



SHIRE OF CARNARVON  
**AGENDA**  
SPECIAL COUNCIL MEETING  
10 JANUARY 2023

Council Chambers, Stuart Street  
CARNARVON, West Australia  
Phone: (08) 9941 0000  
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# **NOTICE OF MEETING**

Notice is hereby given  
**Shire of Carnarvon**  
**Special Council Meeting**  
will be held  
on Tuesday 10 January 2023  
Council Chambers, Stuart Street Carnarvon  
commencing at 4:00pm



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.)

# INDEX

## 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 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.)

## 3.0 DECLARATIONS OF INTEREST

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

## 4.0 ITEMS FOR DISCUSSION

4.1 Development Application P27/22 – “The Pier” Mixed Use Development .....4

## 5.0 MATERS FOR WHICH MEETING TO BE CLOSED TO MEMBERS OF THE PUBLIC

## 6.0 CLOSURE

File No:	A4085
Date of Meeting:	10 January 2023
Location/Address:	85 Olivia Terrace, Carnarvon
Name of Applicant:	ANGOVENP PTY LTD ATF THE CARNARVON WATERFRONT UNIT TRUST
Name of Owner:	ANGOVENP PTY LTD ATF THE CARNARVON WATERFRONT UNIT TRUST
Author/s:	S. Louw, Manager Regulatory Services
Declaration of interest:	Nil
Voting Requirements:	Simple Majority
Previous Reports:	Nil
Schedules:	Schedule 4.1 (A) - Responsible Authority Report (RAR) Schedule 4.1 (B) Attachment One The Pier Development Plans Schedule 4.1 (C) Attachment Two Car Parking Assessment A Schedule 4.1 (D) Attachment Three Car Parking Assessment B Schedule 4.1 (E) Attachment Four Applicant Parking Demand Assessment Schedule 4.1 (F) Attachment Five WAPC Cash-in-lieu Payment Calculation

#### 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 relates to a Development Assessment Panel (DAP) application for Development Approval on Lot 300 (HN) 85 Olivia Terrace, Carnarvon for a mixed-use development comprising residential, retail, office, restaurant/bar, and short-stay/tourism accommodation. The proposal will be developed in 3 stages over a period of 2 – 4 years.

The attached Responsible Authority Report (RAR), schedule 4.1 (A), explains the proposal in detail as well as providing a detailed assessment of the proposal against relevant assessment criteria.

This report recommends that Council supports the officer recommendation in the RAR and that it be submitted to the Joint Development Assessment Panel (JDAP) for a decision.

#### Background:

The proposed development site is located at the southwestern end of Robinson Street (the main street within the Carnarvon townsite) where it intersects with Olivia Terrace via a roundabout. A location/aerial photo of the development site is provided on page 6 of the development plans (see Attachment 1).

The development site is a prominent landmark site within the Carnarvon town centre, with outlooks onto Robinson Street, along Olivia terrace, the Fascine waterway, and across to Babbage and Whitlock Islands. Its survey description is lot 300 on Deposited Plan 412840, in the land district of Gascoyne.

The development site previously contained the Carnarvon Police Station and Court House. The development site is presently vacant with some remnant palm trees located along its Olivia Terrace frontage and within the south-west corner of the site, and some remnant river gums along its Robinson Street frontage towards its eastern corner.

Along its northwest boundary the development site adjoins an existing one-storey single house (77 Olivia Terrace) and the one-storey State Emergency Service (SES) premises (9 Camel Lane). Along its northeast boundary it adjoins the Carnarvon Civic Centre car park (1 Camel Lane) and the two-storey Bankwest premises (15 Robinson Street).

The street is framed by existing retail, commercial and public buildings, no more than 2 storeys high. These buildings comprise a mix of building styles and type, ranging from the Federation-era through to modern contemporary.

Olivia Terrace is a two-lane sealed road, framed by existing single houses and some tourist (short-stay) apartments/units along its eastern edge. A landscaped pedestrian boulevard, grassed public open space, and the adjoining Fascine waterway form the western edge of Olivia Terrace.

**Stakeholder and Public Consultation:**

The development proposal was publicly advertised pursuant to clauses 64 (1) (b) (i) and (iii), and 64 (3) (a) and (b) contained in Schedule 2 of the LPS Regs 2015, for a period of 28 days.

At the conclusion of the public advertising period a total of two (2) submissions had been received.

The submitters contend that the lack of sufficient onsite car parking bays for the proposed development will exacerbate existing parking congestion/demand already being experienced within Robinson Street, especially given that the Shire – some time ago - removed 6 previous on-street car bays from within the Robinson Street reserve at the front of their premises located at Robinson Street.

The submitters did not state when this parking congestion/demand was specifically occurring but presumably it is during daylight hours and during peak traffic periods.

