



SHIRE OF CARNARVON  
**AGENDA**  
ORDINARY COUNCIL MEETING  
TUESDAY 28 JUNE 2022

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

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# **NOTICE OF MEETING**

Notice is hereby given  
**Shire of Carnarvon**  
**Ordinary Council Meeting**  
will be held  
on Tuesday 28 June 2022  
Council Chambers, Stuart Street Carnarvon  
commencing at 1.00pm



Andrea Selvey  
CHIEF EXECUTIVE OFFICER

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## **DISCLAIMER**

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

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

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## INFORMATION ON PUBLIC QUESTION TIME

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

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

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

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

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

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

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

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

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

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## SPECIAL MEETINGS OF COUNCIL

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

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## 1.0 ATTENDANCES, APOLOGIES & APPROVED LEAVE OF ABSENCE

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

## 2.0 DECLARATIONS OF INTEREST

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

## 3.0 PUBLIC QUESTION TIME

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

### 3.1 QUESTIONS TAKEN ON NOTICE FROM PREVIOUS MEETING

### 3.2 PUBLIC QUESTION TIME

## 4.0 CONFIRMATION AND RECEIVING OF MINUTES

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### RECEIVING OF MINUTES

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<b>13.0</b>	<b><u>DATE OF NEXT MEETING</u></b>	
11.1	Next meeting of Council will be held on Tuesday 26 July 2022 commencing at 1.00pm	
<b>14.0</b>	<b><u>CLOSURE:</u></b>	

## 7.1.1

## ACTIONS PERFORMED UNDER DELEGATED AUTHORITY FOR THE MONTHS OF MAY AND JUNE 2022

File No:	ADM0043
Date of Meeting:	28 June 2022
Location/Address:	3 Francis Street, Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Andrea Selvey, Chief Executive Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report:	Monthly Report
Schedules:	Nil

## Authority / Discretion

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

## Summary of Item:

To report on actions performed under delegated authority for the months of May and June 2022.

## 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

Relevant Plans and Policy:

Nil

Financial Implications:

There are no financial implications arising from receiving this report.

Risk Assessment:

**Consequence** → **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
<b>Likelihood</b>						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

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

Community & Strategic Objectives:

Goal 5: Civic

Strong and listening Council.

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

**Comment:**

The following tables outline the action performed within the organisation relative to delegated authority for the months of May and June 2022 are submitted to Council for information.

**AFFIXING OF COMMON SEAL**

Date Affixed	Document Title
25 May 2022	Shire of Carnarvon Local Planning Scheme 13 – Amendment No.1

**ENVIRONMENTAL HEALTH****Food**

*Food Act 2008*

Date of decision	Decision Ref.	Decision details	Applicant	Other affected person(s)
2 June 2022	HFO22/006	New food business registration, Terra Temptations T/A Bumbak's Preserves & Icecreams, 50 Bibbawarra Rd (new premises)	Danver Holdings	
2 June 2022	HFO22/007	New food business registration, Cheeki Pizzeria & Cheeki Patisserie, 12 Smart St, East Carnarvon (mobile and home-based)	GP Condo & SM Condo	

**PLANNING**

Planning and Development Act (Local Planning Schemes) Regulations 2015 Schedule 2 Clause 68 Applications to use/develop land					
File Ref:	Application Ref:	Subject Land (Incl. Scheme No)	Purpose	Applicant/Proponent	Date Granted
A100	P45/2021	54 Clever Street, Carnarvon	Development of an oversized shed	Thomas Langley	25/05/2022
A3693	P20/22	51 Shallcross St, East Carnarvon	Development of an oversized shed	Philip Dawson	26/05/2022

**BUILDING**

Application No.	Owners Name	Lot & Street	Type of Building Work
B21/076	THOMAS EDWARD LANGLEY	LOT 81 (54) CLEAVER ST, SOUTH CARNARVON	SHED & LEAN TO STEEL FRAMED STRUCTURE CLAD WITH PROFILED METAL SHEETING ON A CONCRETE SLAB
B22/033	SHIRE OF CARNARVON	CORNER OLIVIA TERRACE & BROWN STREETS, SOUTH CARNARVON	REINSTALLATION OF STEEL FRAMED SHADE STRUCTURE WITH METAL ROOF CLADDING (AS PER RFQ 02/2022)
B22/035	KATRINA WARD & CHRISTOPHER MICHEAL LECA	LOT 89 (1) TUCKEY CRT, MORGANTOWN	SOLAR PANEL INSTALLATION ONTO EXISTING DWELLING
B22/037	WARREN SCHMIDT & MIRANDA	LOT 4 (49) CORNISH STREET, EAST	PATIO AND ALFRESCO AREA

Application No.	Owners Name	Lot & Street	Type of Building Work
	WILLIAMSON	CARNARVON	
B22/038	ERICA & DAMIEN PRESTON	LOT 129 (41) RICHARDS ST, BROCKMAN	SOLAR PANEL INSTALLATION ONTO EXISTING DWELLING
B22/039	SUSAN & PHILIP DAWSON	LOT 503 (51) SHALLCROSS ST, EAST CARNARVON	SHED - STEEL FRAMED STRUCTURE CLAD WITH PROFILED METAL SHEETING ON A CONCRETE SLAB
B22/040	TERRENCE RICHARD MAXWELL	LOT 33 (19) SAW ST, EAST CARNARVON	FREE STANDING GABLE ROOF CARPORT - STEEL FRAMED WITH PROFILED SHEET METAL ROOF CLADDING & CONCRETE FOOTINGS
B22/042	DANIEL JAMES & SUSANNA BIRGITTA TOPE	LOT 18 (43) RICHARDSON STREET, SOUTH CARNARVON	REMOVING EXISTING ROOF SHEETING, REPLACING WITH COLOURBOND AND UPGRADING ROOF TIE DOWN TO CURRENT STANDARD
B22/043	THOMAS EDWARD LANGLEY	LOT 81 (54) CLEAVER ST, SOUTH CARNARVON	BELOW GROUND SWIMMING POOL & BARRIER FENCING
B22/045	NORMAN JOHN & JENNIFER DAWN RYAN	LOT 988 (4) NELSON ST, BROCKMAN	POST & RAIL COLORBOND FENCE

**OFFICER'S RECOMMENDATION**

*That Council, by Simple Majority, in accordance with Section 5.46 of the Local Government Act, accept the reports outlining the actions performed under delegated authority for the months of May and June 2022.*

File No:	ADM0186
Date of Meeting:	28 June 2022
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Author/s:	Giang Nguyen – Creditors Officer
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Reports:	Presented every month
Schedules:	Schedule 7.2.1

#### Authority / Discretion

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

#### Summary of Item:

To present the listing of accounts paid from the Municipal Fund, Visitor Centre Account and Trust Fund, in accordance with the requirements of the Local Government (Financial Management) Regulations 1996, for the month of May 2022.

#### Background:

Council has previously delegated to the CEO the exercise of its power under Financial Management Regulation 12 to make payments from Municipal Fund, Visitor Centre Account and Trust Fund. A list of all payments is provided in *Schedule 7.2.1*

#### Stakeholder and Public Consultation:

Nil

#### Statutory Environment:

Local Government Act 1995 – Section 5.42

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

#### Relevant Plans and Policy:

N/A

#### Financial Implications:

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

Risk Assessment:

Consequence

STEP 3 – Risk Tolerance Chart Used to Determine Risk				
Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5

Likelihood						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

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

**OFFICER'S RECOMMENDATION**

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

- a) Receive the list of payments made under delegation, as per Schedule 7.2.1 (a) totaling \$1,596,618.99 as presented for the month of May 2022 incorporating.

Payment Reference from:	Payment Reference to:	Payment Type	Payment Amount
EFT35384 - EFT35541 EFT35544 - EFT35576	EFT35579 - EFT35626	Muni EFT	\$ 1,560,428.51
EFT35542 - EFT35543	EFT35577 - EFT35578	Trust EFT	\$20,881.70
		Trust Cheques	\$0.00
DD39419.1	DD39431.2	Visitor Centre Bank Direct	\$15,308.78
		TOTAL	\$1,596,618.99

- b) Note Sundry Creditors as of 31 May 2022 - \$244,442.86

File No:	ADM0186
Date of Meeting:	28 June 2022
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Susan Mizen Manager Finance
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Report	Nil
Schedules	Schedule 7.2.2

#### Authority / Discretion

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

#### Summary of Item:

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.

