



**AGENDA FOR THE
ORDINARY COUNCIL MEETING
TO BE HELD ON**

Wednesday 17 October 2018

Shire of Mingenew

Ordinary Council Meeting Notice Paper

17 October 2018

Madam President and Councillors,

An Ordinary Meeting of Council is called for Wednesday, 17 October 2018, in the Council Chambers, Victoria Street, Mingenew, commencing at 4.30 pm.

Nils Hay
Chief Executive Officer

11 October 2018

DISCLAIMER

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Mingenew expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

PROCEDURE FOR PUBLIC QUESTION TIME, DEPUTATIONS, PRESENTATIONS AND PETITIONS AT COUNCIL MEETINGS

Council thanks you for your participation in Council Meetings and trusts that your input will be beneficial to all parties. Council has a high regard for community input where possible, in its decision making processes.

Petitions A formal process where members of the community present a written request to the Council.	Deputations A formal process where members of the community request permission to address Council or Committee on an issue.	Presentations An occasion where awards/gifts may be accepted by the Council on behalf of the community, when the Council makes a presentation to a worthy recipient or when agencies may present a proposal that will impact on the Local Government
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PROCEDURE FOR DEPUTATIONS

The Council allows for members of the public to make a deputation to Council on an issue related to Local Government business. Any person or group wishing to be received as a deputation by the Council shall send to the CEO an application:

- I. Setting out the agenda item to which the deputation relates;
- II. Whether the deputation is supporting or opposing the officer's or Committee's recommendation; and
- III. Include sufficient detail to enable a general understanding of the purpose of the deputation.

Notice of deputations need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281192 or email governance@mingenew.wa.gov.au to arrange your deputation.

Where a deputation has been agreed to, during the meeting the Presiding Member will call upon the relevant person(s) to come forward and address Council.

A Deputation invited to attend a Council meeting:

- I. is not to exceed five (5) persons, only two (2) of whom may address the Council, although others may respond to specific questions from Members;
- II. is not to address the Council for a period exceeding ten (10) minutes without the agreement of the Council; and
- III. additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

Council is unlikely to take any action on the matter discussed during the deputation without first considering an officer's report on that subject in a later Council agenda.

PROCEDURE FOR PRESENTATION

Notice of presentations being accepted by Council on behalf of the community, or agencies presenting a proposal, need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281102 or email governance@mingenew.wa.gov.au to arrange your presentation.

Where the Council is making a presentation to a worthy recipient, the recipient will be advised in advance and asked to attend the Council meeting to receive the award.

All presentations will be received / awarded by the Shire President or an appropriate Councillor.

PROCEDURE FOR PETITIONS

Please note the following protocol for submissions of petitions. Petitions must:

- be addressed to the Shire President.
- be made by electors of the district.
- state the request on each page of the petition.
- contain the names, addresses and signatures of the elector(s) making the request, and the date each elector signed.
- contain a summary of the reasons for the request.
- state the name and address of the person whom arranged the petition for correspondence to be delivered to, as correspondence is not sent to all the signatures on the petition.

Where a petition does not relate to or conform to the above it may be treated as an 'informal' petition and the Chief Executive Officer may at his discretion forward the petition to Council accompanied by an officer report.

PROCEDURE FOR PUBLIC QUESTION TIME

The Council extends a warm welcome to you in attending any meeting of the Council. Council is committed to involving the public in its decision making processes whenever possible, and the ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective.

Council (as required by the Local Government Act 1995) sets aside a period of 'Public Question Time' to enable a member of the public to put up to two (2) questions to Council. Questions should only relate to the business of Council and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Shire President may either answer the question or direct it to a Councillor or an Officer to answer, or it will be taken on notice.

Having regard for the requirements and principles of Council, the following procedures will be applied in accordance with the Shire of Mingenew Standing Orders Local Law 2017:

1. Public Questions Time will be limited to fifteen (15) minutes.
2. Public Question Time will be conducted at an Ordinary Meeting of Council immediately following "Responses to Previous Public Questions Taken on Notice".
3. Each member of the public asking a question will be limited to two (2) minutes to ask their question(s).
4. Questions will be limited to two (2) per person.
5. Please state your name and address, and then ask your question.
6. Questions should be submitted to the Chief Executive Officer in writing by 5pm on the day before the meeting and be signed by the author. This allows for an informed response to be given at the meeting.
7. Questions that have not been submitted in writing by 5pm on the day before the meeting will be responded to if they are straightforward.
8. If any question requires further research prior to an answer being given, the Presiding Member will indicate that the "question will be taken on notice" and a response will be forwarded to the member of the public following the necessary research being undertaken.
9. Where a member of the public provided written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
10. A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

- **During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.**
- **Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.**
- **Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.**

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SHIRE OF MINGENEW

AGENDA FOR THE ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON 17 OCTOBER 2018 COMMENCING AT 4.30pm

- 1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS
- 2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE
 - APOLOGIES
 - Nil
- 3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE
 - Nil
- 4.0 PUBLIC QUESTION TIME/PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS
- 5.0 APPLICATIONS FOR LEAVE OF ABSENCE
- 6.0 DECLARATIONS OF INTEREST
- 7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES
 - 7.1.1 ORDINARY MEETING HELD 19 SEPTEMBER 2018

OFFICER RECOMMENDATION – ITEM 7.1.1

Moved: Cr

Seconded: Cr

That the minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 19 September 2018 be confirmed as a true and accurate record of proceedings.

VOTING DETAILS:

- 8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION
- 9.0 OFFICERS REPORTS
 - 9.1 CHIEF EXECUTIVE OFFICER
 - 9.1.1 FEES AND CHARGES CORRECTION – COMMUNITY BUS VEHICLE HIRE and ACCOUNT ENQUIRY FEE

Location/Address: Shire of Mingenew
Name of Applicant: Not Applicable
Disclosure of Interest: Nil

MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 17 October 2018

File Reference: ADM0305
Date: 03 October 2018
Author: Neil Hartley, Consultant

Summary

An error in the formulation of the Fees and Charges Table (as it relates to Community Bus Vehicle Hire) has occurred for the 2018/19 financial year and requires correction. Also, a reversion of a proposed change to the "Account Enquiry fee" (back to its 2017/18 level) is considered appropriate.

The process for altering a local government's fees and charges requires that the procedure as set out in section 6.16 and 6.19 of the Local Government Act 1995 to be followed.

Attachment

Nil

Background

The Shire of Mingenew generally sets its fees and charges annually as part of the budget adoption process. The Fees and Charges Table was adopted by Council at its 22 August 2018 meeting (item 9.2.1 - Adoption of 2018/19 Budget) however two fees require reconsideration -

Community Bus Vehicle Hire - the Community Bus Vehicle Hire fee was formulated incorrectly and requires correction. The fee described as *Category 2 - Mingenew Based Business/Commercial Enterprises* should not be shown as a separate fee, but as in previous years, included with *Category 2- Community & Sporting Groups and Ratepayers*, with the fee remaining the same as was applicable in 2017/18 (vis. \$85.00).

Account Enquiry fee - the Account Enquiry fee was reduced (from \$80.00 to \$30.00/hour) on assessment that it seemed higher than necessary. Upon a more detailed review, it is evident that the original fee more accurately reflects the Shire's costs of providing the information required (mostly in relation to the Shire providing details to settlement/real estate agencies of any outstanding debts and property related licenses/approvals as part of a property ownership transfer).