Issue Raised	Officer comments
Lack of sufficient proposed onsite vehicle parking	<p>Attachment 3 to the RAR provides an assessment of onsite parking calculated to be required pursuant to LPS 13 and the Residential Design Codes— Apartments (‘R-Codes’).</p> <p>This concern about the lack of sufficient onsite vehicle parking is further discussed in the Planning Assessment section of the RAR.</p>

**Statutory Environment:**

- Planning and Development Act 2005
- Planning and Development (Local Planning Schemes) Regulations 2015
- Planning and Development (Development Assessment Panels) Regulations 2011
- Shire of Carnarvon Local Planning Scheme (LPS) 13

- Local Government Act 1995

**Relevant Plans and Policy:**

- State Planning Policy (SPP) 1: State Planning Framework (Provisions 1, 3.1(b), 3.1(f) - (i) and (iii), and 5)
- State Planning Policy (SPP) 3: Urban Growth and Settlement (Provisions 3, 4, and 5.1)
- State Planning Policy (SPP) 3.4: Natural Hazards and Disasters (Provisions 3, 4, and 5.1—Severe Storms and Cyclones, and Storm Surge)
- State Planning Policy (SPP) 7.0: Design of the Built Environment (Provisions 4, 5, and 6—Design Principles)
- State Planning Policy (SPP) 7.3: Residential Design Codes—Apartments (Parts 1 – 4)

**Financial Implications:**

There are no identified financial implications.

**Risk Assessment:**

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

Risk Category	Description	Rating	Mitigating Action/s
Financial	N/A		
Health & Safety	N/A		
Reputation	That the Shire is seen as overly prescriptive in conditions for development.	Low	Conditions recommended to Council are reasonable for development of this scale and in such a prominent and influential location in the town centre.
Service disruption	N/A		
Compliance	Complying with conditions	Low	Including measurable conditions on the Development Approval
Property	N/A		
Environment	That the development detracts from the natural environment	Low	The Development, as proposed, has considered complementing the natural and built environment of the precinct. Conditions such as storm water management, lighting spill will also contribute to managing impacts on the natural and built environment.
Fraud	N/A		

**Community & Strategic Objectives:**

The proposal aligns with the following desired objectives as expressed in the Community Strategic Plan 2022-2032:

In 2040 Carnarvon is a place where:

- *Our economy fosters investment and productivity in industries befitting Carnarvon’s physical and natural environment and that grows our horizons.*

**Comment:**

It is a rare opportunity for a landmark site, in a regional context, to be considered viable for development. “The Pier” is intended as a benchmark regional development proposing quality urban design and desired mixed-use outcomes. It is intended to be a development of longevity, public relevance and civic significance underpinning the heart of Carnarvon.

This report recommends Council supports the officer’s recommendation in the RAR and that it be submitted to the JDAP for a decision.

**OFFICER’S RECOMMENDATION PART 1**

*That Council, by Simple Majority, pursuant to Section 3.18 of the Local Government Act 1995 accepts the attached Responsible Authority Report (RAR), including attachments.*

**OFFICER’S RECOMMENDATION PART 2**

*That Council, by Simple Majority, pursuant to Regulation 12 of the Planning and Development (Development Assessment Panels) Regulations 2011 recommends that the Regional Joint Development Assessment Panel resolves to:*

- 1. Accept that the DAP Application reference DAP/22/02363 is appropriate for consideration as a “Mixed Use development” land use and compatible with the objectives of the zoning table in accordance with Clause no.16 of the Shire of Carnarvon Local Planning Scheme No. 13.*
- 2. Approve DAP Application reference DAP/22/02363 and accompanying revised set of development plans dated 9 December 2022 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of the Shire of Carnarvon Local Planning Scheme No. 13, subject to the following conditions:*

**Conditions**

- (i) This decision constitutes planning approval only and is valid for a period of 2 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect;*
- (ii) The number of onsite car bays, bicycle bays and motorcycle/scooter bays determined to be provided within each stage of the proposed development, including access to them, shall be designed, constructed, sealed, drained, and marked to the specifications and satisfaction of the Shire of Carnarvon prior to occupancy of the respective stage of the development;*
- (iii) The applicant shall prepare a legal agreement to facilitate reciprocal rights of vehicular access over adjoining lot 182 on P222239 to lot 300 on DP 412840 in which Shire of Carnarvon's interests are protected. This agreement shall be prepared at no cost whatsoever to the Shire of Carnarvon. Occupancy of the approved development shall not occur until the agreement is executed by the applicant and the Shire of Carnarvon;*
- (iv) A cash-in-lieu payment equivalent to the provision of 19 car bays shall be made to the Shire of Carnarvon prior to occupancy of Stage 1 of the approved development. The cash-in-lieu payment shall be calculated in accordance with the Western Australian Planning Commission’s Method of Calculation publication;*



- (v) *The porte cochere structure shall be a cantilevered type with no supports located within the Robinson Street Road reserve. The porte cochere shall be designed constructed, sealed, drained, and marked to the specifications and satisfaction of the Shire of Carnarvon prior to occupancy of the approved hotel in Stage 2;*
- (vi) *The applicant shall submit to the Shire of Carnarvon a legal agreement for the registered proprietor (RP) of lot 300 on DP 412840 to:
 