#### Background:

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

The statements should show the following:

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

The statements are accompanied by notes that explain the statements and any supporting information. Further, comments are to be made where variances are higher than the materiality thresholds set by Council which are plus (+) or minus (-) of \$10,000 for operating items and plus (+) or minus (-) of \$20,000 for capital items or 10% whichever is higher.

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

This report provides elected members with information about operating and capital revenues and expenditures. It also links operating results with balance sheet items and reconciles with the end of month balances. The Audited Financial Statements for 30 June 2021 are currently being audited, and the closing surplus figure, which will become the opening surplus figure for 2022, will be finalised. Until the end of year Audit is finalised, the opening surplus is subject to change and the accounts remain in draft.

**Consultation:**

Nil

**Statutory Environment:**

*Local Government (Financial Management) Regulation 34.*

**Relevant Plans and Policy:**

Corporate Business Plan 2018 - 2022

**Financial Implications:**

Nil.

**Risk Assessment:**

**Consequence** → **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
<b>Likelihood</b>						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

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

## 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 7.2.2** for consideration is the draft Statement of Financial Activity for the period ended 31 May 2022.

The accounts are listed as draft accounts as they do not become final until Financial Statements for 30 June 2021 have been Audited and a final carry forward surplus is verified. Auditors were onsite at the beginning of October 2021 and the final Financial Statements for June 2021 are not expected until June 2022. The delay is because Contracted and OAG Auditors take leave over the festive season and into the New Year. It is expected that some figures may change due to audit opinions of the treatment of certain transactions.

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 \$10,000 for operating items and plus (+) or minus (-) of \$20,000 for capital items or 10% whichever is higher.

### OFFICER'S RECOMMENDATION

***That Council, by Simple Majority, and in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, resolves to receive the Draft Statement of Financial Activity for the month of May 2022 as per Schedule 7.2.2.***

File No:	ADM0071
Date of Meeting:	28 June 2022
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Susan Mizen – Manager of Finance
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority

#### Authority / Discretion

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

#### Summary of Item:

As part of the 2022/2023 budget process, Council is required to endorse proposed differential rates for properties valued on an unimproved basis. The proposed differential rates presented here represent an approach to setting rates where rates are levied that reflect associated costs of providing infrastructure and services to the various ratepayers.

Differential rates have been applied to three groups of unimproved properties and range from 2.7126 cents in the dollar of valuation, to 25.9827 cents in the dollar of valuation.

#### Background:

The purpose of levying rates is to meet Council's budget requirements in each financial year and enables Council to raise the revenue necessary to provide facilities, infrastructure and services to the entire community and visitors of the Shire of Carnarvon.

The rates levied on properties are determined by applying the rate in the dollar to the applicable valuation amount of the properties within the district, and if applicable, applying a minimum rate. The Shire applies a minimum rate to each rating category in accordance with S6.35 of the Act, to ensure that properties with a low valuation still pay a fair and reasonable amount towards the maintenance and continuity of Shire infrastructure and services.

The method of land valuation (GRV or UV) is determined by the Minister for Local Government, Sports and Cultural Industries (the Minister) with individual valuations being provided to the Shire by the Valuer General's Office (VGO) as part of Landgate. Valuations were revised both upwards and downwards on

properties in the past weeks for Intensive Horticulture and upwards on some Mining properties.

The power to set differential rates is contained in the Local Government Act 1995 section 6.33 (1) which provides the ability to differentially rate properties, based land characteristics.

The Department of Local Government, Sports and Cultural Industries (the Department) requires that Council endorse not only the imposition of differential rates, but also the objects and reasons for the imposition of differential rating. The application of differential rates and minimum payments to properties within the Shire maintains equity in the rating of properties.

This report has been prepared to present:

1. The proposed 2022/2023 Differential Rates Model that will reflect the rate in the dollar and minimum rate for each unimproved rating category provided in **Schedule 7.2.3(a)**.
2. The required public notice for approval which may be advertised for at least 21 days from 6 July 2022 provided in **Schedule 7.2.3(b)**.
3. The Objectives and Reasons to support the imposition of the proposed 2022/2023 Differential Rates provided in **Schedule 7.2.3 (c)**.

**Consultation:**

Nil

**Statutory Environment:**

*Local Government Act 1995 Section 6.33 Differential general rates and 6.35 Minimum payment*

**Relevant Plans and Policy:**

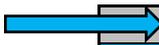
Corporate Business Plan 2018 – 2022  
Strategic Community Plan 2018

**Financial Implications:**

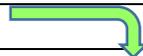
The proposed differential rates and minimum payments for the 2022/2023 financial year will raise approximately \$1,175,889 across the categories as follows:

Category	Estimated 2022/23 Differential Rate Revenue
Mining	\$227,845
UV Pastoral	\$381,585
Horticultural	\$566,459
Total	\$1,175,889

**Risk Assessment:**

Consequence  **STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High



Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	1. Further reductions in values for Pastoral Properties. 2. The Minister may not approve the proposed differential rates	Low	Advice from the Valuer General's office is that there will be few or no further revaluations due to objections. All compliance requirements have been met to date and advertising the differential rates and reviewing any objections will take place at the end of the advertising period of 21 days and before submission to the Minister for approval.
Health & Safety	NA	NA	
Reputation	Community sensitivity to Council rate. Rates that are perceived as high have the potential to result in reputational damage.	High	This risk has to be balanced against raising revenue to support Shire operations and service delivery. Officers have kept the total rate revenue to minimum required.
Service disruption	NA	NA	
Compliance	N/A	NA	
Property	NA	NA	
Environment	NA	NA	
Fraud	N/A	Low	

#### 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:

It is proposed to levy the following differential rates for properties classed as unimproved:

Category	Rate of cents in the \$	Minimum Rate
UV Mining	25.9827	\$450
UV Pastoral	11.8312	\$1,228
UV Intensive Horticultural	2.7126	\$1,228

The objective of imposing differential rates is to ensure equity across different land uses, especially where values can vary greatly from properties close to townsites and those in more remote areas of the Shire. The ability of Council to apply a different rate in the dollar ensures that all properties make a fair contribution to the required revenue of the Shire.

Applying differential rates can also be used, should Council wish to offset dramatic changes in valuations which come about as part of Landgate's periodical revaluations.

At the end of the 2021/2022 Financial year Landgate revalued the Intensive Horticultural, Mining and Pastoral Land Values. Values of Intensive Horticulture reduced by approximately 36%. Pastoral properties were revalued downwards dependent only on objections lodged by Pastoralists to the existing values.

Reduction in valuations ranged from approximately 10% to 54%. The new values for Pastoral Properties were backdated to include rates raised during the 2020/2021 financial year. This resulted in a refund to Pastoralists of approximately \$82,000. At the end of the 20221/2022 financial year values of Intensive Horticultural Properties further devalued by an average of 11.82% though individual property changes ranged from an increase of 10% to a decrease of 26%.

The proposed differential rates contained in this report are set to maintain the relative contributions to general rate revenue for each differential category as applied in the 2021/2022 financial year except for Mining where the increase in actual Rates to raise is higher due to an increase in mining properties from 46 to 67.

The legislative requirements surrounding the imposition of Differential Rates impose a considerable time factor as the steps following the endorsement of the differential rate are as follows:

- Advertise the proposed differential rates which is 21 days
- Consideration of any submissions received and determine the final differential rates
- Seek Ministerial approval which is generally up to 21 days, however there are already delays in approvals and the time frame may be longer.

As noted above, all this needs to be completed at a time before the adoption of Council's budget for the next financial year; hence the reason the differential rates are based upon estimations using:

- the latest valuations from Landgate
- estimated UV increase or not as the case may be, for any valuation objections; and
- estimated rate revenue increases for the next year based on the adopted Corporate Business Plan, budget deliberations to date or other Council approved factors.

An overall increase of 8 percent was applied to the 2018/19 rates yield. A further increase of 6 percent was applied in 2019/20. No increase was levied for the 2020/21 financial year due to COVID relief and a 6% increase was applied for 2021/2022.

