Meeting of Council – 17th September 2020

6.0 PRESENTATIONS, PETITIONS AND MEMORIALS

- 6.1 Mr Kel Brown – Development Proposal

7.0 ANNOUNCEMENTS BY THE PRESIDENT WITHOUT DISCUSSION

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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 27TH October 2020 commencing at 10.30am in Coral Bay.

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

12.1 RFT 08-2020 – Construction & Commissioning Recycled Water Pipeline – Stage C and D
12.2 Staff Engagement Report

13.0 CLOSURE

Date of Meeting:	22 September 2020
Location/Address:	3 Francis Street, Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	David Burton, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

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

Description of Proposal:

Refer above.

Background:

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

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

Consultation:

Nil

Statutory Environment:

Local Government Act 1995 - Section 9.49A

Planning & Development Act 2005 – Part 10 Div. 2

TPS No. 10 – Section 2.4

Shire of Carnarvon Local Government Act Local Laws S.29

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

Health (Public Buildings) Regulations 1992

Relevant Plans and Policy:

Nil

Financial Implications:

There are no financial implications.

Risk Assessment:

Reporting requirement only.

Community & Strategic Objectives:

Goal 5: Civic

Strong and listening Council.

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

Comment:

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

DELEGATIONS

Food

Food Act 2008

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
13-Aug-20	ICOR2038150	Food business registration - Mi-Mia Café (Gwoowardu Mia Cultural Centre) and food trailer – 146 Robinson Street, Carnarvon	Denise Mitchell	
9-Sep-20	ICOR2038507	Food business registration - Gascoyne Food Council Inc - off-site catering	Gascoyne Food Council Inc	

On-site wastewater management

Health Act 1911, s.107

Health (Apparatus for treatment of sewage and disposal of effluent and liquid waste) Regulations 1974

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
19 August 2020	HOS20/013	Approval to interfere with apparatus for the treatment of sewage - 25 Angelo St, East Carnarvon	Jason Chaplin, Coral Coast Plumbing	Michelle & William Lydiard
20 August 2020	HOS20/014	Approval to install onsite wastewater system - 72 Shallcross St, East Carnarvon	Jason Chaplin, Coral Coast Plumbing	Justin Brandenburg
8/09/2020	HOS20/015	Approval to interfere with apparatus for the treatment of sewage - 35 West St, South Carnarvon	James Williams	

Lodging houses

Health Act 1911, Part V, Division 2

Shire of Carnarvon Health Amendment Local Laws 2002, Part 8

Date of decision	Decision Ref.	Decision details	Applicant
04/09/2020	HLH20/018	Renewal – Peoples Park Coral Bay, Lot 13 Robinson St, Coral Bay WA 6701	Coral Bay Investments P/L ATF Coral Bay Investment Trust
08/09/2020	HCP20/004	Renewal - Coral Coast Tourist Park, 108 Robinson Street, Carnarvon, WA 6701	Liz & Jon Watts

Caravan parks and camp grounds

Caravan Parks and Camp Grounds Act 1995

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
04/09/2020	HLH20/010	Renewal – Coral Coast Tourist Park, 108 Robinson Street, Carnarvon, WA 6701	Liz & Jon Watts	
04/09/2020	HCP20/004	Renewal – Peoples Park Coral Bay, Lot 13 Robinson St, Coral Bay WA 6701	Coral Bay Investments P/L ATF Coral Bay Investment Trust	

LAND USE AND DEVELOPMENT

Planning and Development Act (Local Planning Schemes) Regulations 2015 Schedule 2 Clause 68 Applications to use/develop land

File Ref:	Application Ref:	Subject Land (Incl. Scheme No)	Purpose	Applicant/ Proponent	Date Granted
A776	P19/20	Lot 19 (HN 64) Cornish Street, East Carnarvon	Shed for truck storage	M. Beck	14/08/20

MINING ACT 1978 - SECTION 41, 58, 70C, 74, 86,91, Reg 64 Local Government Recommendation on Mining Tenements

File Ref:	DMP Ref:	Subject Land	Purpose	Proponent	Advice Sent
ADM0070	Licence 08/196	Coolicer Well	Application for Miscellaneous Licence (communications facility).	Global Exploration Tenement Services	21/08/20

BUILDING SERVICES

Application No.	Owners Name	Lot & Street	Type of Building Work
B20/109	SAMUEL PETER BECK	LOT 19 (64) CORNISH ST EAST CARNARVON	STEEL PORTAL FRAMED COMMERCIAL SHED CLAD IN PROFILE SHEET METAL
B20/118	THE ROMAN CATHOLIC BISHOP OF GERALDTON, ST	LOT 38 (21) WILLESEE STREET, MORGANTOWN	ASBESTOS REMOVAL AND RECLAD WITH METAL SHEETING

Application No.	Owners Name	Lot & Street	Type of Building Work
	MARY STAR OF THE SEA SCHOOL		
B20/122	DEPARTMENT FOR HOUSING	LOT 500 UNIT 3 (85) DAVID BRAND DRIVE, BROCKMAN	1.8M HIGH COLORBOND POST & RAIL BOUNDARY FENCE
B20/124	THE OWNERS OF 120 ROBINSON STREET	UNITS 17, 18, 19 (120) ROBINSON ST, CARNARVON	SOLAR SYSTEM INSTALLATION ACROSS 3 UNITS
B20/125	RICKY ANDREOLI	LOT 84 (11) FLEMING ST EAST CARNARVON	STEEL PORTAL FRAMED SHED
B20/126	HENRY DUNSTAN SEDDON	LOT 961 (17) HUBBLE STREET SOUTH CARNARVON	1.8M HIGH COLORBOND POST & RAIL BOUNDARY FENCES
B20/128	DEPARTMENT FOR HOUSING	LOT 2 (UNIT 2, 7) MORRELL CRT EAST, MORGANTOWN	REPLACEMENT OF STEEL FRAMED FENCE BETWEEN UNITS 2 AND 3
B20/129	DEPARTMENT FOR HOUSING	LOT 287 (UNIT 6, 42) GRANBERRY DR, BROCKMAN	REPLACEMENT OF STEEL FRAME FENCE IN CONCRETE FOUNDATION
B20/130	BIRCHMEAD PTY LTD	LOT 465 (50) HARBOUR RD GREYS PLAIN	OCCUPANCY PERMIT CLASS 7B - NEW BUILDING - COMPLETE (s.46) REF: B19/100 (STORAGE - LOADING DOCK)
B20/131	DEPARTMENT FOR HOUSING	LOT 1126 (5) YOUNG ST, SOUTH CARNARVON	FULL DEMOLITION OF SINGLE STOREY RESIDENTIAL DWELLING
B20/132	ALEXANDER ROBERT FULLARTON	LOT 100 (118) BOOR ST, GREYS PLAIN	STEEL FRAME STOOR ROOM CLAD IN SHEET METAL UNDER EXISTING ROOF LINE
B20/133	DEPARTMENT FOR HOUSING	LOT 25 (61A/B) CAREY STREET, SOUTH CARNARVON	FULL DEMOLITION OF DWELLING (2 UNITS)
B20/135	JUSTIN JOEL BRANDENBURG	LOT 77 (72) SHALLCROSS ST, EAST CARNARVON	CONVERT A SHED TO A DWELLING
B20/136	JOSE CARLOS GOMES PAULINO	LOT 151 (1) WHEELLOCK WAY, MORGANTOWN	STEEL FRAMED PATIO
B20/137	SEVENTH DAY ADVENTIST CHURCH & STATE OF WA	LOT 1218 (110) WILLIAM ST, EAST CARNARVON	6M RADIO MAST
B20/138	DEPARTMENT OF EDUCATION	LOT 101 (27) MARMION STREET, EAST CARNARVON	FREESTANDING STEEL FRAME SHADE STRUCTURES WITH SHEET METAL ROOFING
B20/140	DEPARTMENT FOR HOUSING	LOT 13 (4) RIDLEY PL, MORGANTOWN	POST AND PANEL COLORBOND FENCE

*** STATUS REPORT TO BE SENT OUT UNDER SEPARATE COVER AS WAS NOT COMPLETED IN TIME FOR AGENDA*****

OFFICER'S RECOMMENDATION

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

Date of Meeting:	22 nd September 2020
Location/Address:	3 Francis Street, Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	David Burton, CEO
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

To seek Council's approval to observe a Christmas/New Year stand down during the period between Christmas Eve and New Year.

Description of Proposal:

To stand down the Shire administration and operations, other than essential personnel, during the Christmas/New Year Break.

Background:

In previous years the Shire administration staff have observed a Christmas/New Year stand down in which the main civic buildings/offices have been closed during the period between Christmas and New Year. In 2019 the Office was closed on 22 December 2019 and reopened on 2 January 2020. There were no complaints or other evidence of any adverse impact on the public as a result of the closure.

Consultation:

Shire of Carnarvon Staff

Statutory Environment:

Nil

Relevant Plans and Policy:

This matter relates to the Shire of Carnarvon Policy E009 – Shire of Carnarvon Operational Hours.