  - (a) *maintain the porte cochere within the Robinson Street reserve at its expense and to the satisfaction of the Shire of Carnarvon for the duration of the hotel use; and*
  - (b) *should the hotel use permanently cease, remove the porte cochere and make good at its expense to the satisfaction of the Shire of Carnarvon the land occupied by the porte cochere within 6 months of the hotel use permanently ceasing.*

*This agreement shall be prepared at no cost whatsoever to the Shire of Carnarvon.*

*Occupancy of the approved development shall not occur until the agreement is executed by the applicant and the Shire of Carnarvon;**
- (vii) *Prior to issue of a building permit for any stage of the development, a stormwater and drainage management plan shall be submitted to the specifications and satisfaction of the Shire of Carnarvon. This plan shall specifically address the collection, storage and/or disposal of stormwater falling within the development site including roof run-off;*
- (viii) *Prior to occupancy of the development the approved stormwater management plan must be implemented to the satisfaction of the Shire of Carnarvon;*
- (ix) *Prior to occupancy of the approved development a waste management plan must be submitted to the specifications and satisfaction of the Shire of Carnarvon. This plan is to specifically address the collection, storage and disposal of waste generated from within the approved development;*
- (x) *Prior to issue of a building permit for any stage of the development a landscape plan must be submitted to the satisfaction of the Shire of Carnarvon;*
- (xi) *Prior to occupancy of the approved development, the approved landscaping must be completed in accordance with the approved landscape plan;*
- (xii) *That there is to be no light spill emanating from corridors and common spaces within the approved development into the habitable rooms of adjoining lots;*
- (xiii) *Utilities servicing the approved development are to be designed to integrate with the overall architecture of the approved development;*
- (xiv) *Prior to occupancy of each stage of the approved development, each stage of the development shall be connected to a reticulated water supply to the requirements of the Water Corporation;*
- (xv) *Prior to occupancy of each stage of the approved development, each stage of the development shall be connected to the reticulated sewerage scheme, to the requirements of the Water Corporation;*
- (xvi) *Prior to occupancy of each stage of the approved development, each stage of the development shall be connected to the reticulated electricity network to the requirements of Horizon Power;*
- (xvii) *Filling of lot 300 on DP 412840 is prohibited, other than that directly necessary for the development as*

*approved under a building permit;*

(xviii) *A construction management plan to the specifications and satisfaction of the Shire of Carnarvon shall be submitted with a building permit application for the development.*

*This plan shall address:*

- site accessibility;*
- parking for contractors and 'tradies';*
- ongoing dust control;*
- provision and maintenance of construction site fencing and signage;*
- location, unloading and storage of construction materials;*
- storage and removal of construction waste;*
- contingency arrangements for any construction works and securing materials during cyclone season; and*
- contact details and availability of the project manager and site supervisor;*

*The approved construction management plan is to be implemented and adhered to at all times, up to the completion of the approved development and the issue of an occupancy permit by the Shire of Carnarvon;*

(xix) *The proposed jetty and boat pens shall be designed to withstand/accommodate at least a 1 in 100-year cyclone event, and 1 in 500-year inundation levels;*

(xx) *Occupancy within each stage of the approved development is not permitted until the respective occupancy permit has been issued by the Shire of Carnarvon pursuant to section 58 of the Building Act 2011;*

(xxi) *No hotel suite (Stage 2) and no short-stay suites and studio suites in Stage 3 are to be occupied by any person for more than 3 months within any 12 month period.*

*To this end, the proprietor/manager of these suites is to maintain a register of guests, which is to be made available for inspection by authorised officers of the Shire of Carnarvon upon request.*

#### *Advice Notes*

- (a) The design and construction of the proposed jetty and boat pens is to accord with applicable provisions of the State Planning Policy (SPP) 2.6 – Coastal Planning;*
- (b) A licence is required to be obtained from the Department of Transport, Maritime Property Services to provide and maintain the proposed jetty and boat pens;*
- (c) The proponent is advised that the Carnarvon Fascine waterway is managed and maintained by the Shire of Carnarvon. The Fascine waterway is a dynamic environment and maintaining navigable depths in and out of the waterway on an on-going basis cannot be guaranteed at this time. Accordingly, prospective registered proprietors of the multiple dwellings and/or the hotel, short-stay and studio suites seeking a boat pen licence/lease should be formally notified of the vessel navigability situation by way of a Notification on the Certificate of Title or by some other appropriate means;*
- (d) Access and facilities for people with disabilities must be provided at all times to all approved buildings, and internally throughout any building in accordance with AS1428.1 2009;*
- (e) All building development is to comply with the National Construction Code Series;*
- (f) A copy of the building plans and specifications must be deposited with the Department of Fire and Emergency Services (DFES) pursuant to regulation 18B of the Building Regulations 2012.*

#### OFFICER'S RECOMMENDATION PART 3

*That Council, by Simple Majority, pursuant to Regulation 12 of the Planning and Development (Development Assessment Panels) Regulations 2011 submit the Responsible Authority Report with attachments to the JDAP for determination.*