For the 2022/2023 financial year an estimated 6% increase has been proposed which will partially offset inflation. In the last 12 months, a CPI at over 7% has applied excluding the Fair Work Commission 5.2% wage increase on 15 June 2022 for minimum wage earners. That increase is expected to have flow on effects to other Salary and Wage earners.

The 6% rate increases were identified through Council's major strategic review undertaken in 2018 and was driven by Council's commitment to deliver on services and projects that have been recognised as key community priorities in both the Strategic Community Plan (SCP) and the Corporate Business Plan (CBP).

Individual property increases and decreases depend on valuations provided to the Shire by the Valuer Generals Office (VGO), and therefore may be different to the overall increase of 6%.

Adoption of the proposal will see a differential rate, which may alter after advertising and seeking submissions from the electorate. Following consideration of the submissions from the electorate, a request will be sent to the Minister seeking approval of the differential rate.

The actual rate applied will be the differential rates applied for and approved by the Ministerial delegation, unless a variation is approved by the Minister. This is to comply with the Local Government Act 1995 Section

6.33(3).

If any submissions are received, Council must consider the submissions prior to seeking Ministerial approval and prior to formally adopting the differential rates and minimum payments as part of the annual budget process.

**OFFICER'S RECOMMENDATION**

*That Council, by Simple Majority, pursuant to sections 6.33 and 6.36 of the Local Government Act 1995 resolves to:*

1. *Seek approval from the Minister for Local Government to impose differential rates for 2022/2023 land parcels that have unimproved valuations assigned to them as follows:*

<i>Category</i>	<i>Rate of cents in the \$</i>	<i>Minimum Rate (\$)</i>
<i>UV Mining</i>	<i>25.9827</i>	<i>450</i>
<i>UV Pastoral</i>	<i>11.8312</i>	<i>1,228</i>
<i>UV Intensive Horticulture</i>	<i>2.7126</i>	<i>1,228</i>

2. *Publicly advertise its intention to impose differential rates and invites public submissions for a period of twenty-one days; and*
3. *Consider any submissions in respect of imposition of differential rates as part of the 2022/2023 Budget deliberations.*
4. *Adopt the reasons and objectives of the differential rates relating to UV Horticulture, UV Pastoral and UV Mining as provided in Schedule 7.2.3 and publishes the document on the Shire of Carnarvon official website.*

File No:	ADM0186
Date of Meeting:	28 June 2022
Location/Address:	Shire of Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Susan Mizen Manager Finance
Declaration of Interest:	Nil
Voting Requirements:	Absolute Majority
Previous Report	Nil
Schedules	Schedule 7.2.4

#### Authority / Discretion

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

#### Summary of Item:

In accordance with Section 6.16(3) (b) of the Local Government Act (1995), Fees and Charges may be amended from time to time during a financial year by absolute majority of Council. This item brings an amended Fees and Charges Schedule to Council for review and adoption.

#### Background:

Each year, as part of the budget process the Shire's Fees and Charges are adopted. However due to rapidly rising inflation and costs to the Shire of doing business, an interim amendment is necessary. This will amend the current Fees and Charges from 4pm on 30 June 2022, and be in force until the 2023 Fees and Charges Schedule is adopted with the 2022/2023 budget.

No new Fees and Charges are proposed with the recommended amendment. New fees and charges may only be imposed if they are advertised. There will be insufficient time available to advertise any new fees and charges before the end of the financial year in accordance with the Act.

The 2022/2023 Budget is proposed to be adopted in the next few months. New fees and charges will be presented to Council at that time for adoption with the budget.

#### Consultation:

Nil

**Statutory Environment:**

Local Government Act 1995 Section 6.16. Imposition of fees and charges

**Relevant Plans and Policy:**

Nil

**Financial Implications:**

Nil.

**Risk Assessment:**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Substantial cost escalations are eroding planned income	Low	Amendment of the current Fees and Charges better reflects costs to the Shire
Health & Safety	NA	NA	
Reputation	NA	NA	
Service disruption	NA	NA	
Compliance	Local Government Act allows for amendment to Fees and charges during a financial year	NA	The amendments brought with this item comply with the legislation
Property	NA	NA	
Environment	NA	NA	

**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 7.2.4*** for consideration, is the proposed amended Fees and Charges Schedule 2022 which must be adopted by absolute majority.

In accordance with the Local Government Act 1995, the Schedule is an amendment of current Fees and Charges only and does not include any new items that may otherwise be proposed when an annual Budget is adopted.

**OFFICER'S RECOMMENDATION**

*That Council, by Absolute Majority, pursuant to Section 6.16(3) (b) of the Local Government Act 1995, resolves to adopt the amended Fees and Charges Schedule 2022 provided in Schedule 7.2.2. to be in force from 4pm 30 June 2022.*

<b>File No:</b>	ADM1875
<b>Date of Meeting:</b>	28 June 2022
<b>Location/Address:</b>	Lot 304 on DP53818, 760 Coral Bay Road, Lyndon
<b>Name of Applicant:</b>	Paul Baron, General Manager Baiyungu Aboriginal Corporation
<b>Name of Owner</b>	State of Western Australia
<b>Author/s:</b>	Stefan Louw, Senior Manager Development and Regulatory Services
<b>Declaration of Interest:</b>	Nil
<b>Voting Requirements:</b>	Simple Majority
<b>Previous Reports:</b>	Nil
<b>Schedules:</b>	Schedule 7.3.1 (a) – Site Plan

#### Authority / Discretion

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

#### Summary of Item:

The development application is for the use of land for temporary overflow camping at Lot 304 (HN 760) Coral Bay Road, Lyndon (Cardabia Station).

The site contains the Cardabia Homestead and other associated buildings and an old airstrip that will be used as the area for the overflow camping. The site is zoned 'Rural' under the Shire of Carnarvon Local Planning Scheme No. 13 (LPS13) and a 'camping ground' is listed as a 'D' use which means that the use is not permitted unless the local government has exercised its discretion by granting development approval.. The site plan can be found at **Schedule 7.3.1 (a)**.

The application complies with LPS13 and policy requirements and this report recommends that the application be approved subject to conditions.

#### Background:

In April 2022 the Shire received an application to use subject land for temporary overflow camping when no sites are available in Coral Bay, with the aim to alleviate a recurring problem in Coral Bay during peak times and to provide an opportunity for visitors to the area to experience the activities associated with an Indigenous Pastoral

Station, as well as to meet the local Aboriginal residents.

Up to 60 caravans will be allowed in an area of approximately 1.4ha in size, as indicated on the Site Plan. The camping area will be on the old airstrip, which is a bare salt-flat. Existing access tracks will be used with no requirement to clear native vegetation.

The proposal is that no infrastructure be provided other than a site to park a caravan. All campers will be required to be self-contained and supplied, including waste management. A local camp host from Cardabia Station will maintain contact with overflow campers daily to ensure order and waste management are being complied with and camping fees are collected.

The additional revenue will assist the BAC to manage its commitments with the Station and make improvements to existing infrastructure.

The applicant has also applied to the Pastoral Lands Board for a diversification Permit.

**Stakeholder and Public Consultation:**

'Camping ground' is a 'D' use which means that the use is not permitted unless the local government has exercised its discretion by granting development approval. Given it is a discretionary use the application was advertised in the newspaper for a 14-day period. No objections were received.

The application was referred to the Shire's internal departments for comment and the following was received:

Infrastructure Service

No objection to the proposal.

Environmental Health

No objection to the proposal subject to the following conditions:

- A dump point for chemical toilet waste be provided prior to the use of the land to the satisfaction of the Shire of Carnarvon.
- Provision of at least one fire extinguisher easily accessible to all visitors to the satisfaction of the Shire of Carnarvon.
- No more than 60 caravans to be accommodated within the camping area as shown on the site plan at any one time.
- Include a note on the permit that management of the camping area to be in accordance with the Camping and Caravan Regulations.

**Statutory Environment:**

Planning and Development Act 2005

Part 5, Local Planning Schemes is in force under this Act and has the objective of making suitable provision for improvement, development, and use of the land as described in the local planning scheme area.