Financial Implications:

This proposal is accommodated within the current 2019/2020 financial budget through the salary and wages allocation to cater for the proposed closure.

Risk Assessment:

There is no perceived risk in regard to the closure of the civic buildings/offices over the Christmas/New Year Period. There is no evidence of any adverse impact on the community through the closure of the offices in previous years. This traditionally is a quiet period where there is little demand for Shire administrative services

Community & Strategic Objectives:

Nil.

Comment:

The proposal is that the Christmas stand down is advertised to the general public and that emergency contact numbers are provided in the event that urgent action needs to be undertaken by resident staff. Where the Christmas stand down is invoked, all staff will be expected to take that time off through use of accrued leave or accrued flexi time.

Due to Christmas Day falling on a Friday this year, it is proposed that staff will work up to Wednesday 23rd December 2020 and resume work on Monday 4th January 2021. The closing of the office from Thursday 24th December will enable staff who have family elsewhere to make travel arrangements.

The proposed closure will be from Wednesday 23rd December 2020 and reopening at 8.00am Monday 4th January 2021 (6 days in total) with 3 of these days being Public Holidays (i.e. Friday 25th December 2020, Monday 28th December 2020 and Friday 1st January 2021). Staff are entitled to a discretionary fourth Public (Government) Holiday at this time, being Monday 4th January 2021 however this can be taken on either Wednesday 23rd or Thursday 24th December 2020.

OFFICER'S RECOMMENDATION

That Council note the observance of a Christmas/New Year stand-down for Shire administration and operational staff with the main civic buildings/offices to be closed on Wednesday 23rd December 2020 and re-opening at 8.00am on Monday 4th January 2021 and that advertising of the closure on the website and in the local newspaper will be undertaken.

Date of Meeting	22 September 2020
Location/Address	Shire of Carnarvon
Name of Applicant	Shire of Carnarvon
Name of Owner	Shire of Carnarvon
Author/s	David Burton, Chief Executive Officer
Declaration of Interest	Nil
Voting Requirements	Simple Majority
Previous Report	December 2018

Summary of Item

To review Council's Code of Conduct.

Description of Proposal

To review and update the Council's Code of Conduct (the Code) to ensure that expected standards of conduct and integrity are communicated to all people in the organisation. The proposed Code incorporates new sections that are consistent with the WALGA model Code.

Background

The *Local Government Act 1995* requires all local governments to prepare or adopt a code of conduct to be observed by elected members, committee members and employees. In the case of the Shire of Carnarvon we extend the code to be applicable to consultants, contractors and other partners.

Council's Code of Conduct was originally adopted on the 28 May 1997 with regular reviews having been conducted since then. The last review was carried out and endorsed by Council in December 2018, with no changes being made. Regularly reviewing and updating the Code ensures that it continues to address current and emerging conduct risks. The Code may not need amendment at every review but by having a regular review cycle the risk of the Code becoming outdated is removed.

Consultation

WA Local Government Association has provided an up to date model Code.

Statutory Environment

The Model Code of Conduct meets the requirements of the *Local Government Act 1995* (s.5.103 – Codes of Conduct) and the *Local Government (Administration) Regulations 1996* (Regs 34B and 34C).

Financial Implications

Nil

Risk Assessment

A regular review and update of the Code of Conduct avoids the risk of the document becoming outdated.

Community & Strategic Objectives

Goal 5: Civic

Strong and listening Council.

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
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations

Comment

The attached Code is based on the WA Local Government's Association Model which provides Council Members, Committee Members, employees and contractors in Local Government with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in individual Local Governments.

The Model Code is complementary to the principles adopted in the Local Government Act and Regulations which incorporates the following four fundamental aims:

- (a) *better decision-making by local governments;*
- (b) *greater community participation in the decisions and affairs of local governments;*
- (c) *greater accountability of local governments to their communities; and*
- (d) *more efficient and effective local government.*

The Code provides a guide and a basis of expectations for Council Members, Committee Members and employees. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

Council Members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the *Local Government Act 1995* and *Local Government (Rules of Conduct) Regulations 2007*.

OFFICER'S RECOMMENDATION

That Council adopt the Shire of Carnarvon Code of Conduct for Elected Members, Committee Members, Staff and Contractors (as amended), as presented in Schedule 8.1.2.

Date of Meeting:	22 nd September 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	David Burton – Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

To consider the use of consultants for the updating of the Shire of Carnarvon Strategic Community Plan and Corporate Business Plan .

Description of Proposal:

The Shire was due to do a minor review of the Corporate Business Plan to update the information earlier this year, as it was seen that there had been a significant change in the community, the Strategic Community Plan would be required to be reviewed as well. This action was delayed as a result of COVID19 and that community engagement required for the review could not take place.

Now that meetings are available to be used for community engagement, now it is time to get back into the process of reviewing the Strategic Community Plan and Corporate Business Plan.

Given that the administration staff have been reduced due to the restructure, to get the Strategic Plans done in a timely manner will require the engagements of contractors to complete some of the works.

Background:

The Shire of Carnarvon discussed the review of the Strategic Community Plan and Corporate Business Plan earlier this year as it was seen that there had been significant changes in the community to alter the Strategic Community Plan. The Shire was looking at trying to conduct the review inhouse. This was stopped as a result of the COVID19 outbreak and that public meetings (for community engagement) could not be held. This was further delayed as the Shire worked through the Organisational Restructure to reduce costs to the general ratepayer.

Which COVID19 is still a consideration, the ability to have meetings is now open again and it is recommended that the Shire use this time to complete the engagement of the community before the event of a second wave happens.

Initially, the Shire was looking at doing the consultancy and review of the plan 'in-house' using available staffing resources to collate information and attend community forums. With the completion of the Organisational Restructure, the Shire administration simply does not have the capacity to complete this work in a timely manner and as such, we are seeking to use a contractor for the works.

Consultation:

Staff.

Statutory Environment:

Local Government Act 1995

5.56. Planning for the future

- (1) A local government is to plan for the future of the district.

- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

Local Government Administration Regulations 1996

19C. Strategic community plans, requirements for (Act s. 5.56)

- (1) A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.
- (3) A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.
- (4) A local government is to review the current strategic community plan for its district at least once every 4 years.
- (5) In making or reviewing a strategic community plan, a local government is to have regard to —
 - (a) the capacity of its current resources and the anticipated capacity of its future resources; and
 - (b) strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and
 - (c) demographic trends.
- (6) Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.
- (7) A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.
*Absolute majority required.
- (8) If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.
- (9) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.
- (10) A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.

[Regulation 19C inserted: Gazette 26 Aug 2011 p. 3483-4.]

19DA. Corporate business plans, requirements for (Act s. 5.56)

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
- (3) A corporate business plan for a district is to —
 - (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and
 - (b) govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and
 - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.
- (4) A local government is to review the current corporate business plan for its district every year.
- (5) A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.
- (6) A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.

*Absolute majority required.

- (7) If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.
[Regulation 19DA inserted: Gazette 26 Aug 2011 p. 3484-5.]

Relevant Plans and Policy:

Strategic Community Plan
Corporate Business Plan

Financial Implications:

Funding is available in the Contractor/Consultancy budget account for the current financial year. It is estimated that staff can assist in some of the leg work which will reduce the cost of the contractor.

Risk Assessment:

The Strategic Community Plan and Corporate Business Plan are essential documents to lead the Shire into the Future. Having these documents being outdated or not aligned with the considerations from the public may lead the Shire into an area where it is not delivering to the public. This is a reputational risk for Council.

Community & Strategic Objectives:

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 Strategic Community Plan and Corporate Business Plan are extremely important documents in that they will establish the direct of the Shire of Carnarvon based on the wishes of the Community.

As a result of COVID19 and the changing economic situation in the Shire of Carnarvon, it is highly likely that the Strategic Community Plan will have a different focus than the previous Plan which will see the Shire moving in a different direction to previous. As a result of this change, while it is possible that the COVID19 will influence the response of local, it is also seen as an opportunity to align the Strategic Community Plan with the desires of the community.

Once the Strategic Community Plan has been completed, the Corporate Business Plan will need to be updated as to how the Shire will delivery against the community's desires. Once again, these documents are critical for the Shire to be able to establish a direction for Council and the staff.

Due to the recent Organisational Restructure, staffing levels have been dropped to reduce the cost impact on the local residents. Due to vacancies and new staff starting, it is likely that for the Shire to complete the strategic documents 'in-house' would not be able to be completed in a timely manner or without diverting staff from other areas which will create additional issues. The delays in completing these reports may be a frustration to the Council and residents.

Other documents feeding into the Strategic Planning documents will need to be updated as well. This will include the Long Term Financial Plan, which will establish the future financial impacts for the Shire, and the

Workforce Planning to be updated as a result of the Restructure.

OFFICER'S RECOMMENDATION

That the Chief Executive Officer seek quotes as per purchasing policy and engages a contractor for the Strategic Community Plan and Corporate Business Plan Review.

File No:	ADM0186
Date of Meeting:	22 September 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Dallas Wood Harris – Creditors Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

To present the listing of accounts paid from the Municipal Fund and Trust Fund in accordance with the requirements of the Local Government (Financial Management) Regulations 1996.