Comment

Fees and Charges are an important part of a local government's financial makeup and provide the community with access to facilities and services at predetermined Council endorsed prices. The imposition and collection of those set fees is undertaken as an operational activity.

The process for adding new, deleting unnecessary, or correcting an error in a local government's fees and charges requires that the procedures as set out in section 6.16 and 6.19 of the Local Government Act 1995 be followed. In particular, the new fee (for Mingenew Based Business/Commercial Enterprises) cannot come into effect until after the public advertising has occurred.

Consultation

Nil.

Statutory Environment

Section 6.16 of the Local Government Act 1995 (Imposition of Fees and Charges) outlines that a local government may impose and recover a fee or charge for any goods or service it provides and amended them from time to time during a financial year.

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Section 6.19 of the Local government Act (Local government to give notice of fees and charges) requires that where a local government wishes to impose any fees or charges after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of its intention to do so; and the date from which it is proposed the fees or charges will be imposed.

Policy Implications

Nil.

Financial Implications

As both fees are proposed to revert back to the same charge as for 2017/18, there will be no difference to the Shire's financial position, year on year.

Strategic Implications

The Corporate Business Plan (2015 – 19) includes a Civic Leadership objective, namely, to maintain a collaborative and innovative community with strong and vibrant leadership. It particularly includes two Outcomes, namely, to provide “an open and accountable local government that is respected, professional and trustworthy.”; and “Local term planning and strategic management”.

Voting Requirements

Absolute Majority

(Section 6.16(3) of the Local Government Act 1995 (Imposition of Fees and Charges)).

OFFICER RECOMMENDATION - ITEM 9.1.1

That Council –

1. Pursuant to section 6.16 and 6.19 of the *Local Government Act 1995* correct the formulation error within the 2018/19 List of Fees & Charges Schedule as per 2 below and give local public notice of the changes, with the revised fee/charge taking effect from 25 October 2018.

2. Modify the 2018/19 Fees and Charges Table by:

a. deleting the following fees and charges:

Fee/Charge	Unit	2018/19 Total Cost	Statutory or Council Fee	2017/18 Total Cost
Category 2- Community & Sporting Groups and Ratepayers	per day	\$85.00	c	\$85.00
Category 2 - Mingenew Based Business/Commercial Enterprises	per day	\$285.00	c	\$285.00
Account Enquiry Fees (Settlement Agents etc)	Per hour (or part thereof)	\$30.00	c	\$80.00

b. adopting in lieu, the following fee/charge and description:

Fee/Charge	Unit	2018/19 Total Cost	Statutory or Council Fee	2017/18 Total Cost
Category 2- Community & Sporting Groups and	per day	\$85.00	c	\$85.00

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Ratepayers; and Mingenew Based Business/Commercial Enterprises				
Account Enquiry Fees (Settlement Agents etc)	Per hour (or part thereof)	\$80.00	c	\$80.00

9.1.2 LOCAL EMERGENCY MANAGEMENT COMMITTEE DE-MERGER

Location/Address: Shire of Mingenew
Name of Applicant: Nils Hay
Disclosure of Interest: Nil
File Reference:
Date: 1 October 2018
Author: Nils Hay, Chief Executive Officer

Summary

This report seeks consideration of Council withdrawing from a combined Local Emergency Management Committee (LEMC) in order to establish a Mingenew-specific LEMC.

Attachments

- 1- Proposed De-Merger Letter to State Emergency Management Committee (SEMC)
- 2- Copy of Emergency Management MOU with Shires of Carnamah, Three Springs, Morawa and Perenjori.
- 3- Terms of Reference for the Shire of Mingenew Local Emergency Management Committee.
- 4- State Emergency Management Procedure
(<https://semc.wa.gov.au/Documents/Resources/LegislationPolicyPlansProcedureandGuidelines/Procedure/StateEMProcedure.pdf>)

Background

The Shire of Mingenew is a member of a combined Local Emergency Management Committee, along with the Shires of Morawa, Three Springs and Perenjori. This is an arrangement that came into being when the four shires shared a Community Emergency Services Manager (CESM), Rick Ryan.

Over the past 12-18 months, Rick Ryan has ceased to be the CESM for Mingenew and Three Springs, who now share an Emergency and Ranger Services Officer (Grant Fidock) with the Shire of Carnamah. (Rick Ryan remains CESM for Morawa and Perenjori).

Whilst, technically, only Mingenew, Morawa, Three Springs and Perenjori are members of the combined LEMC, these new arrangements have seen Carnamah also attending LEMC meetings and, subsequently, all five Shires have signed a Memorandum of Understanding to collaborate and cooperate in the Emergency Management space.

A by-product of the combined LEMC is that there are no LEMC meetings held specifically for the Shire of Mingenew, and involving the Shire's local stakeholders (such as our local Bushfire Brigades, Silver Chain, School etc.). It also means that we are without a local Committee to review key documents like the Local Emergency Management Arrangements (LEMA) – which are a legislatively required document and currently (in Mingenew's case) several months overdue for review.

The Shire has been advised, by both the Office of Emergency Management (OEM) and Department of Fire and Emergency Services (DFES) that a truly 'local' (i.e. single Shire LEMC) would be preferable in terms of delivering an updated LEMA and meeting the Shire's obligations under the *Emergency Management Act 2005* (EM Act).

Other members of the combined LEMC have indicated that they are also moving along a path similar to that proposed in this report.

This matter was raised at the 19 September 2018 Concept Forum for discussion with Councillors, pending this report.

Comment

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With the MOU in place, ensuring that regional collaboration will continue to occur in the Emergency Management field, nothing should be lost by Mingenew withdrawing from the combined LEMC and establishing its own. We will continue to engage on a regional level, particularly with regards to participating in regional exercises.

The anticipated benefit of withdrawal and establishment of a Mingenew LEMC will be that there will be a recognised forum through which the Shire can engage with our local stakeholders to ensure that our LEMA is current and fit-for-purpose. It also has the highest probability of improving communication between our local stakeholders in this area; specifically:

- Shire (including Grant Fidock)
- Bushfire Brigades
- Silver Chain
- Mingenew School
- Police
- DFES

At present, only DFES, the Shire and Mingenew Police attend the multi-Shire LEMC meetings.

It is also hoped that we will be able to engage more effectively with:

- Water Corporation
- Western Power
- Department of Biosecurity, Conservation and Attractions (DBCA, formerly DPAW)
- Telstra

(It is acknowledged however, that for their own operational reasons, these parties often only participate in District Emergency Management Committee (DEMC) activities, and do not frequently attend Local meetings.)