Planning and Development (Local Planning Schemes) Regulations 2015

Section 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 specify the matters to be considered by a local government when considering a development application. The matters relevant to this application have been carefully considered in the assessment of the application.

Shire of Carnarvon Local Planning Scheme No. 13

The Shire of Carnarvon Local Planning Scheme No. 13 provides the statutory framework for development of land within the Shire.

**Relevant Plans and Policy:**

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7)

SPP 6.3 applies to land identified designated as bushfire prone which includes the subject land. The key objectives

of the policy are to:

- Avoid any increase in the threat of bushfire to people, property and infrastructure. The preservation of life and the management of bushfire impact are paramount.
- Reduce vulnerability to bushfire through the identification and consideration of bushfire risks in decision-making at all stages of the planning and development process.
- Achieve an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity, with consideration of the potential impacts of climate change

The development is within a bushfire prone location. Given that no habitable structures are proposed to be constructed a bushfire risk assessment is not required.

State Planning Policy 6.3 – Ningaloo Coast (SPP 6.3)

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

**Financial Implications:**

There are no financial implications associated with the proposal.

**Risk Assessment:**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A	N/A	N/A
Health & Safety	N/A	N/A	N/A
Reputation	N/A	N/A	N/A
Service disruption	N/A	N/A	N/A
Compliance	Complying with conditions.	Low	Including measurable conditions on the Development Approval.
Property	N/A	N/A	N/A
Environment	N/A	N/A	N/A
Fraud	N/A	N/A	N/A

**Community & Strategic Objectives:**

The proposal also generally accords with the following Shire desired outcome as expressed in the Strategic Community Plan 2018 – 2028.

## Objective 1: Economic

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

ITEM	Outcomes and Strategies
1.2	Thriving tourism industry within the district/region
1.2.1	Promote the district of the Shire of Carnarvon as a tourism destination within the wider Coral Coast tourism region
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

## Objective 2: Natural and built environment.

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

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

### Comment:

The proposed use of the land is considered acceptable given the zoning of the land and the location being a cleared area with existing access. The proposed location of the overflow camping is also outside of the Coral Bay Settlement Structure Plan and, therefore, not bounded by it. However, the following matters must be addressed in the permit to ensure proper management of the camping area:

- Provision of a camp host;
- Provision of a waste dump point;
- Provision of a fire extinguisher;
- Limit the number of caravans to visit the camping site; and
- The inclusion of a general amenity condition to ensure the camping area is kept neat and tidy at all times.

The use is considered to be generally in accordance with the relevant strategic and statutory planning requirements and is, therefore, recommended for approval subject to conditions.

### OFFICER'S RECOMMENDATION

*That Council by Simple Majority, pursuant to Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the Shire of Carnarvon Local Planning Scheme No. 13, grant development approval for application P15/22 for development and use of land at Lot 304 (HN 760) Coral Bay Road, Lyndon for temporary overflow camping subject to the following conditions and except as may be modified with the prior written approval of the Shire of Carnarvon:*

- 1) *The use and development are to be generally in accordance with plan dated 28/06/22 (attached), including*

*any amendments placed thereon by the Shire of Carnarvon and except as may be modified by the following conditions or with the prior written approval of the Shire of Carnarvon.*

- 2) No caravan and camping activities shall be undertaken on the subject land without first having obtained a licence under the Caravan Parks and Camping grounds Regulations 1997 (Refer to note V).*
- 3) The permit holder must ensure that a camp host is provided when the land is used for camping to ensure proper management of the camping ground in terms of order, waste disposal, collecting fees and the like, to the satisfaction of the Shire of Carnarvon.*
- 4) Prior to the commencement of the use, a waste management plan must be submitted to and approved by the Shire of Carnarvon.*
- 5) Prior to the commencement of the use, a dump point for chemical toilet waste must be provided on site to the satisfaction of the Shire of Carnarvon.*
- 6) Prior to the commencement of the use, at least one fire extinguisher easily accessible to all visitors must be provided on site to the satisfaction of the Shire of Carnarvon.*
- 7) No more than 60 caravans are permitted within the camping area as shown on the approved site plan at any one time.*
- 8) The development and use of the land is not to interfere with the amenity of the locality or cause nuisance by reason of the emission of noise, smell, fumes, smoke, dust, waste water, waste products, oil or otherwise to the satisfaction of the Shire of Carnarvon.*

*Advice Notes:*

- I. If the development, the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.*
- II. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 part 14. An application must be made within 28 days of the determination.*
- III. Management of the camping area must be in accordance with the requirements of the Caravan Parks and Camping Grounds Act 1995.*
- IV. The clearing of native vegetation in Western Australia requires a Clearing Permit under the Environmental Protection Act 1986 unless the clearing is for an exempt purpose. Proponents are advised to contact the Department of Water and Environmental Regulation on (08) 6364 7000 for further advice in this regard.*
- V. The applicant is advised of the need to apply to the Shire of Carnarvon and obtain a licence for caravan and camping activities on the subject land as required by the Caravan Parks and Camping Ground Regulations 1997.*

File No:	ADM0182
Date of Meeting:	28 June 2022
Location/Address:	Refer to schedule
Name of Applicant:	N/A
Name of Owner:	Refer to schedule
Author/s:	Dane Wallace, Environmental Health Officer (EHO)
Declaration of Interest:	Nil
Voting Requirements:	Simple majority
Previous Reports:	26 April 2022, Item 7.3.7
Schedules:	Schedule 7.3.2 - Confidential specifics of the matter

#### Authority / Discretion

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

#### Summary of Item:

This item brings to Council a proposal from the owner of a house that was ordered for demolition to repair the house instead of demolishing it. It recommends Council agree not to enforce the demolition order for the remainder of the year subject to the house remaining boarded up. This action will give the owner time to determine when they can have it refurbished to its original standard as proposed.

#### Background:

The house was declared unfit for habitation due to significant damage (refer to **Schedule 7.3.2**). A section 137 notice under the *Health (Miscellaneous Provisions) Act 1911 (the Act)* was issued on 29 April 2022 pursuant to resolution *FC 13/4/22* from Council at its April meeting ordering the house to be securely boarded up within 14 days, and taken down and removed within 60 days.

The house was boarded up as required in the notice and the owner contacted the Shire to propose repair instead of removal but requests additional time to commit to a repair date due to their current circumstances.

#### Stakeholder and Public Consultation:

Nil

#### Statutory Environment:

Section 3.18 of the Local Government Act 1995 – Performing executive functions

**Relevant Plans and Policy:**

Nil

**Financial Implications:**

There are no financial implications associated with the recommendation. While the local government may carry out the terms of the notice in default of the owner, it doesn't have a legal obligation to do so.

**Risk Assessment:**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	n/a		
Health & Safety	Risk of unauthorised entry and wind damage	Low	The house should remain boarded up until it is repaired or removed.
Reputation	n/a		
Service disruption	n/a		
Compliance	n/a		
Property	n/a		
Environment	n/a		
Fraud	n/a		

**Community & Strategic Objectives:**

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

*Goal 3: Social*

*Healthy, safe and resilient community, where everyone belongs*

ITEM	OUTCOMES AND STRATEGIES
3.4	Healthy and safe community
3.4.3	Ensure safety and amenity standards are upheld through Ranger Services and Environmental Health Services

**Comment:**

Section 135 of the Act provides that the local government may declare a house to be unfit for habitation.

Section 137 of the Act provides that the local government can order such a house be removed or repaired within a timeframe and that any owner aggrieved by such a notice can apply to the State Administrative Tribunal for a review of the decision.

Section 140 of the Act provides that if the notice is not complied with within the time specified, the local government can carry out the terms of the notice and recover all expenses from the owner.

Section 371 of the Act provides that the “amount due to the local government in respect of such work may be recovered from the owner in any court of competent jurisdiction, and until paid shall be and remain a charge upon the land.”

Because the matter relates to the personal affairs of individuals, the identity of the property and owner and the specific circumstances of the matter including owner correspondence are provided in a confidential schedule.

Given that the house has been securely boarded up in the timeframe nominated by the notice there is no objection to the house being repaired instead of demolished. Further, there is no objection to a temporary stay on the demolition of the house to allow the owner time to finalise refurbishment plans.