Description of Proposal:

N/A

Background:

Council has previously delegated to the CEO the exercise of its power under Financial Management Regulation 12 to make payments from Municipal Fund and Trust Fund.

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 2019/2020 Budget.

Financial Implications:

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

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:

Accounts paid to 31 August 2020 are listed in *Schedules 8.2.1.(a) and 8.2.1.(b)*.

OFFICER'S RECOMMENDATION

That Council

- a) *Receive the list of payments, as per Schedule 8.2.1 (a) totalling \$1,385,832.20 as presented for the month of August 2020 incorporating:*

<i>Payment Reference from:</i>	<i>Payment Reference to:</i>	<i>Payment Type</i>	<i>Payment Amount</i>
<i>DD38031</i>	<i>DD38076</i>	<i>Bank Direct</i>	<i>\$45,945.18</i>
<i>47183</i>	<i>47187</i>	<i>Muni Cheques</i>	<i>\$32,066.25</i>
<i>7518</i>	<i>7523</i>	<i>Trust Cheques</i>	<i>\$8,419.92</i>
<i>EFT331097</i>	<i>EFT31225</i>	<i>Muni EFT</i>	<i>\$1,252,106.08</i>
<i>EFT31146</i>	<i>EFT31248</i>	<i>Trust EFT</i>	<i>\$47,294.77</i>

- b) *Receive the list of credit card payments, as per Schedule 8.2.1 (b), totalling \$4,800.45 as presented.*
- c) *Note Sundry Creditors as at 31 August 2020 \$1,326,259.89*

File No:	ADM0186
Date of Meeting:	22 September 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Kim Chua Manager Finance
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

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

Description of Proposal:

N/A

Background:

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

Consultation:

Nil

Statutory Environment:

Local Government (Financial Management) Regulation 34.

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

(1A) In this regulation —

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

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

- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.

- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.

- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Relevant Plans and Policy:

Corporate Business Plan 2018 - 2022

Financial Implications:

Nil.

Risk Assessment:

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

Community & Strategic Objectives:

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

Comment:

Attached as **Schedule 8.2.2** for consideration is the completed Statement of Financial Activity for the period ended 31 August 2020.

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

OFFICER'S RECOMMENDATION

That Council, in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, receive the Statement of Financial Activity for the period ended 31 August 2020 as per Schedule 8.2.2.

File No:	ADM0186
Date of Meeting:	22 September 2020
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Kim Chua, Finance Manager
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

To report the Council details of funds invested to 31 August 2020.

Description of Proposal:

N/A

Background:

Nil.

Consultation:

Takes place with Financial institutions prior to renewal of investments.

Statutory Environment:

Section 6.14 of the *Local Government Act 1995* grants Council the power to invest surplus funds.

Relevant Plans and Policy:

The investment report is produced in accordance with Council's investment policy.

Financial Implications:

Nil.

Risk Assessment:

No risk identified.

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:

The attached monthly report on investments (*Schedule 8.2.3*) has been compiled in accordance with the reporting framework included as part of Council's investment policy.

OFFICER'S RECOMMENDATION

That Council receive the investments report, as at 31 August 2020 as per Schedule 8.2.3.

Date of Meeting:	29 th September 2020
Location/Address:	N/A
Name of Applicant:	Western Australian Local Association (WALGA)
Name of Owner:	Western Australian Local Association (WALGA)
Author/s:	Sj Nixon, Governance Coordinator
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

Summary of Item:

The Western Australian Local Association (WALGA), of which the Shire of Carnarvon is a beneficiary, seeks formal resolution from the Council to vary the local Government house trust (***Schedule 8.2.4 Deed of Variation, Local Government House Trust***). Before the trust can be varied, WALGA requires consent of at least 75% of all beneficiaries in order to execute the variation. The Shire of Carnarvon presently hold seven (7) units as advised at WALGA's last Quarterly report Q4 2019. The purpose of the variation is to assist the trust's tax-exempt status.

Description of Proposal:

A variation is proposed to Trust Deed based on legal advice and are intended to assist the Trust's income tax exempt status by strengthening the position that the Trust is a State / Territory Body (STB). Legal advice identified that the Trustee's ability to retire and appoint a new Trustee might affect the Trust's classification as a State or Territory Body (STB).

Subsequently the Deed of Variation aims to strengthen the position that the Trust is a STB through the following amendments:

1. removing the existing Trustee's power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation)
2. enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation), and
3. ensuring that the Board of Management is the 'governing body' of the Trust (Clause 2.3 of the Deed of Variation)

The three proposed amendments when applied to the relevant clauses inserted by the Deed of Variation dated 5 June 2002 will subsequently read as follows (proposed amendments shown in red text):

1. Variation 2.1 amends clause 22.1 to point to additional clause:
22.1 Any Trustee of the Trust may retire as Trustee of the Trust Subject to clause 22.3, the right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.
2. Variation 2.2 inserts two new clauses:
22.3 The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.

22.4 The Beneficiaries may at any time by Special Resolution:
 - (a) remove a Trustee from the office as Trustee of the Trust; and
 - (b) appoint such new or additional Trustee.

3. Variation 2.3 insert a new clause 13A

13A Delegation to the Board of Management

Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.

Background:

The Local Government House Trust (“The Trust”) exists primarily to provide building accommodation for the Western Australian Local Government Association. Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade West Leederville.

The current trust deed commenced in 1993 and was amended in 2002 to reflect the merger of the metropolitan and country associations into WALGA. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies “upon Trust” and in proportion to the units provided.

Commencement date of the current deed is 17 February 1993, with a vesting date 79 years from commencement - which means that the Trust ends in 2072. The Trust is exempt from income tax on the basis of being a State / Territory Body (STB) pursuant to *Division 1AB of the Income Tax Assessment Act 1936*.

Consultation:

Request issued by Nick Sloan, Chief Executive Officer, WLAGA

Statutory Environment:

Tax Assessment Act 1936

Relevant Plans and Policy:

E043 - Elected Member Attendance and Participation at Community Workshops or Public Meetings
C010 – Significant Accounting Policies

Financial Implications:

The Benefit from the Local Government house trust forms a considerable part of the Shire of Carnarvon’s financial asset with the 18/19 financial report indicating an amount of \$122,620. Should the trust fail to retain its tax exempt status as a result of failing to make these variation, an estimated 10% of this earnings could be forfeited in tax deductions.

Risk Assessment:

Financial Risk- As previously stated should the trust not maintain its tax-exempt status, the Shire stands to see a reduction in its income form this entity.

Community & Strategic Objectives:

Outcome 5.4 Long-term financial viability.

5.4.2	Maintain a high standard of financial management.
5.4.3	Implement long term financial planning.

Comment:

It is worth noting that there is a “low risk” related to this structural variation for WALGA in that currently holding the ability to retire and appoint a new Trustee could be considered at odds with the Trust now being an a State/Territory Body (STB) for tax purposes. An STB is considered under the Tax Act to be governed by government entities with the power to appoint or dismiss its governing body. In the case of the Local Government House Trust, the Board of Management of seven, consists of six Elected Members from Local Governments (nominated by State Council which itself consists of Local Governments). While the Trustee carries out the decisions of the Board of Management, the ability within the Trust Deed of the non-government entity WALGA as Trustee, to appoint a new trustee, while considered low risk and technical, is considered a risk nonetheless to the Local Government House Trust’s position as an STB. The Council is not required to execute this deed of variation, merely provide consent via a resolution for the deed of variation. The Shire is then required to communicate this consent in writing to WALGA.

OFFICER’S RECOMMENDATION

1. ***“That Council, pursuant to Section 2.7(2) of the Local Government Act resolve to consent to the approval of the deed of variation of the Local government house trust as per schedule 8.2.4(a)”***

(Absolute Majority Required)

2. ***That Council, pursuant to Section 5.42 of the Local Government Act (1995), delegate authority to the Chief Executive Officer to communicate the Council’s consent to the variation of the deed of trust to the Western Australian Local Government Association (WALGA) in writing.***

(Absolute Majority Required)

File No:	ADM 2087
Date of Meeting:	22 September 2020
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	Shire of Carnarvon
Author/s:	Paul Lees, Executive Manager Development Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Reports:	N/A

Summary of Item:

Section 3.16 of the *Local Government Act 1995* (LGA) requires local governments to undertake a review of their local laws every eight (8) years. The Shire's local laws are well overdue for review and therefore this work needs to be given priority over the next few months by Shire officers. This report seeks the formal approval of Council to commence this process.

As part of the review process the Shire will consider the adoption of new local laws in accordance with the procedure set out for making Local Laws in s3.12 of the *Local Government Act 1995*. Any proposed changes to local laws will therefore be brought before Council as part of the review process.

Description of Proposal:

The proposal relates to the process of updating the Shire's local laws as outlined below. The *Local Government Act 1995* gives powers to local authorities to make local laws, as well as the responsibilities to ensure that local laws remain current. This report formally notifies Council that the process of review has been commenced and seeks Council's approval to give notice to the community of the review; such notice will advise the community of the proposed review, provide all current local laws on the Shire's website and at the Customer Service Counter (for inspection), and invite submissions from the community as they see fit.