In short, this proposed action will:

- Not impact current regional collaboration
- Improve local engagement and collaboration
- Provide a more suitable governance structure for review of key documents, such as the LEMA

Consultation

Consultation has occurred with:

- Adrian Brannigan, District Emergency Management District Advisor – Midwest Gascoyne (OEM)
- Kyle Pollitt, (Acting) Area Officer, Midwest (DFES)
- Ian Comben, A/District Officer Inland (DFES)
- Sylvia Yandle, CEO Three Springs Shire
- Karen Oborn, CEO Carnamah Shire
- Sergeant Neal Boonzaaier, Officer in Charge, Mingenew Police

Statutory Environment

- Under s41 of the EM Act, local governments are required to have local emergency management arrangements (LEMA).
- s34 of the EM Act allows multiple local governments to unite and form a combined LEMC.
- The function of a LEMC is to (under s39 of the EM Act):
 - a) to advise and assist the local government in ensuring that local emergency management arrangements are established for its district; and
 - b) to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and
 - c) to carry out other emergency management activities as directed by the SEMC or prescribed by the regulations
- Under the State Emergency Management Procedure, when it comes to the structure of LEMCs:
 - o the Chair should be an elected member of council;

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- the Local Emergency Coordinator should be appointed as Deputy Chair;
- an Executive Officer, who should be an officer of the relevant local government, and should be appointed to coordinate the business of the committee and/or provide administrative support;
- the Local Recovery Coordinator, being the person nominated in the Local Recovery Plan (section 41(4) of the EM Act), should be appointed a member of the committee;
- The Local Emergency Coordinator is the Officer in Charge of the district police station.
- The Local Recovery Coordinator is the Shire's Chief Executive Officer.

Policy Implications

Nil

Financial Implications

Minimal.

The establishment of a local LEMC will see meetings occur locally, which will have administrative and (likely) catering costs associated with them. The financial impact is expected to be in the order of \$500-\$1,000 per annum.

Strategic Implications

The establishment of a local LEMC will provide a more effective vehicle for addressing Mingenew's Emergency Management requirements, both in terms of meeting statutory requirements (like review of LEMA) and practical outcomes (each party having greater visibility over actions of others, and increased ability to collaborate).

Mingenew's LEMC will require a Chairperson; this is a role typically filled by an elected member. Council's current Local Emergency Management Committee Delegate is Cr Robert Newton (as per the decision 9.1.1 of the 15 November 2017 Ordinary Council Meeting). It is suggested that whichever elected member is delegated by Council to this Committee serve as Chairperson.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.2

Moved:Cr

Seconded: Cr

That Council:

1. **Resolve to de-merge from the combined Local Emergency Management Committee with the Shires of Morawa, Perenjori and Three Springs; and**
2. **Endorse the Shire of Mingenew establishing its own Local Emergency Management Committee; and**
3. **Note that a Terms of Reference to govern the Committee is being developed; and**
4. **Appoint the Councillor delegated to the Local Emergency Management Committee to serve as Chair of the Local Emergency Management Committee; and**
5. **Endorse the Officer in Charge of the Mingenew Police Station as Deputy Chair of the Local Emergency Management Committee; and**
6. **Endorse the Shire of Mingenew's Emergency and Ranger Services Officer as Executive Officer of the Local Emergency Management Committee; and**
7. **Authorise the Chief Executive Officer to prepare and execute the necessary documentation to effect these changes.**

VOTING DETAILS:

9.1.3 MURCHISON REGIONAL ABORIGINAL CORPORATION – RATE EXEMPTION FOR 14 FIELD STREET, MINGENEW (ASSESSMENT #219)

Location/Address: 14 Field Street, Mingenew (Assessment 219)
Name of Applicant: Murchison Aboriginal Regional Corporation
Disclosure of Interest: Nil
File Reference: ADM0034
Date: 03 October 2018
Author: Neil Hartley, Consultant

Summary

The Murchison Region Aboriginal Corporation (MRAC) has applied to have its residential property at 14 Field Street, Mingenew (Assessment 219) exempted from rates under Section 6.26(2)(g) of the Local Government Act. MRAC seeks consideration on the grounds that the land is not rateable as it is used exclusively for charitable purposes.

MRAC's application follows a similar application made last year, which was dealt with by Council at its meeting of 20 December 2017 (item 9.1.1) with a one year exemption being endorsed.

In light of the recent court case with the Shire of Yalgoo and the contemporary positions taken by other local governments, this report recommends that Council again accepts that MRAC meets the definition of a charitable group, and that the 14 Field Street property is used for charitable purposes and is not rateable.

To provide for future consistency and efficiency of process, it is recommended that the attached Deed of Settlement be endorsed. Further, that the 2018/19 rates for 14 Field Street, Mingenew (Assessment #219) remaining unpaid by MRAC (following its 20% ex-gratia payment) be written off (noting that refuse charges and the Emergency Services Levy are not subject to this charitable purposes application and remain payable by MRAC).

Attachment

1. Murchison Aboriginal Corporation – Application for Rates Exemption (14 September 2018).
2. Deed of Settlement

Background

The Murchison Region Aboriginal Corporation has applied to have its residential property at 14 Field Street, Mingenew (Assessment #219) exempted from rates. It is objecting to the payment of rates on the ground that there is an error in the rate records, as the property does not constitute rateable land as it is used exclusively for charitable purposes.

Notwithstanding the request for exemption, MRAC is willing to make an annual 20% ex-gratia payment towards the annual rates equivalent for this property (noting that refuse charges and the Emergency Services Levy are not subject to this charitable purposes application and remain payable by MRAC). A Deed of Settlement has also been suggested by MRAC to enable the matter to be confirmed and that for there to be certainty around the matter (legal and administratively) into the future.

MRAC has an Australian Taxation Office endorsement for charity tax concessions and its documentation supplied in support of its application (see attached) includes the following excerpts -

Housing Eligibility Assessment (April 2018) – “MRAC as a not-for-profit dedicated Aboriginal community managed housing organisation provides safe, secure and affordable housing to Aboriginal people in the Midwest and Gascoyne regions of Western Australia. MRAC provides a fair and equitable housing service to all eligible applicants and tenants”.

Rule Book - The corporation aims to –

- a) promote, support, sponsor, engage in and facilitate the provision to Aboriginal people of health, housing and other services;
- b) acquire, hold and manage land, buildings, fixtures, chattels and other property for the benefit of Aboriginal people in the Midwest and Gascoyne region;

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- c) provide social, cultural, economic, political, educational and recreational service; to Aboriginal organisations, groups, enterprises and individuals in the wards; when those services are not provided by other bodies;
- d) assist Aboriginal people in the Midwest and Gascoyne regions with relief from poverty, sickness, suffering, destitution, misfortune, distress and helplessness;
- e) give effect to the principals of self-management and self-determination for Aboriginal people by –
 - i. establishing, owning, investing in, sponsoring, maintaining, managing, leasing and otherwise fostering business enterprises and commercial ventures of any lawful kind, and
 - ii. promoting, supporting and sponsoring the endeavours of Aboriginal organisations, groups, enterprises and individuals in the wards, toward; social, cultural and economic development;
- f) promote, support, sponsor, engage in and facilitate the creation of opportunities for Aboriginal people in education, training, employment, and private enterprise;
- g) help and encourage Aboriginal people in the Midwest and Gascoyne regions to maintain, restore, revitalise, and renew their traditional language and culture;
- h) help build trust and friendship between Aboriginal people and the non-Aboriginal community;
- i) join with other Aboriginal corporations in undertaking projects of mutual benefit;
- j) receive and spend grants of money from the Government of the Commonwealth, or the State, or any other sources;
- k) the corporation operates in the Midwest and Gascoyne regions and covers Geraldton, Northampton, Mullewa, Mt Magnet, Yalgoo, Sandstone, and North Midlands.