#### **OFFICER'S RECOMMENDATION**

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

- 1. Defer enforcing demolition of the house at property #1288 as ordered under section 137 of the Health (Miscellaneous Provisions) Act 1911 until 31 December 2022 subject to the house remaining securely boarded up and the property kept in a tidy condition, and;*
- 2. Require the owner to provide a refurbishment plan to the Shire by no later than 29 November 2022.*

File No:	ADM1756
Date of Meeting:	28 June 2022
Location/Address:	N/A
Name of Applicant:	Shire of Carnarvon
Name of Owner:	N/A
Author/s:	Kristine Adcock, A/Community Services Coordinator
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Previous Reports:	Nil
Schedules:	Nil

#### Authority / Discretion

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

#### Summary of Item:

The item seeks Council's formal consideration for hosting and organising the Gascoyne Games to be held in Carnarvon in September 2023.

#### Background:

The Gascoyne Games is a multi-sport games event that has occurred in the Western Australian administrative region of Gascoyne since the inaugural event held in 1994 in the Exmouth township. The organizers of the Gascoyne Games since that first event have been one of the four local governments in the region: Carnarvon, Exmouth, Shark Bay, and Upper Gascoyne.

The intention of timing for the hosting of the Games was for it to be held every second year and coordinated and organized by a different local government through a rotation process. Carnarvon previously hosted the Gascoyne Games in 2015 with Shire staff coordinating the organization of the Games with assistance from community volunteers on the organizing committee. Participating sports organizations are responsible for coordinating the competition aspects of their sport during the weekend of the Games.

Potential support from the Shire of Carnarvon hosting and organizing the Gascoyne Games would be:

- Event management and administration support leading up to the event, including promoting, marketing, registrations, risk management and insurances;
- Coordinating and chairing the Games Organizing Committee alongside DLGSC Representative;
- Liaison with local governments, DLGSC, sporting associations/clubs (at local and state level);

- Development and printing of the Gascoyne Games 2023 Information Booklet;
- Venue hire and all other Shire costs for the event (e.g. permits etc.);
- Organizing medals and trophies;
- Writing and applying for grants.

The Shire of Carnarvon conducted a survey with the sporting clubs/organizations of Carnarvon to understand the best month of 2023 to hold the Gascoyne Games and to gauge an expression of interest for participating sports. We received a total of 15 expression of interest's and October 2023 was on average the chosen month.

**Statutory Environment:**

S3.18 of the Local Government Act 1995.

**Relevant Plans and Policy:**

N/A

**Consultation:**

Officers have consulted with the Department of Local Government, Sport and Cultural Industries, other local governments within the Gascoyne region, and local sporting clubs/organizations within the Shire of Carnarvon for the hosting of a Gascoyne Games here in Carnarvon in 2023.

The following Carnarvon sporting groups have indicated an interest in participating in the 2023 Gascoyne Games:

- Carnarvon Pistol Association
- Carnarvon Golf Club
- Norwest Boardriders (Surfing)
- Carnarvon Gun Club
- From Dust Creative Arts (Dance)
- Carnarvon Soccer Club
- Carnarvon Speedway Club
- Carnarvon Rugby Union Club
- Carnarvon Men's Darts Association
- Carnarvon Tennis Club
- Carnarvon PCYC (Volleyball)
- Carnarvon Ladies Darts
- Carnarvon Bowling Club
- Carnarvon Yacht Club
- Gascoyne Football Association

**Financial Implications:**

To be able to host and organize a successful Gascoyne Games in Carnarvon in 2023, the Shire of Carnarvon would seek funding opportunities through grant applications through local stakeholders and/or government departments.

A financial contribution from Shire of Carnarvon will also be requested in the 2022/23 draft budget.

After discussions with Exmouth, who previously held the Games in 2021, they contributed approximately \$10,000 towards the Games.

Risk Assessment:

Consequence

**STEP 3 – Risk Tolerance Chart Used to Determine Risk**

		Insignificant 1	Minor 2	Major 3	Critical 4	Extreme 5
Likelihood						
Almost certain	A	High	High	Extreme	Extreme	Extreme
Likely	B	Moderate	High	High	Extreme	Extreme
Possible	C	Low	Moderate	High	Extreme	Extreme
Unlikely	D	Low	Low	Moderate	High	Extreme
Rare	E	Low	Low	Moderate	High	High

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	The organising and coordination of the Games will require significant financial support.	Moderate	The intent is to actively seek external grant funding and partnerships as a primary source for resourcing.
Health & Safety	N/A		
Reputation	Such event can be time consuming and may be seen as a lot for participating clubs.	Minor	Potential reputational harm will be minimised through the development of project and risk management procedures, MOU's with clubs and a Games organising procedures manual.
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

**Community & Strategic Objectives:**

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

*Goal 3: Social*

*Healthy, safe and resilient community, where everyone belongs*

ITEM	OUTCOMES AND STRATEGIES
3.1	Active community
3.1.2	Support and promote opportunities for sport and recreation clubs to increase participation

**Comment:**

The objective of the Gascoyne Games is to build intra-regional spirit by uniting the Gascoyne community through a weekend participation in various sporting and recreation activities. It will provide opportunities for each town in the Gascoyne region to position and market themselves in staging the games, providing development opportunities and increasing the participation of people in sport and recreation living in the Gascoyne region.

OFFICER'S RECOMMENDATION PART ONE

*That Council, by Simple Majority, pursuant to section 3.18 of the Local Government Act 1995, resolves to endorse the hosting and organising of the Gascoyne Games to be held in Carnarvon in September 2023.*

File No.	ADM1741
Date of Meeting:	28 June 2022
Location/Address:	21 Babbage Island Road, Carnarvon
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	Stefan Louw – Senior Manager Development and Regulatory Services
Declaration of Interest:	Nil
Schedules:	Confidential Schedule 7.3.4 (a) – Tender Recommendation Report Confidential Schedule 7.3.4 (b) – Amended Tender price schedule
Previous Reports:	Nil
Voting Requirements:	Simple Majority

#### Authority / Discretion

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

#### Summary of Item:

This report details the tender process undertaken for Request for Tender RFT 02/2022 – Aquatic Centre Management.

It is recommended Council accept the tender from BTX Contracting.

#### Background:

The Carnarvon Aquatic Centre is a community facility that not only provide an important recreational aspect The Carnarvon Aquatic Centre is a community facility providing an important venue for sport and recreational activities.

The current contract for management of the Carnarvon Aquatic Centre expires at the end of August 2022. The new season for the centre will commence in late September/October 2022.

A request for tender seeking management services for the Aquatic Centre was advertised in The West Australian and the Midwest Times on Wednesday 16 March 2022. One submission was received and has been evaluated by an evaluation panel.

Due to the significant increase in the facility management cost, and the lack of alternative tender submissions,

the matter was referred to a Corporate Information session held with Councillors on 14 June 2022. The Tender Evaluation Report is provided as **Confidential Schedule 7.3.4(a)**.

**Stakeholder and Public Consultation:**

Nil applicable.

**Statutory Environment:**

Local Government Act, 1995 – Section 3.57 Tenders for providing goods or services.  
 Local Government (Functions and General) Regulations, 1996 – Division 2 Requirements for Tendering.  
 Local Government Act 1995 - Section 3.18 Performing executive functions

**Relevant Plans and Policy:**

Policy C013 – Tender Selection Criteria Policy.  
 Policy C002 – Purchasing Policy.

**Financial Implications:**

There are direct financial implications associated with the recommendation. The current Aquatic Management contract is for approximately \$200,000 per year. That price has been maintained for the past 6 years.

Based upon the recommended submission pricing, total estimated cost to manage the Aquatic Centre now is \$300,000 per year. This is an increase of 50%. The management contract is for 3 years plus an option for a further 3 years.

**Risk Assessment:**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	Affordability issues in awarding the Tender.	B3 - High	Some price reduction achieved through negotiation. Contractor proposes further future negotiation.
Health & Safety	Aquatic Centre not managed appropriately.	C3 - High	Recommended tender proposes more staff to appropriately manage the Aquatic Centre.
Reputation	N/A		
Service disruption	Unexpected closure of Aquatic Centre due to staff shortages.	C2 - Moderate	Recommended tender includes sufficient level of management staff to account for contingency.
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

### Community & Strategic Objectives:

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

#### *Goal 2: Natural and built environment*

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

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

#### *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:**

Comment around the specifics of the submission and its evaluation is provided in the Tender Evaluation Report provided as **Confidential Schedule 7.3.4(a)**.