Background:

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

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

Title	Gazetted	Amendments	Comments
Local Government Act Local Laws	26 Feb 1998, p1000		Repeal and replace with new Local Government Property and Public Places local law
Stands (Taxis) Public Vehicular	18 May 1956, p1238		Repeal and replace with new Parking local law
Parking and Stands	3 August 1956, p1920		Repeal and replace with new Parking local law
Parking Near Intersections	5 Feb 1958, p192		Repeal and replace with new Parking local law
Motels	14 Jan 1969, p119	6 Dec 1985, p4562	Repeal - dealt with by Health local law
Caravan parks - Fees	1 Apr 1977, p960		Repeal – fees and charges are set as part of the annual budget process under Part 6 Local Government Act 1995.
Dogs	12 Oct 1990, p5190	20 Mar 1992, p1268; 30 Jun 1992 p2889; 9 Jul 1993 p3351	Replace with new Dogs Local Law to reflect changes to Dog Act 1976 and Dog Regulations 2013.
Carnarvon airport	22 Jan 1993, p777		Combine with proposed new Local Government Property and Public Places Local Law.
Fencing	16 Sept 1994, p4757		Review and update where necessary.
Cat control	17 Jun 1997, p2767	17 Mar 1998, p1428	Replace with new local Cats Local Law made under Cat Act 2011
Health	23 Jul 1997 p121	29 Sept 2002, p4835	Review and update where necessary.
Standing Orders	26 Feb 1998 p969		Review and update where necessary.
Advertising Devices	26 Feb 1998, p984		Review – may be better dealt with as part of Local Planning Scheme policy
Carnarvon public cemetery	26 Feb 1998, p1024		Review and update where necessary.

Table 1 – List of Local Laws and proposed actions.

Consultation:

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

Any feedback from the public consultation process will be presented to Council; and in addition, any changes to local laws must be undertaken under s3.12 of the *Local Government Act* to make new, amended or repealed local laws.

It should be noted that the project plan proposes workshops with Councillors and with key Shire staff to ensure that the new local laws are appropriate to the needs and requirements of the district and the community.

Statutory Environment:

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

Local Government Act 1995

3.16. *Periodic review of local laws*

- (1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*
- (2) *The local government is to give local public notice stating that —*
 - (a) *the local government proposes to review the local law; and*
 - (b) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
 - (c) *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- [(2a) *deleted*]
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended.*

* *Absolute majority required.*

Relevant Plans and Policy:

The review and ultimate gazettal of new local laws will require a review of any policies that have their foundation in that specific local law. The level of change required will need to be determined after the local laws are finalised and gazetted. This is a separate future project that Shire staff will need to undertake.

Financial Implications:

There are costs associated with the review of local laws and these costs have been identified in the 2020/21 Council approved budget.

Risk Assessment:

The Shire must comply with the requirements of s3.16 of the *Local Government Act 1995*. Failure to do so will render the Shire open to criticism for not complying with the Shire's statutory obligations. Local laws are subordinate legislation. In the event that there is a conflict between a State or Commonwealth law or regulation, and the proposed local law, the 'higher order' legislation has priority over the local law to the extent of that inconsistency.

With the above in mind there is an ongoing risk to the Shire on the reliance of outdated local laws as a decision may be challenged. It is therefore important that the review be undertaken in a timely way.

Community & Strategic Objectives:

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

Objective 2: Natural and built environment

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

ITEM	Outcomes and Strategies
2.1	Valued natural environment, for use and enjoyment by current and future generations

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

Objective 3: Social

Healthy, safe and resilient community, where everyone belongs

3.1	Active community
3.1.1	Provision of sport and recreation facilities
3.1.2	Support and promote opportunities for sport and recreation clubs to increase meaningful participation
3.2	Strong community identity and spirit through arts, culture and events
3.2.1	Provide and promote visual arts facilities and exhibitions/activities
3.2.2	Provide and promote performing arts and entertainment facilities and performances/activities
3.2.3	Provide and promote other opportunities for participation in social and cultural events and activities
3.2.4	Support the delivery of public art initiatives
3.2.5	Provide accessible literature and life-long learning resources through library and information

	services
3.3	Caring, self-reliant community
3.3.1	Support groups to deliver community-led initiatives and activities through liaison and grants
3.3.2	Facilitate volunteering opportunities within the Shire
3.3.3	Recognition and acknowledgement of community leaders and volunteers
3.4	Healthy and safe community
3.4.1	Provide emergency management planning, disaster management and disaster recovery, and associated community liaison and education
3.4.2	Collaborate with other agencies to provide a safe community
3.4.3	Ensure safety and amenity standards are upheld through Ranger Services and Environmental Health Services
3.4.4	Develop and maintain a Public Health Plan
3.5	Engaged young people
3.5.1	Provide a youth centre and activities to engage young people, particularly at risk young people
3.5.2	Collaborate with the Edmund Rice Foundation to offer alternative education for young people not succeeding in the mainstream
3.5.3	Advocate for young people and collaborate with other agencies to engage young people
3.6	Age friendly community
3.6.1	Explore options for age appropriate housing and aged care (low to high needs) in designated precinct
3.6.2	Support older residents to lead fulfilling lives and be valued members of the community
3.7	Accessible and inclusive community for people with disability
3.7.1	Provide adequate ACROD parking
3.7.2	Ensure Shire facilities and infrastructure are accessible for people with disability, where possible

Comment:

From Table 1 above it is clear that there are a number of local laws that are no longer used or relevant, and these should therefore be repealed. The remainder of the local laws need to be updated in line with current policy and Council/community views, with the removal of any conflict that might exist with ‘higher order’ legislation.

The process to make, amend or repeal a local law is separate to the formal review required under s3.16 and as set out in s3.12 of the *Local Government Act 1995*, which in itself requires Council to initiate any changes, advertise them, consider submissions and then decide to make the local law or amendment. Any proposed changes to local laws will therefore be brought before Council at a later stage.

In many cases it is apparent that it will be easier and cheaper for many local laws to be repealed and replaced with a more contemporary version.

Again, these new local laws will be submitted to Council for consideration on a case by case basis and may require further work. Overall, it is considered that the Shire will have the following set of updated local laws:

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

OFFICER'S RECOMMENDATION

That Council:

- 1. Gives "local public notice" by requiring the CEO to give notice that the Shire proposes to review its local laws under s3.16 of the Local Government Act 1995;*
- 2. Notes that a copy of the local laws may be inspected and/or obtained at the Shire offices or from its website;*
- 3. Notes that submissions about the local laws will be invited to be made to the Shire on or before the day specified in the notice, being a day that is not less than 6 weeks after the notice is given; and*
- 4. Notes that the results of the above advertising (if received) will be presented to Council for consideration of submissions received.*

Date of Meeting:	22 September 2020
Location/Address:	Part Gnaraloo Road from Gnaraloo Bay to Southern Boundary of Warroora
Name of Applicant:	Department of Biodiversity, Conservation and Attractions - Nyinggulu Coast Joint Management Body (JMB)
Name of Owner:	Shire of Carnarvon
Author/s:	David Nielsen – Executive Manager Infrastructure Services
Declaration of Interest:	Nil
Voting Requirements:	Recommendation 1 - Simple Majority Recommendation 2 - Absolute Majority Recommendation 3 - Simple Majority
Previous Reports:	March 2020 and May 2020

Summary of Item:

It is recommended Council acknowledges concerns expressed by the Nyinggulu Coast Joint Management Body Chair regarding the December 1 2020 reopening of the Gnaraloo Coastal Track and agrees to an extension of time for the temporary road closure until 30 June 2023 subject to the normal public notice requirements under Section 3.50 of the Local Government Act 1995.

Description of Proposal:

Nyinggulu Coast Joint Management Body (JMB) Chair Mr Paul Baron has written to the Shire President. The JMB is requesting Council reconsider its May 2020 decision to reopen the Gnaraloo Coastal Track on 1 December 2020.

The JMB seeks Council reconsideration to maintain the track closure for a further five year period or *“until a considered and appropriate management strategy can be developed to allow for the safe and sustainable access to Cape Farquhar Sector that is consistent with DBCAs efforts to manage natural, cultural and visitor impacts along the Nyinggulu Coastal Reserves (NCRs).”*

JMB correspondence is provided in **Schedule 8.4.1**.

This report considers the request and recommends a compromise closure timeframe with dialogue to commence with the JMB to build a relationship with that body specifically and traditional owners more generally.

Background:

At its May 2020 Ordinary Meeting, Council resolved as follows:

FC 24/5/20

COUNCIL RESOLUTION

Cr Pinner/Cr Maslen

That Council direct the CEO to inform all appropriate stakeholders that the Shire will reopen the Gnaraloo Coastal Track on Tuesday 1st December 2020 for the purpose of an adventure track only.

CARRIED
F7/A0

(Note to Minute – As a result of the continual reclosing of this road with no definitive time frame provided by DBCA, Council agreed that the track should be reopened for the purpose stated and that the date provided would enable sufficient notice for the stakeholders concerned.)