MRAC have applied to several local governments seeking that same exemption and at a SAT directions hearing last year, SAT ordered that the parties before it (Geraldton and MRAC) enter mediation (on the basis that the provision of housing for Aboriginal people is seen by the Courts and SAT to satisfy the provisions of the Local Government Act as to “charitable purposes”).

Comment

The definition of a charitable purpose is generally required to fall under one of the following areas -

- The relief of poverty, age and impotence;
- The advancement of education;
- The advancement of religion; or
- Other purposes beneficial to the community.

MRAC own two properties in the Shire of Mingenew, a house located at 14 Field Street and vacant land located at 2 View Street. An exemption is only sought for the property at 14 Field Street. Shire rates (not including refuse and Emergency Service charges) levied on this particular property in 2018/19 were \$1,503.47.

The claim that the property is used exclusively for charitable purposes is on the basis that the house is rented to people of Aboriginal descent and the property in question is *“for the purposes of improving the economic position, social condition and traditional ties of an Aboriginal community”*.

Whilst it can be argued that MRAC’s activities are designed to receive rental income from the property, which is more likened to a commercial enterprise, MRAC’s Rule Book highlights its non-profit and charitable nature and there are numerous examples of similar charitable organisations renting properties across the state for similar end purposes, and those organisations have successfully secured charitable (non) rates status from their respective local governments. Those examples are consistent with SAT’s view that the provision of housing for Aboriginal people is seen by the Courts and SAT to satisfy the provisions of the Local Government Act as to “charitable purposes”.

It is also worth noting that the City of Geraldton’s legal advice, on the basis of the current law, and noting related court and SAT precedent decisions, was that it was highly likely that the City would lose any court or SAT appeal

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seeking to dismiss the application. The Shire of Mingenew should not rely on that advice to be definitive for our circumstance, but if we were to seek separate advice, it is very likely to be consistent.

MRAC is willing to provide an ex-gratia payment equal to 20% of the GRV, and of course the annual rubbish rate and the Emergency Services Levy are not subject to this charitable purposes application and remain payable by MRAC in full. The suggested Deed of Settlement will provide mutual benefits in that it will eliminate the need for MRAC to make annual applications, will make the arrangements for calculating and collecting the ex-gratia rates consistent and efficient for the Shire, and will provide mutual confirmation of certainty around the matter (legal and administratively) into the future.

Consultation

Murchison Regional Aboriginal Corporation.

Statutory Environment

Section 6.26 (2) of the Local Government Act 1995 outlines that all land within a district is rateable land except as otherwise provided for. Sub-section (2)(g) provides one of those exemptions, namely land used exclusively for charitable purposes. Precedent indicates that that land does not cease to be used exclusively for a purpose merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.

A person may make an objection under Section 6.76 (Grounds of objection) (1)(a)(ii) of the Local Government Act on the basis that there is an error in the rate record and the land or part of the land is not rateable land.

Section 6.76(2)(a) identifies that an objection is to be made to the local government in writing within 42 days of service of a rates notice under Section 6.41 of the Local Government Act 1995. The objection is dated 14 September 2018 and was received inside of the 42 days (07 October 2018). As such Council is required to consider the objection under Section 6.76 of the Local Government Act 1995. The local government is to promptly consider any objection and provide a written notice of its decision on the objection and a statement of its reason for that decision.

The applicant has the right under Section 6.78 of the Local Government Act 1995 to apply to the State Administrative Tribunal for a review of the decision of the local government should Council resolve to not allow the rates exemption.

Section 6.12 (c) (Power to defer, grant discounts, waive or write off debts) outlines that a local government may write off any amount of money, which is owed to the local government (*Absolute majority required*).

Policy Implications

Nil

Financial Implications

If Council agree to the rates exemption an amount of \$1,202.78 in rates will be refunded (vis. 80% of the GRV rates base for the 2018/19 financial year). The Shire will therefore suffer the loss of revenue of rates not collectible for the land in question. Rubbish rates and the Emergency Services Levy are however, still payable.

Strategic Implications

The Strategic Community Plan includes the objective of Leadership and one of its outcomes is to achieve a high level of compliance. This decision will support the achievement of the following objectives and strategies detailed in the Community Strategic Plan: Outcome 4.2 An open and accountable local government that is respected, professional and trustworthy.

Voting Requirement

Absolute majority required.

OFFICER RECOMMENDATION – ITEM 9.1.3

Moved: Cr

Seconded: Cr

That Council -

1. Accepts that Murchison Region Aboriginal Corporation meets the definition of a charitable group and that it uses the land, 14 Field Street, Mingenew (Assessment 219), in accordance with Section 6.25(2)(g) of the Local Government Act (vis. it is used exclusively for charitable purposes and is not rateable);
2. Accepts Murchison Region Aboriginal Corporation's offer to make an annual ongoing ex-gratia rates payment equal to 20% of the Council endorsed GRV rate in the dollar (against the annual GRV of the assessment) plus meet the annual refuse removal charge and the annual Emergency Services Levy;
3. Requires that the CEO give written notice to Murchison Region Aboriginal Corporation of (1) and (2) above, and also asks that it advise the Shire if the property use changes from a charitable purpose, so that the matter might be reviewed again by Council at that point in time;
4. Writes off 80% the 2018/2019 rates (\$1,202.78) for 14 Field Street, Mingenew (Assessment 219), but not including rubbish charges and the Emergency Services Levy; and
5. Authorises the Chief Executive Officer to sign the Deed of Agreement (as attached) on behalf of the Shire of Mingenew and requires that the CEO put in place an internal procedure that captures the above position, so that the Murchison Region Aboriginal Corporation's 14 Field Street property (Assessment 219) is levied the annual 20% ex-gratia rates equivalent payment.

VOTING DETAILS: BY ABSOLUTE MAJORITY

9.2 FINANCE

9.2.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 30 SEPTEMBER 2018

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0304
Date: 11 October 2018
Author: Martin Whitely, Consultant

Summary

This report recommends that the Monthly Statement of Financial Activity report for the period ending 30 September 2018 is presented to Council for adoption.

Attachment

Finance Report for period ending 30 September 2018

Background

The Monthly Financial Report to 30 September 2018 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Statement of Financial Activity by Nature & Type
- Statement of Financial Activity by Program
- Statement of Capital Acquisitions and Capital Funding
- Explanation of Material Variances
- Net Current Funding Position
- Cash and Investments
- Budget Amendments
- Receivables
- Cash Backed Reserves
- Capital Disposals
- Rating Information
- Information on Borrowings
- Grants & Contributions
- Trust

Comment

SUMMARY OF FUNDS – SHIRE OF MINGENEW	
Municipal Fund	\$489,055
Cash on Hand	\$300
Restricted Funds (Unspent Grants) – 3 Month Term Deposit @ 2.50%	\$721,580
3 Month Term Deposit @ 2.50%	\$314,427
Trust Fund	\$21,729
Reserve fund (3 Month Term Deposit) @ 2.50%	\$408,823

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Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered. The following remains outstanding as at 30 September 2018;

	Credit	Current	30+ Days	60+ Days	90+ Days	TOTAL
Amount	(\$1,278)	\$204,761	\$3,433	\$156,809	\$8,473	\$372,198

Rates Outstanding at 30 September 2018 were:

	September 2018	August 2018
Rates	\$1,595,622	\$1,807,770
Rubbish	\$36,744	\$55,926
ESL	\$22,244	\$27,318
TOTAL	\$1,654,610	\$1,891,014

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2018/19 financial year.