Acceptance of the tender submission received is a substantial increase in the management cost of the facility. To offset that increase, the tenderer is proposing the following as increase to the level of service:

- A minimum of three trained and qualified duty managers to ensure adequate supervision can always be provided accounting for contingency situations.
- An offer to review the contract price with the Shire after 12 months of operation.
- An offer to undertake a limited hours trial for an extended season in the months of May and Sept 2023. This would include a 3pm to 6pm slot 3 days a week for Lap swimmers, Aqua aerobics and Swimming club, with removal and replacement of covers before and after ensuring the water stays mostly warm.

#### **OFFICER'S RECOMMENDATION PART ONE**

*That Council, by Simple Majority pursuant to Section 3.57 of the Local Government Act, 1995 and Division 2 of the Local Government (Functions and General) Regulations, 1996 accepts the submission from BTX Contracting for Tender 02/2022 – Aquatic Centre Management for the tendered rates as amended, provided in Schedule 7.3.4 (b).*

#### **OFFICER'S RECOMMENDATION PART TWO**

*That Council, pursuant to Section 3.18 of the Local Government Act, 1995 authorises the CEO to make any necessary non-material amendments and finalise execution of a contract between the Shire of Carnarvon and BTX Contracting for Tender 02/2022 – Aquatic Centre Management.*

**7.3.5 WALGA ADVOCACY POSITION POSITION ON ARRANGEMENTS FOR MANAGEMENT OF VOLUNTEER BUSHFIRE BRIGADES**

File No:  
 Date of Meeting: 28 June 2022  
 Location/Address: Shire of Carnarvon  
 Name of Applicant: Shire of Carnarvon  
 Name of Owner: Shire of Carnarvon  
 Author/s: Michael Antony – Community Emergency Services Manager  
 Declaration of Interest: NIL  
 Voting Requirements: Simple Majority  
 Previous Reports: Nil  
 Schedules: Schedule 7.3.5

**Authority / Discretion**

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

**Summary of Item:**

This report seeks a Council resolution to support WALGA’ proposed Advocacy Position on Arrangements for Management of Volunteer Bushfire Brigades to allow WALGA to provide guidance in its engagement with the State Government on the drafting of the Consolidated Emergency Services Act (CES Act).

**Background:**

The State Government is currently drafting the *Consolidated Emergency Services Act* (CES Act), which consolidates the *Fire Brigades Act 1942*, *Bush Fires Act 1954* and *Fire and Emergency Services Act 1998* into a single piece of legislation, anticipated to be released as a Green Bill for consultation in early 2023.

Under the *Bush Fires Act 1954*, Local Governments have responsibility for bushfire and the management of volunteer Bush Fire Brigades (BFBs). 111 Local Governments manage 563 BFBs involving approximately 20,000 volunteers which was assisted by the Bushfire Board of Western Australia

DFES provides strategic leadership for emergency services across WA. DFES manages the career fire and rescue service, as well as several volunteer emergency services such as:

- Volunteer Fire and Emergency Services (VFES);
- Volunteer Fire and Rescue Service (VFRS);
- State Emergency Services (SES); and

- Marine Rescue Western Australia.

WA is the only State in Australia in which Local Governments manage bushfire volunteers (pursuant to the Bush Fire Act 1954).

In Western Australia 111 Local Governments manage 563 BFBs involving approximately 20,000 volunteers. The Bush Fire Service is the largest volunteer emergency service by a significant margin:

- Bush Fire Service: 19,639 volunteers
- Fire and Rescue Service: 2,486 volunteers
- State Emergency Services: 2001 volunteers
- Volunteer Fire and Emergency Services: 926 volunteers
- Emergency Services Cadet Corps: 2,261 volunteers
- Marine Rescue Service: 1,559 volunteers.

The Ferguson Report on the 2016 Waroona Bushfire recommended that the State Government establish a rural fire service to address perceived issues in rural fire management, including insufficient capacity and unsuitable governance to deliver rural fire services. In 2017 the State Government hosted a bushfire mitigation summit at which a number of options were considered by stakeholders:

- a rural fire service operated within DFES;
- a rural fire service operated within DFES with autonomy; and
- a dedicated rural fire service that operated independently.

Options to transfer the management of all BFBs under one umbrella – DFES or other – were also explored.

DFES has a role as the lead fire and emergency services agency in WA for preparing training resources and standard operating procedures. DFES is currently developing additional resources suited to each of the above BFB 'profiles', specifically the management and training of BFBs.

Communities, and therefore many Local Governments, have a significant interest in volunteering and BFBs, with some Local Governments very involved in the establishment, management, and operation of their local BFBs. Therefore, it is essential that any future management arrangements, including the transfer of responsibility for management of BFBs to the State Government, should be a voluntary process available to Local Governments that do not have the capacity, capability, or resources to manage BFBs.

#### WALGA Proposal Options

Four options are identified for the future management of BFBs:

1. Status quo - continue with the current arrangements for management of BFBs whereby the majority are managed by Local Government and transfer arrangements are negotiated on an ad hoc basis between DFES and Local Governments (or their BFBs).
2. Improvements - continue with the current arrangements for Local Government management of BFBs with additional support provided by the State Government with respect to increased funding and better access to training resources and other support.
3. Hybrid Model - Local Government continues to manage BFBs where they have the capacity, capability, and resources to do so; however, where they do not have the capacity, capability and resources, responsibility for management of BFBs is transferred to DFES.
4. Transfer - Responsibility for management of all BFBs is transferred to the State Government, consistent with the arrangements in other States and Territories.

### WALGA Proposed Position

Based on the feedback received from Local Governments in the WALGA Emergency Management Survey and the other considerations outlined above, it is considered appropriate for the Association to support a hybrid model for the management of BFBs.

A hybrid model would enable the continued management of BFBs by those Local Governments with capacity, capability, and resources to do so, while providing a framework for the transfer of the management of BFBs to the State Government where a Local Government does not.

Whatever the arrangements for future management of BFBs, it is apparent that Local Governments with responsibility for management of BFBs require additional support and resourcing which should be provided by the State Government, including:

- development of a suite of guidelines and resources to assist Local Governments in their management of BFBs, particularly with respect to the discharge of obligations under the Work Health and Safety Act 2021.
- expansion of the Community Emergency Services Manager Program (CESM) so that every Local Government with responsibility for managing BFBs has access to the Program if they wish to participate.
- universal access to DFES training for BFBs; and
- development of mandatory and minimum training requirements including recognition of competency for volunteers.

In addition to the above with regards to the management of Bush Fire Brigades, WALGA advocates that the State Government must provide for:

- A clear pathway for Local Governments to transfer responsibility for the management of Bush Fire Brigades to the State Government when ongoing management is beyond the capacity, capability, and resources of the Local Government.
- The co-design of a suite of relevant guidelines and materials to assist those Local Governments that manage Bush Fire Brigades.
- Mandatory and minimum training requirements for Bush Fire Brigade volunteers supported by a universally accessible training program managed by the Department of Fire and Emergency Services (DFES);
- The recognition of prior learning, experience, and competency of Bush Fire Brigade volunteers.
- That a Working Group comprising representatives of WALGA and DFES be established to develop a process and timeline for the transfer of responsibility for Bush Fire Brigades in accordance with (a).
- Where management of Bush Fire Brigades is transferred to DFES in accordance with (a), DFES should be resourced to undertake the additional responsibility.

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

The Local Emergency Management Committee was consulted on this matter.

### **Statutory Environment:**

Sections of the Acts, Regulations and/or Local Laws that apply to this item include:

- The Local Government Act of 1995: s3.18. Performing executive functions.
- Work Health and Safety Act 2020, mandates the duty of care to volunteers by the person conducting a business undertaking. Senior Local Government officers with decision making and budget allocation control, have a duty of care to volunteer bush fire brigade members.
- Bush Fires Act 1954, s36 and s41. Provides for local governments to establish, maintain, and equip bush fire brigades.