This decision was the outcome of a process commenced in March 2020 where Council notified by public notice its intent to extend the temporary closure of Gnaraloo Road from Gnaraloo Bay to the Southern Boundary of Warroora for a further one-year period.

The proposal was advertised in accordance with Section 3.50 of the Local Government Act 1995 and affected pastoral leases were advised by written notice.

One objection was received within the objection period from Gnaraloo Station. Council considered the objection and the closure extension at its May 2020 meeting.

Council then resolved as per minute **FC/24/5/20** provided above.

In July 2020, the Shire President was invited to and attended a meeting of the Nynggulu Coast Joint Management Body held at Warroora Station. The meeting included traditional owner representatives, senior Parks and Wildlife representatives and operational staff.

The President voiced Council's desire to see the coastal track responsibly utilised as a tourism attraction feature for the region namely as an opportunity for adventure style tour (or similar) visitor activities.

JMB representatives voiced concerns regarding existing capacity for the practical management of such activities. This is due to high cultural and natural feature sensitivities of the area. Resource commitments to existing and developing coastal reserve camping and visitor access areas (such as those along coastal reserve areas adjacent to Warroora Station) were identified as a factor limiting the JMB's ability to manage opening of another visitation area.

These concerns are outlined in detail the correspondence provided in **Schedule 8.4.1** and are summarised as follows:

- Aboriginal Cultural Heritage Site Concerns – survey and heritage site mapping has not been conducted. At present no resources have been allocated to that task. With the road in a closed condition, visitor pressure remains low and there is little risk of disturbance to cultural heritage sites. Survey and mapping work is considered necessary to manage any visitor pressure to the areas.
- Visitor Risk Management Concerns – risks to persons and property due to the rugged terrain and remote nature of the site.
- Nature Conservation Concerns – capture of baseline data without visitor pressure has not been completed. Baseline data is necessary to determine subsequent visitor impact and management effectiveness. Feral animal control stated as more difficult to conduct with public visitation to the area.
- Sanctuary Zone Management Concerns – limited resource capability of Fisheries and/or Parks and Wildlife to ensure compliance with zone restrictions if visitation is present.
- Coastal Reserve Management Concerns – the formalisation of the Coastal Reserve requires significant resource allocation. Visitation pressure in areas accessed by the track will stretch this allocation.

Responses to these concerns are provided in the Comments portion of this report.

Consultation:

Consultation with the JMB occurred at the July 2020 meeting held at Warroora Station.

Statutory Environment:

Section 3.50 of the Local Government Act 1995 applies as follows:

3.50. Closing certain thoroughfares to vehicles

(1a) A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.

(2) The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.

[(3) deleted]

(4) Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —

(a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission; and

(b) give written notice to each person who —

(i) is prescribed for the purposes of this section; or

(ii) owns land that is prescribed for the purposes of this section; and

(c) allow a reasonable time for submissions to be made and consider any submissions made.

(5) The local government is to send to the Commissioner of Main Roads appointed under the Main Roads Act 1930 a copy of the contents of the notice required by subsection (4)(a).

(6) An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.

Section 5.42 of the Local Government Act 1995 applies as follows

5.42. *Delegation of some powers and duties to CEO*

(1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —

(a) this Act other than those referred to in section 5.43; or

(b) the Planning and Development Act 2005 section 214(2), (3) or (5).

* Absolute majority required.

Relevant Plans and Policy:

Nil applicable.

Financial Implications:

There are no direct material financial implications associated with the recommendation.

Risk Assessment:

Partnership Risk – Formalisation of the Coastal Reserve is now largely completed. The Nynggulu Coast Joint Management Body is the management body established by the State to manage this portion of land within the Shire of Carnarvon. Community interest may be better served over the longer term by the Shire establishing and building a working partnership with the JMB.

Building such a partnership is likely to require knowledge and understanding, trust, an acknowledgement of differences and compromise on the part of *both* partners. Establishing and building this partnership may assist the Shire to maintain its current role as a genuine stakeholder in the management of this land. Not establishing and building that partnership may place the Shire at risk of being regulated out of any genuine stakeholder role.

This joint management arrangement is the model likely to remain in place for the foreseeable future. Traditional owner members and representatives of the joint body are also likely to play a role in development of future Indigenous Land Use Agreements (ILUA's) between the Shire and traditional owners. These agreements may be necessary to secure other strategic community outcomes particularly in relation to the use or strategic allocation of land for community infrastructure.

As such, it may be in Council's strategic interest to adopt a compromise position regarding the road closure matter at hand. The road closure extension as recommended may afford Council and the JMB to better understand each other's concerns and aspirations allowing the opportunity for a genuine partnership to develop and mature.

Environmental Degradation Risk – Uncontrolled vehicular access to this section of road may increase risk of some or all the following:

- Erosion. In particular, coastal dune erosion;
- Track proliferation;

- Disturbance of cultural heritage sites;
- Feral animal and plant incursion; and
- Rubbish and litter.

Community & Strategic Objectives:

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
1.2.1	Promote the district of the Shire of Carnarvon as a tourism destination within the wider Coral Coast tourism region
1.2.2	Support the development and promotion of tourism attractions in the district of the Shire of Carnarvon
1.2.3	Support the development and promotion of cultural tourism 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
2.1	Valued natural environment, for use and enjoyment by current and future generations
2.1.1	Work with other government and non-government organisations to control weeds and pests, and undertake other conservation measures

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
5.3	Council takes into account Aboriginal issues and perspectives in decision-making
5.3.1	Establish an Aboriginal Representation Committee for advice and collaboration
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:

There is an opposition between Council's currently adopted position regarding public reopening of the track and the reopening concerns expressed by the JMB chair.

Regarding specific concerns raised by the JMB, the following is offered as comment:

Aboriginal Cultural Heritage Site Concerns – these concerns appear sincere and given recent headlines regarding disturbance of cultural heritage sites by mining operations in the Pilbara, such concerns are likely to resonate within some parts of the community and media.

The additional road closure time recommended provides a reasonable timeframe for the JMB to ensure this work is progressed to a state of satisfactory completion. This issue is a potential point of engagement with the JMB to clarify and quantify the nature and extent of survey and heritage site mapping more specifically. This may also afford Council an opportunity to lobby *for* the JMB raising the profile of the work and hopefully assisting in its prioritisation.

Visitor Risk Management Concerns – whilst the concern expressed here is clearly sincere, existing reserve areas face similar issues. In these and other remote areas more generally, the presence of natural dangers, physical isolation, and terrain ruggedness increases visitor risk while constraining and complicating any emergency response.

Access to remote and isolated areas is available to a greater proportion of the population now perhaps than ever before. Remote characteristics likely play a role in visitor attraction to such areas – it evokes a spirit of adventure.

Emergency response management in these areas is always problematic. That is not unique to this site however and although a factor for consideration, does not appear to be grounds for exclusion of access to such areas.

Another point of engagement with the JMB may be that other than providing clear information regarding likely visitation risks, what if anything can be done to mitigate circumstances likely to arise during an emergency and where can Council potentially assist in that mitigation, other than by simply locking off access.

Nature Conservation Concerns – successful measurement and management of visitor impacts to areas of natural significance is likely to require establishment of baseline data. It would not appear unreasonable therefore for the JMB to be seeking to complete the necessary sampling required to achieve measurement of baseline data of statistical significance.

Again, engagement with the JMB would be recommended to specify the nature and extent of the required work. This too may afford Council opportunity to lobby *for* the JMB as a partner raising the works profile assisting prioritisation.

Sanctuary Zone Management Concerns – limited ability to ensure fisheries (or other) regulatory compliance is not restricted to just this area. However, it can be appreciated that resources available to Fisheries and/or Parks and Wildlife to manage visitor compliance are continually called upon to stretch that little bit further. There is adage that is perhaps applicable, “He who tries to defend everything defends nothing.”

Coastal Reserve Management Concerns – in many respects, issues faced by the JMB are not unlike those faced by the Shire and other statutory authorities. Namely, larger areas of responsibility, lessening or neutral resource pools, higher levels of service demand and an increasingly complicated regulatory framework. There is perhaps more in common than there are differences between the two parties and again, engagement with the JMB may result in a shared appreciation of issues faced by each partner and more optimal solutions to those issues.

On balance therefore it is considered appropriate to recommend to Council to consider an extension of the road closure, not for the five-year period as requested by the JMB but an extension until 30 June 2023.

If adopted, that will mean the closure would remain in place for approximately two years and seven months from the current reopening proposed for 1 December 2020. This is approximately half the five-year closure time requested by the JMB. Alignment with the financial year calendar is largely an arbitrary convenience however it may provide some financial planning advantages to both partners.

Dialogue with the JMB commenced with the invitation of the Shire President to the meeting at Warroora Station. A reciprocal invitation from Council to the JMB Chair and its members may be an appropriate mechanism to continue that dialogue and build the partnership relationship.