Consultation

Nil

Statutory Environment

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

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

(1A) In this regulation —

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

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —

- (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
- (b) budget estimates to the end of the month to which the statement relates; and
- (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
- (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
- (e) the net current assets at the end of the month to which the statement relates.

(2) Each statement of financial activity is to be accompanied by documents containing —

- (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
- (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
- (c) such other supporting information as is considered relevant by the local government.

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

Policy Implications

Nil

Financial Implications

Financial implications are outlined in comments.

Strategic Implications

Nil

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.2.1

Moved: Cr

Seconded: Cr

That the Monthly Statement of Financial Activity for the period 1 July 2018 to 30 September 2018 be received.

VOTING DETAILS:

9.2.2 ACCOUNTS FOR PAYMENT – MONTH ENDING 30 SEPTEMBER 2018

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Disclosure of Interest: Nil
Date: 11 October 2018
Author: Martin Whitely, Consultant

Summary

This report recommends that Council confirm the payment of creditors for the month of September 2018 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

Attachment

Copy of list of accounts due (EFT & cheque payments), which will enable Council to confirm the payment of its creditors in accordance with Local Government (Financial Management) Regulations 1996, Section 13(1).

List of Payments
Payroll, Licensing & Credit Card

Background

Financial Regulations require a schedule of payments made through the Council bank accounts to be presented to Council for their inspection. The list includes details for each account paid incorporating the payee's name, amount of payment, date of payment and sufficient information to identify the transaction.

Comment

Invoices supporting all payments are available for inspection. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the rendition of services and as to prices, computations and costings, and that the amounts shown were due for payment.

Consultation

Nil

Statutory Environment

Local Government Act 1996, Section 6.4
Local Government (Financial Management) Regulations 1996, Sections 12, 13 and 15

Policy Implications

Payments have been made under delegation.

Financial Implications

Funds available to meet expenditure.

Strategic Implications

Nil

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.2.2

Moved: Cr

Seconded: Cr

That Council confirm the accounts as presented for September from the Municipal & Trust Fund totalling \$414,752.14 represented by Electronic Funds Transfers of EFT 11789 to 11884, Direct Deduction DD 8537.1, Municipal Cheque numbers 8567 to 8569 and Department of Transport payments BPV030918A to BPV260918A.

VOTING DETAILS:

9.3 ADMINISTRATION

Nil

9.4 TOWN PLANNING

9.4.1 GERALDTON ALTERNATIVE SETTLEMENT AGREEMENT

Location/Address: Reserve 24083 Midlands Road, Mingenew
Name of Applicant: Department of Planning, Lands & Heritage
Disclosure of Interest: Nil
File Reference: ADM0491
Date: 10 October 2018
Author: Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer: Nils Hay, Chief Executive Officer

Summary

Council is in receipt of correspondence from the Department of Planning, Lands & Heritage seeking its comment in relation to a Crown Reserve within the Shire of Mingenew that has been identified as an area of interest for the native title claimants and is currently being considered for inclusion into the Indigenous Land Use Agreements.

Council considered this matter at its 19 September 2018 meeting and resolved:

“That community consultation regarding Reserve 24083 be undertaken and a report be presented to Council at the October Ordinary Meeting, prior to submission of response to the Department of Planning, Lands & Heritage.”

The Shire wrote to the Department of Planning, Lands & Heritage on 25 September 2018 in relation to Council's resolution and a copy of this is provided as **separate confidential Attachment 9.4.1(a)**.

The Shire followed up this enquiry with further email correspondence on 4 October 2018 and phone message on 2 October 2018 and 9 October 2018 and no response has been received at time of writing.

Attachment

Attachment 9.4.1 – Shire correspondence to Department of Planning, Lands & Heritage – provided as separate CONFIDENTIAL Attachment

Attachment 9.4.1(b) - draft Shire Response – provided as separate CONFIDENTIAL Attachment

Background

The State of Western Australia is currently negotiating an alternative native title settlement in the greater Geraldton region with four native title claimant groups (Southern Yamatji, Hutt River, Widi Mob and Mullewa Wadjari).

The State's proposal, under the Geraldton Alternative Settlement Agreement ('GASA') is that a settlement package will be agreed in exchange for the surrender of all native title rights and interests within the external boundaries of the GASA.

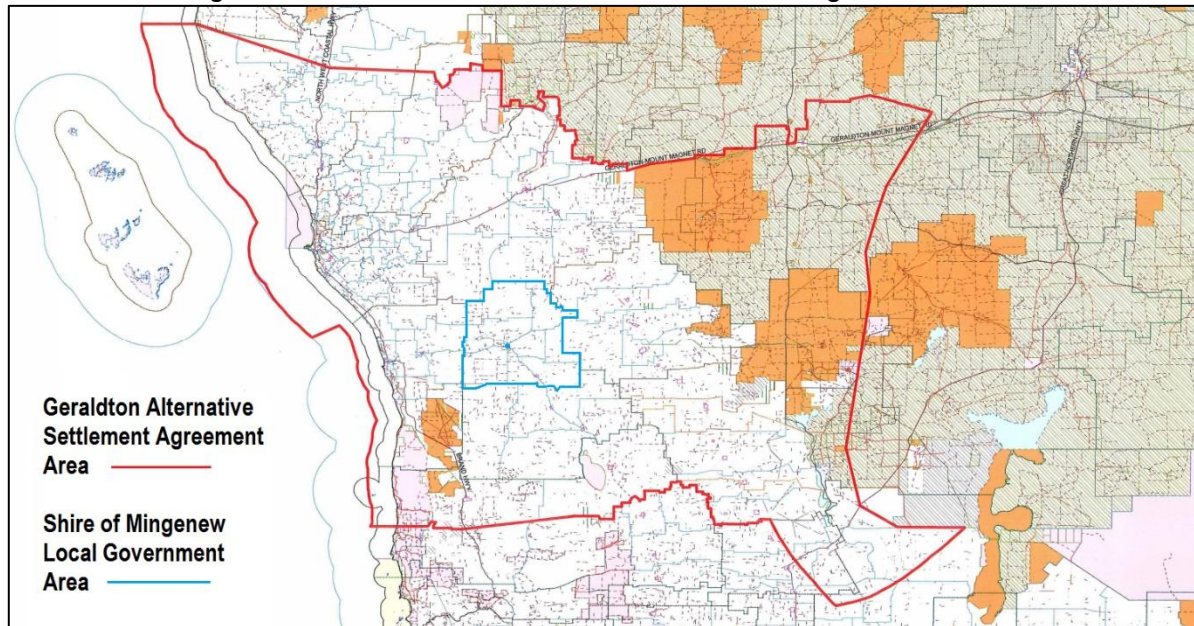
Negotiations may include the following matters:

- development of, and initial support for, appropriate governance structures to ensure successful implementation of a final agreement;
- a heritage regime based on the Government Standard Heritage Agreement;
- **provision by the State of a land base;**
- joint vesting and/or management of conservation areas, including areas not yet reserved for conservation purposes;

- development of a ranger program;
- financial assistance for business and economic development opportunities; &
- recognition of traditional ownership.