- Bush Fire Brigades Local Law.

**Relevant Plans and Policy:**

Bush fire brigades local law 2021

**Financial Implications:**

Loss of LGGS grants.

Reduction in risk of management of Bushfire services.

The WALGA proposal allows for the risk to move from Local Council to State Government

**Risk Assessment:**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A		
Health & Safety	Risk of Injury to Firefighters	B3 - High	Removal of Risk from Local Government and moved to State Government
Reputation	N/A		
Service disruption	N/A		
Compliance	N/A		
Property	N/A		
Environment	N/A		
Fraud	N/A		

**Community & Strategic Objectives:**

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

*Goal 3: Social*

*Healthy, safe and resilient community, where everyone belongs*

ITEM	OUTCOMES AND STRATEGIES
3.4	Healthy and safe community
3.4.1	Provide emergency management planning, disaster management and disaster recovery, and associated community liaison and education
3.4.2	Collaborate with other agencies to provide a safe community

**Comment:**

Work Health and Safety (WHS) Act 2020

Some of the key features of the WHS Act as follows:

- The primary duty holder is the 'person conducting a business or undertaking' (PCBU) which is intended to capture a broader range of contemporary workplace relationships.
- A primary duty of care requiring PCBUs to, so far as is reasonably practicable, ensure the health and safety of workers and others who may be affected by the carrying out of work.
- Duties of care for persons who influence the way work is carried out, as well as the integrity of products used for work, including the providers of WHS services.
- A requirement that 'officers' exercise 'due diligence' to ensure compliance.
- The new offence of industrial manslaughter, which provides substantial penalties for PCBUs where a failure to comply with a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.
- The voiding of insurance coverage for WHS penalties, and imposition of penalties for providing or purchasing this insurance.
- The introduction of WHS undertakings, which are enforceable, as an alternative to prosecution.
- Reporting requirements for 'notifiable incidents' such as the serious illness, injury or death of persons and dangerous incidents arising out of the conduct of a business or undertaking.
- A framework to establish a general scheme for authorisations such as licences, permits and registrations (for example, for persons engaged in high-risk work or users of certain plant or substances), including provisions for automated authorisations.

Under the Work Health and Safety Act 2020, for Volunteers and Volunteer Organisations, the Shire is responsible for all the volunteers within the Bush Fire Brigades. The Shire is required to ensure that all the Fire Control Officers (FCOs) and Bush Fire volunteers have undertaken the required training to allow them to perform the role safely.

There are very significant fines that now apply to local governments and criminal charges may be imposed on executive staff should they fail in their duty of care under the new WHS Act 2020. A significant increase in the maximum fine is now applicable to executives along with a 20-year jail term. The local government body is now subject to an uninsurable fine up to \$10M.

WALGA Proposed Advocacy Position

The proposed Advocacy position by WALGA is in line with the Shire's direction and reflects the above Shire's concern in managing its Bush Fire Brigades Volunteers and the new WHS as well as the ability and the capacity for the Shire to take on the responsibility.

Based on the above, it is recommended that Council endorse the WALGA proposed Advocacy Position to the State Government in addressing this issue as part of its consolidated review of the Emergency Services Act.

**OFFICER'S RECOMMENDATION**

***That Council, by Simple Majority, pursuant to section 3.18 of the Local Government Act 1995 supports WALGA proposed Advocacy Position in relation to the Bushfire brigades, as per schedule 7.3.5.***

**7.4.1 REQUEST FOR CLOSURE OF PAW – HAMMOND STREET, SOUTH CARNARVON**

File No. ADM  
 Date of Meeting: 28 June 2022  
 Location/Address: Public Access Way (PAW) adjacent to Lot 3 (7) Hammond Street, South Carnarvon  
 Name of Applicant: Robert Alexander  
 Name of Owner: State Government of Western Australia  
 Author/s: David Nielsen – Executive Manager Infrastructure Services  
 Gloria Quinn – Executive Assistant Infrastructure Services  
 Stefan Louw – Senior Manager Development and Regulatory Services  
 Declaration of Interest: Nil  
 Voting Requirements: Simple Majority  
 Schedules: 7.4.1 – Customer Feedback Form  
 7.4.2 – Plan showing PAW adjacent to 7 Hammond Street

**Authority / Discretion**

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

**Summary of Item:**

The Shire has received a request from a property owner, Mr Robert Alexander, to close the Public Access Way (PAW) adjacent to his property at Lot 3 (7) Hammond Street. This report recommends Council does not approve this request due to potential impact on development options for surrounding landowners.

**Background:**

Mr Alexander submitted a Customer Feedback Form to the Shire on 5<sup>th</sup> January 2022 advising of anti-social behaviour occurring in the PAW that runs beside his property in Hammond Street. He has requested closure of the PAW and indicated willingness to purchase and amalgamate the PAW with his property at Lot 3 (7) Hammond Street.

Although Mr Alexander’s request was submitted some time ago, Shire Officers have been in contact and met with Mr Alexander and discussed the complex process and protracted time frame associated with a rezoning amendment and closure of the PAW if that action was to proceed.

**Stakeholder and Public Consultation:**

Department of Planning, Lands and Heritage  
Robert Alexander (the applicant)

**Statutory Environment:**

Local Government Act 1995 - Section 3.18 Performing executive functions.

**Relevant Plans and Policy:**

State Planning Policy 3.0 (SPP3.0) – Urban Growth and Settlement applies.

**Financial Implications:**

Nil applicable.

**Risk Assessment:**

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	N/A		
Health & Safety	N/A		
Reputation	PAW closure may negatively impact property values of adjacent landowners who would no longer be able to subdivide their properties due to a lack of proper access.	B3 - High	Decline the applicant’s request to close the PAW and explore other ways to reduce anti-social behaviour being experienced.
Service disruption	N/A		
Compliance	Does not comply with State Planning Policy 3.0.	B3 - High	Decline the applicant’s request to close the PAW and explore other ways to reduce anti-social behaviour being experienced.
Property	Closing the PAW denies adjacent property owners the ability to subdivide	B3 - High	Decline the applicant’s request to close the PAW and explore other ways to reduce

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
	their properties. This could substantially reduce their value.		anti-social behaviour being experienced.
Environment	N/A		
Fraud	N/A		

**Community & Strategic Objectives:**

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

**Goal 2: Natural and built environment**

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

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

**Comment:**

State planning Policy SPP3.0 includes the following policy measures:

Creating sustainable communities.

The key requirements for sustainable communities are, amongst others, (emphasis added):

- **sufficient and suitable serviced land in the right locations for housing**, employment, commercial, recreational and other purposes, coordinated with the efficient and economic provision of transport, essential infrastructure and human services;
- **variety and choice in the size, type and affordability of housing to support a range of household sizes**, ages and incomes and which is responsive to housing demand and preferences;
- **making the most efficient use of land in existing urban areas through the use of vacant and under-utilised land** and buildings, and higher densities where these can be achieved without detriment to neighbourhood character and heritage values;
- **supporting higher residential densities in the most accessible locations, such as, in and around town and neighbourhood centres**, high frequency public transport nodes and interchanges, major tertiary institutions and hospitals, and adjacent to high amenity areas such as foreshores and parks;

This PAW is classified as a Local Road reserve in the Local Planning Scheme No. 13 with surrounding land zoned 'Residential'.

The residential design codes, commonly referred to as the R-codes, specify certain development requirements for each code along with the zoning of the land. The applicable R-code for lots on either side of the PAW is R12.5.

R12.5 means that the minimum lot size for lots in this area is 800m<sup>2</sup>.

The properties at 31 and 33 Douglas Street are both over 1600m<sup>2</sup> and are therefore able to be further subdivided (see **Schedule 7.4.1**).

If the PAW was to be closed, this would deny the opportunity for these properties to be further subdivided in the future due to a lack of access to the newly created lots. Formal closure of the PAW is therefore not recommended.

Discussion has taken place with Mr Alexander around measures that could be put in place to reduce the anti-social behaviour being experienced by restricting access to the PAW by motorbikes and foot traffic. These measures will be implemented upon decision of this matter by Council.