OFFICER'S RECOMMENDATION 1

That Council, pursuant to Section 3.50 of the Local Government Act (1995):

- 1. Advertises its intent to continue the temporary closure of a portion of Gnaraloo Road between Gnaraloo Bay and the Warroora Station southern boundary until 30 June 2023 by:
 - a) Providing local public notice in accordance with Section 1.7 of the Local Government Act (1995;*
 - b) Display of a notice on the Shire of Carnarvon Website;*
 - c) Written notice sent to the affected pastoral lessees; and*
 - d) Includes in that notice advice that submissions regarding the proposed closure are to be received within a period of 21 days from the date of publication.**
- 2. Directs the CEO to prepare a report for Councils consideration if objections to the proposed closure are received.*

(Simple Majority Required)

OFFICER'S RECOMMENDATION 2

That Council, pursuant to Section 5.42 of the Local Government Act (1995) delegates authority to the CEO to execute the temporary road closure subject to there being either nil submissions received, or nil submissions received objecting to the proposal.

(Absolute Majority Required)

OFFICER'S RECOMMENDATION 3

That the Shire President on behalf of Council, informs the Joint Management Body Chair of Councils decision and invites the JMB members to meet with Council after the next Ordinary Council meeting held in Coral Bay, currently planned for 27 October 2020.

(Simple Majority Required)

File No:	
Date of Meeting:	22 September 2020
Location/Address:	Part Gnaraloo Road from Gnaraloo Bay to Southern Boundary of Warroora
Name of Applicant:	Variety – the Children’s Charity of WA
Name of Owner:	Shire of Carnarvon
Author/s:	David Nielsen Executive Manager Infrastructure Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report:	March 2020

Summary of Item:

That Council conditionally approves use of the coastal track between Warroora and Gnaraloo Station to plan and conduct the 2021 Variety WA 4WD Adventure event.

Description of Proposal:

The Variety 4WD Adventure event has run for over 20 years. It offers participants a supported and managed off road 4WD experience to raise funds for the charity.

In 2019 the event raised \$215,000 to help kids in need in WA.

A request has been received to conduct part of this event on the Gnaraloo-Warroora coastal track. This request is identical in nature to the request conditionally approved by Council in March 2020.

The following has been requested by Variety Club WA:

- Access to the track on Monday 31 May 2021 to conduct the event;
- Access is required for approximately 40 cars (30 participant cars and 10 support cars) and up to 100 people;
- Access during April 2021 for two vehicles to conduct a survey to plan and document route details

Note that this is not the Variety “Bash” event which may be more recognisable to the public. This event is a controlled, managed and supported 4WD trek style event.

Background

Variety WA – the Children’s Charity supports children and families facing challenges through sickness, disadvantage or living with disability.

In late 2019, the Shire President met with event organisers. Formal approval was granted by Council to event organisers in March 2020 to use the track for the event in May 2020 subject to conditions.

The May 2020 event did not proceed due to the COVID 19 pandemic.

A request has again been received from organisers to conduct the event in May 2021.

No changes to the route or scope of the event are proposed by organisers. A copy of the request is provided in **Schedule 8.4.2(a)**.

The track public closure was continued by the Shire in May 2020. That decision resolved to reopen the track on 1 December 2020 as follows:

FC 24/5/20

COUNCIL RESOLUTION

Cr Pinner/Cr Maslen

That Council direct the CEO to inform all appropriate stakeholders that the Shire will reopen the Gnaraloo Coastal Track on Tuesday 1st December 2020 for the purpose of an adventure track only.

CARRIED

F7/A0

(Note to Minute – As a result of the continual reclosing of this road with no definitive time frame provided by DBCA, Council agreed that the track should be reopened for the purpose stated and that the date provided would enable sufficient notice for the stakeholders concerned.)

Nynggulu Coast Joint Management Body (JMB) Chair Mr Paul Baron has written to the Shire President requesting Council review its May 2020 decision to reopen the Gnaraloo Coastal Track on 1 December 2020. That request is considered at **Agenda Item 8.4.1**.

Consultation:

Consultation with Variety WA has been undertaken via email and telephone.

Variety WA advised previously they are open to the group being accompanied/escorted by a guide perhaps a member of the Shire or the JMB.

Consultation was undertaken previously with the Exmouth District Parks and Wildlife Service. Advice from the service to Variety indicated the event was not supported as outlined in their previous email contained in **Schedule 8.4.1 (b)**. That office has maintained their previous position regarding conduct of the event on the track.

Discussion with the Service indicated previously if the Shire approves the request, it could only approve the request to the extent limited to the gazetted road reserve which is the only area under the care and control of the Shire.

Statutory Environment

The process outlined in Section 3.50 of the Local Government Act 1995 in relation to temporary road closures was conducted in 2020 and as a result, the tracks public closure remains in effect until 1 December 2020.

3.50. Closing certain thoroughfares to vehicles

(1a) A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.

(2) The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.

[(3) deleted]

(4) Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to –

(a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission; and

(b) give written notice to each person who —

(i) is prescribed for the purposes of this section; or

(ii) owns land that is prescribed for the purposes of this section; and

(c) allow a reasonable time for submissions to be made and consider any submissions made.

(5) The local government is to send to the Commissioner of Main Roads appointed under the Main Roads Act 1930 a copy of the contents of the notice required by subsection (4)(a).

(6) An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.

Section 1.7 of the Local Government Act 1995 also applies.

1.7. Local public notice

(1) Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be —

(a) published in a newspaper circulating generally throughout the district; and

(b) exhibited to the public on a notice board at the local government's offices; and

(c) exhibited to the public on a notice board at every local government library in the district.

Relevant Plans and Policy:

Nil applicable.

Financial Implications:

There are no financial implications associated with the recommendation.

Risk Assessment:

Environmental Degradation Risk – uncontrolled vehicular access to this section of coast may increase risk of some or all the following:

- Erosion, in particular, coastal dune erosion;
- Disturbance of cultural heritage sites;
- Feral animal and plant incursion; and
- Rubbish and litter.

Variety WA have advised that they utilise the following mechanisms regarding route planning and event operation:

- All routes are surveyed, with route notes provided to participants, which they must follow;
- Route will be marked with signs laid out by the forward scout vehicle in the morning and collected by a sweeper vehicle at the end of the group to ensure nothing is left behind;
- All participants attend a pre briefing meeting before the trip, a briefing each night and each morning, they are also written documentation containing all trip information;
- Specific communication about this section of the journey will be widely communicated with the group so they understand the sensitive nature of the track; and
- There is a Code of Conduct which all participants agree to follow.

It is considered that these mechanisms and the recommended conditions of approval are sufficient to mitigate identified risks for a one off type event such as that proposed.

Community & Strategic Objectives:

Goal 1: Economic

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

ITEM	OUTCOMES AND STRATEGIES
1.2	Thriving tourism industry within the district/region
1.2.1	Promote the district of the Shire of Carnarvon as a tourism destination within the wider Coral Coast tourism region
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
2.6.1	Roads are appropriately managed according to their need and use

Comment:

Variety did not indicate any issues with the conditions outlined in the previous approval and understand that Shire approval is limited in scope to access to the road reserve only.

OFFICER'S RECOMMENDATION

That Council approves the request from Variety WA to utilise the coastal track between Warroora and Gnaraloo Bay for the purposes of planning and conducting their 2021 4WD Adventure subject to the following conditions:

- a) Access is strictly limited to only the track within the gazetted road reserve and only on the established and well-defined track.*
- b) No parking off the established track is permitted.*
- c) Access to the track is not permitted in the event of rain on or near the event day.*
- d) A pre-event survey drive shall be conducted in conjunction with Nyinggulu Coast Joint Management Body (JMB) representatives and/or Shire representatives to clearly define the route to be taken.*
- e) No rubbish shall be deposited or buried along the route. All rubbish shall be removed from the track and disposed of at an appropriate rubbish collection facility.*
- f) No pets or domestic animals are permitted to be taken through the track.*
- g) All care shall be taken by the event participants to cause minimal disturbance to the natural environment.*
- h) No vehicle access is permitted onto beach or coastal dune areas.*
- i) All vehicles shall be inspected to be free from weeds, seeds, and soils prior to entering the track.*
- j) No camping or fires are permitted.*

k) All gates shall be left in the condition they are found. Arrangements shall be made with the Shire for supply and return of gate keys with refundable key deposits in accordance with the Shire Fees and Charges. (Currently \$50/key)

(Simple Majority)

Date of Meeting:	22 September 2020
Location/Address:	Lot 308 Coral Bay
Name of Applicant:	Department of Communities
Name of Owner:	BAC Village Pty Ltd
Author/s:	David Nielsen – Executive Manager Infrastructure Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report:	June 2020

Summary of Item:

A repair process recommended to Council to enable it to accept with reasonable confidence, road infrastructure created by the subdivision of Lot 308 Coral Bay has been completed.

It is recommended Council directs the CEO to clear Shire of Carnarvon subdivision conditions and accept the constructed road assets under the previously stipulated 12-month defect liability period.

Description of Proposal:

Shire Officers refused acceptance of roads constructed during the subdivision of Lot 308 Coral Bay as the work failed to meet the conditions of subdivision approval imposed by the Shire.