The State's offer under the GASA includes provision by the State of a land base to the claimant groups. The negotiation of this part of the agreement entails members of the groups' Traditional Owner Negotiation Team selecting various parcels of land within the agreement area which they seek to have transferred to them, or management thereof. The Department of Planning, Lands & Heritage is responsible for reviewing these parcels to identify which of them might be eligible for transfer, what is the appropriate tenure and under what conditions (e.g. freehold, leasing, sole management or joint management of reserves).

Figure 9.4.1 – Geraldton Alternative Settlement Agreement Area



Comment

The Department of Planning, Lands & Heritage are seeking Council's comment upon a Crown Reserve within the Shire of Mingenew with respect to the following:

- “1 Are there any future proposals for the land identified? If so, in what time frame?
- 2 Are there any future proposals for any adjoining land which may impact on the proposed transfer of the land identified?
- 3 Are there any proposed planning scheme amendments which may affect the land identified? If so, in what time frame?
- 4 Are there any known land management issues with the land identified e.g. contamination etc?”

Separate confidential Attachment 9.4.1(b) provides a cadastral map, aerial photograph and comment on the subject reserve, and it is suggested that this form the basis for Council's response to the Department of Planning, Lands & Heritage, in the event that the Federal Court mediation process does not allow for surrounding landowner consultation.

Consultation

The Department of Planning, Lands & Heritage have advised that the parties to the proposed agreement are negotiating under tight timeframes imposed by the Federal Court and the Shire comment is required to be provided by 30 October 2018.

The Department of Planning, Lands & Heritage have advised as follows:

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“Please note that this process is being carried out in the context of a Federal Court mediation which is confidential. Accordingly, you are not permitted to share any of the matters pertaining to this referral to a third party.”

The Department of Planning, Lands & Heritage have also advised that the Shire's comments may be provided to the Traditional Owner Negotiation Team members for their consideration.

Statutory Environment

Section 14 of the *Land Administration Act 1997* requires that:

“Before exercising in relation to Crown land any power conferred by this Act, the Minister must, unless it is impracticable to do so, consult the local government within the district of which the Crown land is situated concerning that exercise.”

Policy Implications

Nil.

Financial Implications

The GASA is following a similar process to that previously undertaken for the South West Native Title Claim Area, which is at a more advanced stage, that also sought to identify Unallocated Crown Land that might be either transferred to the Noongar Boodja Trust as freehold title or leasehold or managed reserves. The South West Native Title Settlement Fact Sheet, previously prepared by the Department of Premier & Cabinet in 2015 for that process, provides some general guidance on frequently asked questions, noting that:

“What is the difference between Freehold land and Managed Reserve Land?”

Each form of land tenure has different benefits.

- Freehold is land that the Noongar Boodja Trust will own like any other private land owner in the State. It allows for the land to be developed, used for commercial purposes, used as security against loans, or to be sold. Like all other freehold land, there are costs that must be met, including local government rates and charges, insurance, fire service levies and any land management cost.*
- Managed reserves are areas of Crown land that has been reserved for a particular purpose. The Trustee will consult with the Noongar community as to the use of any individual reserve – i.e. whether it is held for particular Noongar social, cultural, or economic benefit, whether it can be subdivided, and so on.”*

“Will the Noongar Boodja Trust need to pay rates on the Freehold land allocated under the Settlement?”

As the owner of the freehold land, the Noongar Boodja Trust will be required to meet the normal costs, including rates or service charges, associated with owning freehold land. Freehold land can be exempted from rates under s.6.26(2)(g) of the Local Government Act 1995 (WA) where that land is used exclusively for charitable purposes. However, if the freehold land is used for a commercial purpose or leased for a commercial enterprise, it will not be exempt from rates.”

Strategic Implications

The Shire of Mingenew Strategic Plan notes the following:

Objective 2 A sustainable natural and built environment that meets current and future community needs.

Outcome 2.2 Our indigenous and cultural heritage is acknowledged.

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- 2.2.1 Continue to liaise with the local indigenous and cultural groups (Key Partners: Local community, DCA, DIA)

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.4.1

Moved: Cr

Seconded: Cr

That Council recommend to the Department of Planning, Lands & Heritage that it write to the surrounding landowners of the subject reserve inviting comment, and in the event that the Federal Court mediation process does not allow for this consultation, that Council endorse and forward as its response the recommendation as provided in Attachment 9.4.1(b).

VOTING DETAILS:

9.4.2 SATELLITE GROUND STATION NETWORK

Location/Address: Lot 32 Depot Hill Road, Nangetty
Name of Applicant: Capricorn Space Pty Ltd
Disclosure of Interest: Nil
File Reference: A919
Date: 9 October 2018
Author: Simon Lancaster, DCEO/Planning Advisor, Shire of Chapman Valley
Senior Officer: Nils Hay, Chief Executive Officer

Summary

Council is in receipt of an application for the development of a satellite ground station network upon Lot 32 Depot Hill Road, Nangetty. This report recommends that Council grant conditional approval.

Attachment

Attachment 9.4.2 - Copy of submitted development application (provided as separate attachment)

Background

Lot 32 is a 2,305.1148ha property, owned by Alex Pearse Pty Ltd, that is largely cleared and used for cropping purposes, and located on the eastern side of Depot Hill Road.

Figure 9.4.2(a) – Location Plan for proposed Satellite Ground Station Network site