**OFFICER'S RECOMMENDATION**

*That Council, by Simple Majority, pursuant to Section 3.18 of the Local Government Act 1995 declines the request of Mr Robert Alexander to close the Public Access Way (PAW) adjacent to his property at Lot 3 (7) Hammond Street South Carnarvon due to the limitation this would impose on further development of existing adjacent properties at 31 and 33 Douglas Street.*

File No.	ADM0511, ADM0248, ADM2115
Date of Meeting:	28 June 2022
Location/Address:	Carnarvon Airport
Name of Applicant:	Shire of Carnarvon
Name of Owner:	Shire of Carnarvon
Author/s:	David Nielsen – Executive Manager Infrastructure Services Carolien Claassens – Project & Contract Manager
Declaration of Interest:	Nil
Voting Requirements:	Simple Majority
Schedules:	Confidential Schedule 7.4.2(a) – 2021 Correspondence Regarding Breaches. Confidential Schedule 7.4.2(b) – Notice of intention to consider removal of Carnarvon Airport airside access. Confidential Schedule 7.4.2(c) – Airport operator response to Notice Confidential Schedule 7.4.2(d) – Responses to Airport Operator allegations. Confidential Schedule 7.4.2(e) – Additional compliance incident reports.

#### Authority / Discretion

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

#### Summary of Item:

This report recommends Council authorise issuing a formal and final warning to an Airport Operator at Carnarvon Airport being in breach of safety compliance requirements with further breaches to result in removal of airside access for that operator and/or lease termination.

#### Background:

On multiple occasions an Airport Operator has been identified breaching safety compliance requirements at the Carnarvon Airport.

In November 2021, the Airport operator was issued with a written notice of alleged breaches of airside safety requirements. This incident was brought to the attention of the Shire by another Airport Operator.

Breaches alleged included

- a) a passenger carrying a spear gun airside;
- b) a dog present airside;
- c) Airport Operator staff not wearing high visibility clothing or displaying correct airside identification.

The Airport Operator provided a response to each breach. Those responses were considered by staff. None of the responses were considered to adequately explain or justify the breaches. A response indicating that finding was provided to the Airport Operator in December 2021.

Correspondence regarding this matter is provided in **Confidential Schedule 7.4.2(a)**.

In late December 2021 a meeting was held between Shire staff and the Airport Operator to discuss the breaches. It was agreed by the Airport Operator to comply with airport rules and mandatory safety requirements.

A confrontation between the Airport Operator and Airport staff occurred in April 2022 after the Airport Operator was observed airside with another individual. A security gate was propped open, neither were wearing airside identification and neither were wearing high visibility clothing.

This resulted in issuing a Notice of Intent to the Airport Operator. The notice requested a response to the breaches and advised the Airport Operator of a consideration to remove its airside access. A copy of the notice is provided in **Confidential Schedule 7.4.2(b)**.

A response was received from the Airport Operator and is provided in **Confidential Schedule 7.4.2(c)**.

In that response several allegations are made against Shire airport staff regarding unfair treatment and airport staff not operating the airport in a competent manner. The allegations from the Airport Operator and response from the Airport Staff is provided in **Confidential Schedule 7.4.2(d)**.

Additional incident reports in relation to the Airport Operator are provided in **Confidential Schedule 7.4.2(e)** namely:

- a) The Airport Operator allowing persons airside without correct identification; and
- b) The Airport Operator bringing persons airside past a No Entry sign when live firearms firing was being undertaken to remove unsafe bird hazards from airport runways.

Note in the previous item a), the person was not a direct employee of the Airport Operator, they complied fully with the request and have on subsequent visits, fully complied with the need to have appropriate airside identification.

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

Airport Operator  
Department of Home Affairs

#### **Statutory Environment:**

Local Government Act 1995 - Section 3.18 Performing executive functions.

Aviation Transport Security Act 2004

- Division 2, section 12 Who must have a program (Transport Security Program)
- Division 2, section 14 Participants must comply with programs

Aviation Transport Security Regulations 2005

- subdivision 3.3.1A, section 3.15 Requirements for airside generally
- Subdivision 6.5.5, Section 6.48 Disqualification from holding ASICs for contravening display requirements

Relevant Plans and Policy:

Nil applicable.

Financial Implications:

Nil applicable.

Risk Assessment:

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

Risk Category	Description	Rating (Consequence x likelihood)	Mitigating Action/s
Financial	n/a		
Health & Safety	Breaching safety regulations by 3 <sup>rd</sup> parties could result in penalties for the Shire as airport owner.	C3- High	Issue of a warning with serious consequences to the Airport Operator as recommended.
Reputation			
Service disruption	n/a		
Compliance	Non compliance as a registered security-controlled airport with safety and security regulations.	C3- High	Issue of a warning with serious consequences to the Airport Operator as recommended.
Property	n/a		
Environment	n/a		
Fraud	n/a		

### Community & Strategic Objectives:

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

#### Goal 1: Economic

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

ITEM	OUTCOMES AND STRATEGIES
1.3	Transport hubs that support a thriving region
1.3.1	Provide and maintain airports at Carnarvon and Coral Bay

#### Goal 5: Civic

*Strong and listening Council.*

ITEM	OUTCOMES AND STRATEGIES
5.2.6	Compliance with the Local Government Act 1995 and all other relevant legislation and regulations
5.5.2	A high standard of occupational safety and health is maintained

#### Comment:

The latest response from the Airport Operator fails to satisfactorily address the fundamental issues associated with the airside safety breaches raised in the notice.

In addition, the Airport Operator leases a portion of land at the Airport. That lease specifically requires compliance with airport requirements as follows:

#### 10.2 Airport Requirements

- (1) The Lessee acknowledges and agrees the Premises is located in close proximity to the Airport.
- (2) The Lessee covenants and agrees to comply with and follow any directions, rules or regulations in respect of the Airport, including without limitation:
  - (a) the requirements of the *Aviation Transport Security Act 2004* (as amended) and all subsidiary legislation thereunder;
  - (b) the requirements of the *Civil Aviation Safety Act 1988* (as amended) and all subsidiary legislation thereunder; and
  - (c) the requirements of the Airside Safety Management System Policy; and
  - (d) all reasonable security directions by the Lessor or the Airport Manager.

Further, in December 2021, Council rejected renewal of an existing lease with the Airport Operator. Council authorised the CEO to enter negotiations with the Airport Operator to establish a new lease for that property. That authorisation from Council specifically references a requirement for the following:

*Lease conditions are to include the following:*

- c. Additional clauses regarding airside security to mitigate any potential risks associated with airside business; and*

Breaching safety compliance requirements and not following reasonable instructions of airport staff are therefore breaches of the existing lease conditions and place the lessee in default of that lease. Reconsideration of the offer to negotiate the new lease is also an available penalty mechanism.

This item is presented to Council to consider the ongoing nature and extent of the airside breaches and the impact on staff resources. Staff have gone above and beyond reasonable measures as the Airport Owner to ensure compliance without success.

Requirements to always display correct airside identification and to wear hi visibility clothing is neither onerous nor unusual for airside access to airports. Targeting of the operator by airport staff is unsupported. Another Carnarvon airport operator has verbally and in writing reported the Airport Operator in question for not following the simple airside rules that are applicable to themselves. There is a documented clear pattern of noncompliance from the Airport Operator.

A formal and final warning to the Airport Operator in question with serious consequences for failing to comply is therefore necessary and recommended.

**OFFICER'S RECOMMENDATION**

*That Council, by Simple Majority, pursuant to Section 3.18 of the Local Government Act 1995 in relation to the Airport Operator noted in Confidential Schedules 7.4.2(a), (b), (c), (d) and (e), authorises the CEO to:*

- a) issue a formal and final warning to Airport Operator to comply with all Carnarvon Airport safety compliance requirements and reasonable directions by the Shire as airport owner; and*
- b) impose penalties for any further Carnarvon Airport safety compliance requirement breaches of up to and including:
  - i. removal of the Airport Operators airside access; and/or*
  - ii. terminate by default any existing lease; and/or*
  - iii. terminate negotiations with the Airport Operator for establishing a new lease for a site currently occupied under hold over provisions of an expired lease.**