Additional inspections and testing were subsequently completed to examine construction materials and as-constructed parameters in greater detail.

Remedial works carried out at no cost to the Shire have now been completed and the road assets may be accepted with reasonable confidence.

Background:

The Department of Primary Industries and Regional Development funded subdivision of Lot 308 Coral Bay. This property is one of the designated sites for Coral Bay workers accommodation and the subdivision is intended to provide additional workers accommodation lots.

Subdivision works reached practical completion in December 2018. The Shire was requested to sign off on its subdivision approval conditions in early 2019.

Upon completion of the subdivision works, site inspections by Shire officers raised immediate concerns with the Department of Communities Project Managers regarding the quality and standard of the works, especially in relation to the bitumen seal.

Defects in the seal continued to be identified. Shire officers refused to accept that the road met the conditions of the subdivision approval due to the unacceptable standard of the seal.

The matter did not progress for some time as the Department of Communities worked to resolve contractual matters. A change in Department of Communities staff resulted in a renewed attempt to resolve the matter. The Department commissioned geotechnical investigations of the road works and the Shire carried out additional pavement depth investigations which verified the extent of pavement less than the specified depth. Apparent pavement deformation areas were examined in more detail and were determined to be thickened bitumen seal most likely caused by poor construction technique in the use of wet edges between spray runs.

Council considered the matter at its June 2020 ordinary meeting and resolved as follows:

That Council, in relation to the road assets created by the subdivision of Lot 308 Coral Bay (application No 154764), directs the CEO to advise the Department of Communities that Council:

- a) will not clear Shire of Carnarvon subdivision conditions and accept the constructed road assets unless repairs are undertaken to rectify identified defects in the sealed surface;*
- b) requires the Department to submit to the CEO for consideration and approval a detailed seal repair methodology to address the identified defects. Acceptable repair methodologies include but are not limited to full width slurry sealing and full width hot or cold asphalt overlays;*
- c) requires the Department of Communities to undertake road surface brooming not less than twice prior to the seal repair works being undertaken to identify possible additional areas of seal not bonded to the pavement surface;*
- d) requires appointment of a suitably qualified and experienced person, of the Shires choosing and at no cost to the Shire, to supervise and assess the repair works. The assessment by this person on the suitability of the repair and the acceptability of the asset at the conclusion of repair works shall be final.*

prior to acceptance of the repaired road assets, requires the Department to agree to provide the Shire with an unconditional defect liability period on the road assets of not less than 12 months.

CARRIED
F6/A0

This resolution was communicated to the Department who acted promptly to submit a suitable repair methodology, engage a suitable contractor sweep the road surface and complete the repair works.

Work commenced on Saturday 5 September 2020 with the author inspecting the work at each of its various stages. Remediation work was completed on Tuesday 7 September 2020. The completed works were inspected and were determined to be satisfactory.

Photographic record is provided in **Schedule 8.4.3**.

Consultation:

Consultation has been undertaken with:

- Department of Communities
- Department of Primary Industries and Regional Development
- Road Maintenance Operations Staff
- MRWA

Statutory Environment:

The Planning and Development Act 2008 applies.

Relevant Plans and Policy:

Nil applicable.

Financial Implications:

The full cost of the repairs to bring the road seal to an acceptable standard have been met by the Department of Communities. Acceptance of the road infrastructure will mean acceptance of the cost of ongoing future maintenance of these roads.

That work will typically consist of normal road maintenance activities such as sweeping, pothole repairs (when necessary) and resealing.

Risk Assessment:

Accelerated Asset Degradation Risk - There were clearly issues associated with the quality of the subdivision road works. Testing and physical inspections limited the extent of these quality issues to the bitumen seal.

The seal surface was swept thoroughly on two occasions prior to the remediation works and did not reveal significant areas where the seal bond had failed.

Works now completed has sealed the complete pavement surface from water intrusion and corrected surface defects. An overall widening of the seal has occurred on each road edge correcting edge defects.

On balance, with a properly compacted subgrade and quality pavement material appropriately compacted in place, the repair of the seal to eliminate surface defects and exposure to water should provide the Shire with a road asset expected to meet usual life expectancy standards.

The road will be monitored closely for the following 12 months during the defect liability period with inspections programmed for every 3 months.

Community & Strategic Objectives:

Objective 2: Natural and built environment

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

ITEM	OUTCOMES AND STRATEGIES
2.6	Shire assets and facilities that support services and meet community need
2.6.1	Roads are appropriately managed according to their need and use
2.7	Regulated land use to meet the current and future needs of the community
2.7.1	Shire to incorporate appropriate planning controls for land use planning and development
2.7.2	Council adopts appropriate land use planning and building regulation practices

Comment:

Nil additional comment required.

OFFICER'S RECOMMENDATION 1

That Council, in relation to the road assets created by the subdivision of Lot 308 Coral Bay (application No 154764), directs the CEO to clear Shire of Carnarvon subdivision conditions and accept the constructed road assets with an unconditional 12 month defect liability period on the road assets to commence on 8 September 2020.

(Simple Majority)

Date of Meeting:	22 September 2020
Location/Address:	Town Oval, Egan Street Carnarvon
Name of Applicant:	Carnarvon Cyclone Rugby Team
Name of Owner:	Shire of Carnarvon
Author/s:	David Nielsen – Executive Manager Infrastructure Services
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report:	Nil

Summary of Item:

Requests from the Carnarvon Cyclones Rugby Team to utilise the Town Oval as their home ground , carry out works for the installation of goal posts, remove the existing cricket pitch and utilise Jim Richards Pavilion are considered and recommended in part and subject to conditions.

Description of Proposal:

A request has been received from the Carnarvon Cyclones Rugby Team for the use of Town Oval as their home ground. A copy of the correspondence received regarding this matter is provided in Schedule 8.4.4. The request is for:

- Use of the ground as the Cyclones home ground;
- Use of the ground for rugby matches;
- Consent to remove the existing cricket pitch;
- Consent to install goal posts;
- Consent to line mark and define a playing field; and
- Use of the Jim Richards Pavilion for a first aid and change room facility when hosting games.

Background:

No other organised sporting groups are known to currently utilise Town Oval. Major existing uses of the facility are for:

- Casual open space usage;
- Organised school sports days;
- Travelling commercial events such as circuses and fun fairs; and
- Occasional community events such as Tropicool.

Cricket is no longer played on Town Oval with the move of all cricket to the Festival Grounds occurring approximately two years ago.

Consultation:

Consultation with the Cyclones Rugby team has taken place.

Consultation with the Carnarvon Cricket Club has taken place with no objection to the proposed pitch removal received.

Statutory Environment:

Nil applicable.

Relevant Plans and Policy:

Nil applicable.

Financial Implications:

There are no financial implications associated with the proposal. The club has advised that it has access to equipment and labour to carry out the on-ground works proposed including the installation of the goal posts.

It is understood the club has established contacts within RugbyWA. Regional WA rugby club development with potential indigenous player engagement is apparently viewed favourably for funding by RugbyWA and Rugby Australia.

A padded cover for the existing pitch could be installed. Quality covers cost in the order of \$12,000 to supply and deliver. There is an ongoing cost associated with the seasonal changeover of covers.

Risk Assessment:

Damage to Infrastructure Risk – removal of the cricket pitch and installation of goal posts has the potential to damage reticulation infrastructure. This risk can be mitigated by ensuring potentially affected infrastructure is located by Shire staff prior to the commencement of on ground works.

There is a player injury risk associated with the use of the field for rugby union if the cricket pitch were to remain in place without a suitable padded cover.

Community & Strategic Objectives:

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
2.6.4	Parks, gardens and open space appropriately managed according to their need and use

Goal 3: Social

Healthy, safe and resilient community, where everyone belongs

ITEM	OUTCOMES AND STRATEGIES
3.1	Active community
3.1.1	Provision of sport and recreation facilities
3.1.2	Support and promote opportunities for sport and recreation clubs to increase meaningful participation

Comment:

This club is a relatively recent addition to available Carnarvon sporting activities. The club is currently utilising the Town Oval for training one or two evenings per week on a casual hire basis.

It is understood the club travel to Geraldton for fixture games however the intent as the club builds and has suitable facilities in place, games with visiting teams would be hosted in Carnarvon.

Longer term considerations for Town Oval include divesting the facility. The property is a reserve vested in the Shire via a management order for the purposes of a recreation ground and school.

As the club are not seeking any sort of longer-term tenure at this stage, there will be no restriction on Council continuing to proceed with divestment considerations.

Regarding proposed use of the Jim Richards Pavilion, the longer-term future for that building remains unresolved. At present it is not used for Shire Youth Services operations. It is however partially leased and used by the Edmond Rice Foundation. It is understood that Edmond Rice may be vacating the facility at the completion of the school year however no formal confirmation of that move has been received at the time of writing.