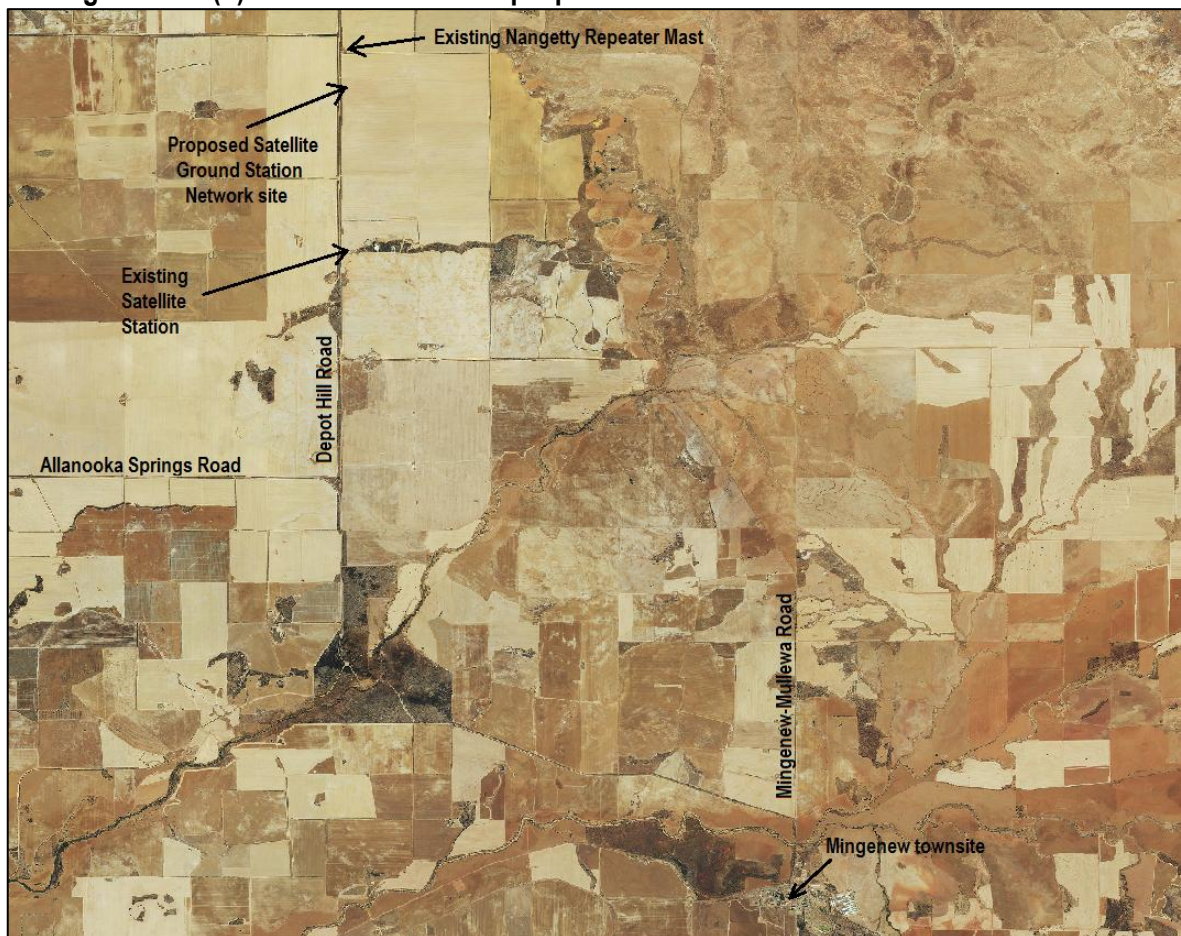
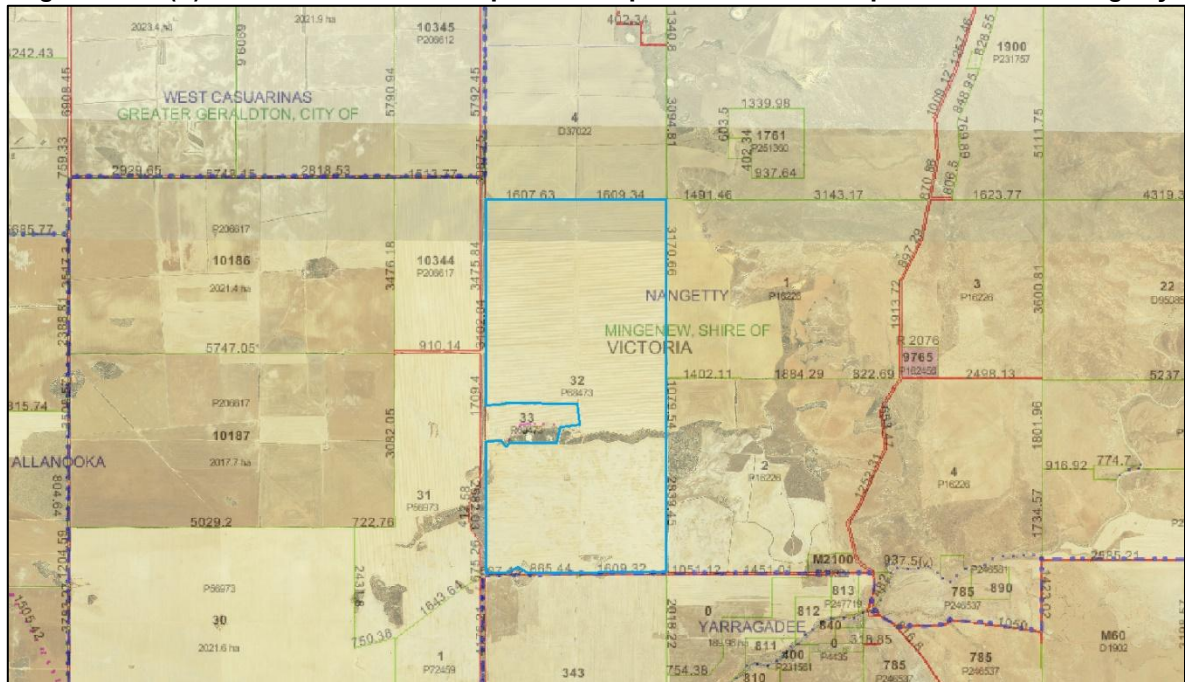


Figure 9.4.2(b) – Cadastre overlaid upon aerial photo of Lot 32 Depot Hill Road, Nangetty



The proposed satellite ground station network would initially consist of the following within a 122m x 108m area:

- communications hut;
- 6 satellite dishes clustered around the communications hut (each dish would be approximately 5m in diameter and mounted on a 3m column);
- generator compound and fuel storage;
- internal gravel access track network;
- 2.1m high mesh security fence.

Were the initial stage to prove successful the development would expand to up to 21 antenna pads within a 240m x 240m area, replicating the stage 1 layout, that would be serviced by the single original communications hut.

The closest satellite dish to the property boundary would be sited at a setback of 15m, and would be 70m east of the Depot Hill Road carriageway itself.

The communications hut would be setback approximately 65m from the property boundary and 115m from the Depot Hill Road carriageway. The building would have masonry and colorbond cladding and a skillion roof with an enclosed floor area of 7.69m x 15.19m (116.81m²) and total roof area of 18.65m x 11.5m (214.475m²). The building would house the computer racks, battery room and also contain amenity facilities.

The submitted development application, that elaborates upon this proposal and includes a site plan of the proposed stage 1 and subsequent stage layout, and floor and elevation plans for the communications hut, along with photographs of similar developments elsewhere, has been provided as **separate Attachment 9.4.2**.

Figure 9.4.2(c) – View of proposed development site looking south-east



Comment

Shire staff do not raise objection to the proposed satellite ground station network on the following basis:

- the visual impact of the development would not be considered an issue given the existence of other telecommunications infrastructure in the surrounding area, with an existing satellite station approximately 3.5km further south along Depot Hill Road, and an existing repeater mast approximately 500m north along Depot Hill Road;
- the development would not require the clearing of any remnant vegetation and is removed from environmental features such as watercourses;
- although the development will be visible from Depot Hill Road it would be screened by existing roadside vegetation;
- the development would diversify the economic and employment base of the Shire through the need to employ local people to service the facility;
- the development footprint (approximately 1.4ha for stage 1 and 5.8ha for the ultimate configuration) is not considered large in the context of the surrounding broadacre farming operations and would not therefore unduly impact upon agricultural production;
- the proposed satellite ground station network would be located approximately 3.5km east of the nearest residence and there is limited ability under the current zoning and scheme provisions for future residences to be sited any closer to the facility;
- the development would access Depot Hill Road via the farm's existing gravel track access point that provides good sightlines to the north and south;
- the vehicle movements required at both construction stage and for ongoing maintenance would not be considered significant;
- the development is not anticipated to impact upon any local communications networks (e.g. TV, fire radio etc.) as the signal direction and frequencies used for this form of infrastructure are different to those used for localised forms of communication/signals; &
- the proposed development location is not upon/within a recorded Aboriginal or European heritage site.