OFFICER'S RECOMMENDATION 1

That Council, responds to requests from the Carnarvon Cyclones Rugby Team as follows:

- a) The Shire supports development of the Carnarvon Cyclones and welcomes their use of the Town Oval facility as their home ground in accordance with the Shire's adopted fees and charges for the facility.*
- b) That the Club be aware that the Shire is considering options to divest itself of the long-term management of Town Oval and cannot at this stage guarantee its long-term availability as a local government facility.*
- c) Approval to remove the existing cricket pitch, install goal posts and install playing field marking is granted subject to the Club contacting the Shire depot prior to undertaking any works to confirm all proposed works locations and to ensure adjacent underground and pop-up irrigation reticulation services are located and marked.*
- d) Approval for the use of the Jim Richards Pavilion facility cannot be granted now due to an existing lease of that facility however the Shire will reconsider such approval if that lease arrangement alters.*

(Simple Majority)

Date of Meeting:	22 September 2020
Location/Address:	N/A
Name of Applicant:	N/A
Name of Owner:	N/A
Author/s:	Jennifer MacKellin – Executive Manager Corporate & Community Services
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority

Summary of Item:

This report presents proposed changes to the Community Growth Fund Policy (C025) for adoption by Council.

Description of Proposal:

The Officer is providing Council with recommendations for changes to the Community Growth Fund Policy (C025), which was adopted by Council on 26 February 2019.

Background:

The Community Growth Fund Policy (C025) was adopted by Council on 26 February 2019 (Resolution No. FC 12/2/19). Since this date, with the Policy now being in place for more than a year, it was identified that some minor changes were required. These changes are the result of feedback from applicants, staff and the Council delegated Community Growth Funds Committee.

The changes have been highlighted in the draft document which can be found at *schedule 8.2.5*. The main points of change for the consideration of Council are:

- **Reference to the Council 'Community Growth Funds Committee'** – this committee consists of three Elected Members, with an additional Elected Member as proxy, and the Executive Member of Corporate and Community. This committee has delegated authority to assess and approve applications submitted through this Policy, with Council Noting the decisions of the Committee at a full Council meeting. This Committee reviews applications for Rates Donations, which are to be presented to Council and require an absolute majority vote.
- **Rates donations** – these were set at 'up to 90% of the rates charged on a property' in the Policy adopted on 26 February 2019. It is recommended that this be changed from 90% to 50%. In 2019/20, Council contributed ~\$73,000 in rates donations. A review of those receiving this rates donation found that some entities had been receiving this donation for 17 years or more, and some may no longer be eligible for this donation. No evidence was found relating to a consistent procedure for rates donation application, which leads officers to believe that some entities may not be aware of the significant contribution Council has made to them over the years. To allow for equity, it is proposed that all entities who have been receiving a rates donation be required to apply for this for the 2021/22 financial year. Applications would then be required by 30 April each year, which will allow Council to include this donation in its Annual Budget planning and ensure current eligibility of the entity. With consideration to the fact that rates notices are currently being received by these entities, it is proposed that this Policy not be applied to the 2020/21 financial year rates for those already receiving a rates donation. It would further be proposed that it applies to any new applications. Those who have been receiving a rates donation will receive a letter outlining the changes, should they be adopted by Council, which will allow them a year to plan for any financial changes that may occur as a result.
- **Rates donations (leased properties)** – it is clarified in the Appendix to the Policy that those who are leasing a property (meeting all other eligibility criteria) may apply for a Rates Donation. This excludes those who are occupying properties owned or managed by the Shire of Carnarvon, as they

may be seen to already receiving a contribution by Council through reduced rent, use of land, maintenance of buildings etc.

- **Canvassing of Council (Elected Members)** – Elected Members are an active part of the community, with involvement in many community groups and organisations. The Local Government Act 1995 sets out requirements of Elected Members, to ensure transparency and accountability in decision-making. Impartiality provisions are provided for those matters where an Elected Member has an association with an individual or organisation seeking financial assistance from the Council. Elected Members declare any real or perceived conflicts of interest as required under the Act. To further protect the Elected Members and provide for a fair and equitable process, canvassing of Council is not viewed favourably and may render an application ineligible. This does not prevent an applicant from contacting Shire staff to discuss their project and the application process. Shire staff are there to support applicants through the process, but not to complete the application for them. It is worth noting that Shire employees may also be seen to have a conflict of interest under the Act. The Shire has internal controls to prevent the influence of Shire employees over an application where a real or perceived conflict may arise.
- **Operational review** – the Shire of Carnarvon provides an initial review of applications within two weeks of the closing date for each round. This allows staff to ensure that the application is complete, meets the eligibility criteria, confirm funding previously provided and that acquittals have been completed if required. A report is then provided for the Community Growth Funds Committee with recommendations based on this review. This has been included in the Policy to allow applicants to better understand the process.
- **Economic, tourism, cultural or community benefit** – this has been added to the assessment of applications. Not all applications will fit into these areas, but these are considerations that are often raised by Council in their deliberations.
- **Grant Agreement** – previously there has been no formal Agreement entered into with grant recipients. The Shire will provide successful applicants with an Agreement that will outline the terms and conditions of the grant, as provided by the Community Growth Funds Committee.
- **Invoice** – it has been noted that many applicants were unaware that they were required to submit an invoice to the Shire in order to receive their grant if successful in their application. This has been more clearly articulated within the Policy and will be reinforced in writing to successful applicants.
- **GST** – for those registered for GST, this will be added to the grant amount on the invoice. If they are not registered for GST, only the grant amount will be provided and the organisation is responsible for fund the GST component of the project costs.
- **Financial reports** – the Policy adopted on 26 February 2019 required grants up to \$5,000 to provide evidence of an independent financial review. Grants between \$5,000 and \$10,000 were required to provide an audited financial report. This was identified by Elected Members as being onerous on small groups who are seeking the financial support of Council, without which they may not be able to provide the project they are proposing. Requirements for financial reports will be a part of the Grant Agreement entered into with the successful applicants.
- **Publicity** – minimal reference has been made previously to the contribution made by Council to the community through Community Growth Funds. Grant Agreements will include a requirement to acknowledge the support of the Shire of Carnarvon, with the Shire logo to be used for Major and Iconic Events. Further, this Policy identifies that the Shire will include its contributions through Community Growth Fund grants and Rates donations in its Annual Report. This provides transparency in the distribution of funds.
- **Individual** – Individuals, such as those applying to represent Carnarvon at a sporting event, may apply for Small Assistance Donation up to \$1,000. A club or organisation may submit an application on behalf of (and with the consent of) an individual, auspicing the grant on behalf of the individual.

Consultation:

Elected Members and relevant Shire staff have been consulted

Statutory Environment:

Local Government Act 1995

s.5.8 Establishment of committees

A local government may establish committees of 3 or more person to assist the council and to exercise the powers and discharge the duties of the local government that delegated to committees.

s.6.47 Concessions

Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge. (Absolute majority required)

Relevant Plans and Policy:

Annual Budget

Corporate Business Plan

Financial Implications:

Council has already adopted the budget for 2020/21 and these changes will have no impact on this budget.

It is anticipated that Council contribution to Rates will be ~\$74,822 in the 20/21 financial year. Based on current figures, a change from 90% donation to 50% will reduce this figure \$51,544 for the 2021/22 financial year. This is a budget savings of \$23,278.

Council determines the budget available for the Community Growth Funds each year, with this Policy already allowing up to 4% of the gross yield of rates income.

Risk Assessment:

Reputational Risk – Council may see these changes as a reputational risk within the community.

To mitigate this risk, Shire staff will discuss the new Policy requirements with applicants. For those that are not eligible for a grant or rates donation, they will be advised of other opportunities available to them.

The Local Government Act does not appear to require Council to provide grants or donations to the Community. This is at the discretion of the individual Council. Some entities may believe that they are being disadvantaged by a change in the Rates donation. Section 6.26 of the Act provides for the ability to waive rates provided that an organisation occupying the land can show it is a charitable organisation and the land is being used exclusively for charitable purposes. This exemption does not fall under this Policy and is treated separately.

Community & Strategic Objectives:

Goal 3: Social

Healthy, safe and resilient community, where everyone belongs

Goal 5: Civic

Strong and listening Council

Comment:

The Community Growth Fund Committee has been able to provide greater equity and transparency in the distribution of Council funds to community groups. Their diligence in reviewing applications, attending meetings, and listening to the considerations provided through the staff review of applications, is to be commended. The identification in discrepancies between the Policy and historical practices was able to be openly discussed with the Committee and staff appreciate their understanding and input into the necessary changes.

The proposed changes make for a more equitable and transparent process, whilst also being considerate of the limited capacity for the Shire to make financial contributions to the community.

A review of Policies and Operational guidelines is planned, so this Policy has remained largely unchanged pending a more comprehensive review which is to occur at a later date.

OFFICER'S RECOMMENDATION

It is recommended that Council:

1. *Adopts the revised Community Growth Fund Policy C025*
2. *Rescinds any existing agreements for Rates discounts or donations, by way of a letter to those in receipt of such Rates discounts or donations, to commence with the Rates issued for the 2021/2022 financial year.*
3. *Notes that the Community Growth Fund Committee holds delegated authority for the approval of grants, with Rates Donation applications requiring an Absolute Majority vote at a full Council meeting.*