Figure 9.4.2(d) – View looking south & north along Depot Hill Road from access point



Consultation

Council is not required to undertake community consultation for this application should it be considered under Section 4.4.2(a) of the Scheme.

Alternatively, Council also has the right to advertise the under Sections 4.4.2(b) and 9.4 of the Scheme should it wish to seek comment on the proposal and return the matter to a future meeting of Council for consideration of any received submissions, prior to making its determination.

Statutory Environment

Lot 32 Depot Hill Road, Nangetty is zoned 'Rural/Mining' under the Shire of Mingenew Local Planning Scheme No.3 ('the Scheme').

The application is considered to meet the definition of 'Telecommunications Infrastructure' which is defined under Schedule 1 of the Scheme as follows:

"means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use in or in connection with, a telecommunications network."

'Telecommunications Infrastructure' is not listed, however, in the Zoning Table of the Scheme, and this application must therefore be addressed through Section 4.4.2 of the Scheme:

"4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonable be determined as falling within the type, class or genus of activity of any other use category the Local Government may:

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted."*

Council may determine in accordance with Section 4.4.2(a) that the proposed development is not inconsistent with the objectives of the 'Rural/Mining' zone which are listed in the Scheme as follows:

"The use of land in the Rural-Mining Zone shall be consistent with the following objectives:

- to provide for rights of vehicular access, unfettered as to time, location and circumstance, to any land subject of a planning approval;*

- *to ensure the preservation of the rural character and appearance of land within the zone;*
- *to protect the economic viability of agricultural production via support only for subdivision or boundary relocation which retains or results in lot or location sizes which facilitate ongoing agricultural activity.*
- *to preserve and protect the natural undeveloped land areas throughout the zone and to provide for the planting of trees and other suitable vegetation via the imposition of conditions on any planning consent issued, in order to assist in balancing the greenhouse effect, provide shade, prevent erosion, reduce salinity and provide habitats for native fauna.”*

Policy Implications

The Western Australian Planning Commission have prepared Statement of Planning Policy 5.2 ‘Telecommunications Infrastructure’ (2015) for applications for above and below ground telecommunications infrastructure other than those facilities exempted under the *Telecommunications Act 1997*. The policy has the following objectives:

- facilitate the provision of telecommunications infrastructure in an efficient and environmentally responsible manner to meet community needs;
- manage the environmental, cultural heritage, visual and social impacts of telecommunications infrastructure;
- ensure that telecommunications infrastructure is included in relevant planning processes as essential infrastructure for business, personal and emergency reasons; and,
- promote a consistent approach in the preparation, assessment and determination of planning decisions for telecommunications infrastructure.

Section 5.1 of the policy recognises that in many instances the primary impact of above ground telecommunications infrastructure is a visual one and provides the following guidance:

“For telecommunications infrastructure to be effective, structures are generally located prominently, at high points in the landscape or on top of buildings, where they are more likely to be visible to the public.

The planning authority may exercise discretion in addressing the visual impacts of telecommunications infrastructure. Visual impacts of an infrastructure development proposal should be assessed by applying the following set of policy measures to guide the location, siting and design of the structure.

5.1.1 The benefit of improved telecommunications services should be balanced with the visual impact on the surrounding area.

- i) Assessment of the visual impact of development proposals for telecommunications infrastructure should be made on a case by case basis;*
- ii) Telecommunications infrastructure should be sited and designed to minimise visual impact and whenever possible:*
 - a) be located where it will not be prominently visible from significant viewing locations such as scenic routes, lookouts and recreation sites;*
 - b) be located to avoid detracting from a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land;*
 - c) not be located on sites where environmental, cultural heritage, social and visual landscape values maybe compromised and*
 - d) display design features, including scale, materials, external colours and finishes that are sympathetic to the surrounding landscape;*
- iii) In addition to the existing exemptions under the Telecommunication Act, local governments should consider exempting telecommunications infrastructure from the requirement for development approval where:*

- a) *The infrastructure has a maximum height of 30 metres from finished ground level;*
- b) *The proposal complies with the policy measures outlined in this policy; and*
- c) *The proponent has undertaken notification of the proposal in a similar manner to 'low impact facilities' as defined and set out in the Mobile Phone Base Station Deployment Industry Code (C564:2011);*
- iv) *Telecommunications infrastructure should be located where it will facilitate continuous network coverage and/or improved telecommunications services to the community; and*
- v) *Telecommunications infrastructure should be collocated and whenever possible:*
 - a) *Cables and lines should be located within an existing underground conduit or duct; and*
 - b) *Overhead lines and towers should be co-located with existing infrastructure and/or within existing infrastructure corridors and/or mounted on existing or proposed buildings."*

Figure 9.4.2(e) – View looking north from proposed site towards Nangetty repeater mast



Financial Implications

The application would not have a budgetary impact to Council.

Strategic Implications

The proposed satellite ground station network would assist in meeting the following economic objective identified within the Shire of Mingenew Strategic Community Plan (2012) *"to be a diverse and innovative economy with a range of local employment opportunities."*

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.4.2

Moved: Cr

Seconded: Cr

That Council grant formal planning approval for a Satellite Ground Station Network upon Lot 32 Depot Hill Road, Nangetty subject to compliance with the following:

Conditions:

- 1 Development shall generally be in accordance with plans included within Attachment 9.4.2 to the Council Agenda report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the buildings or land (not the subject of this consent/approval) considered by the Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
- 3 The applicant is to prepare, submit and adhere to a Management Plan to the approval of the local government.
- 4 The applicant is responsible to ensure that no parking of vehicles associated with the development occurs within the Depot Hill Road reserve.
- 5 The crossover/access-point onto Depot Hill Road is required to be located, constructed and maintained to the approval of the local government.
- 6 The applicant shall at their expense, repair, reinstate or replace any road infrastructure that is damaged, becomes unsafe or fails to meet appropriate engineering standards where the damage to the road network is caused by reason of use of the road in connection with the approved development.
- 7 All lighting devices associated with the development shall be installed and shaded in such a way as to not cause undue light spill to passing motorists to the approval of the local government.

Notes:

- (a) In relation to condition 3 the Management Plan is to include sections relating to Fire Management, Fuel Storage and Post Closure Site Rehabilitation.
- (b) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation from State or Federal Government agencies. It is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully commences.
- (c) Should the applicant be aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

VOTING DETAILS:

9.4.3 PROPOSED ILLUMINATED SIGNAGE, COMMERCIAL HOTEL, MINGENEW

Location/Address: 60 (Lot 201) Midlands Road, Mingenew
Name of Applicant: SignManager
Disclosure of Interest: Nil
File Reference: A482
Date: 9 October 2018
Author: Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer: Nils Hay, Chief Executive Officer

Summary

Council is in receipt of an application to install 3 illuminated signs on the Commercial Hotel in the Mingenew townsite. This report recommends that Council grant conditional approval.

Attachment

Attachment 9.4.3(a) - Copy of proposed signage plan

Attachment 9.4.3(b) - Extract from Shire of Mingenew Municipal Inventory of Heritage Places

Background

Lot 201 is a 6,123m² property owned by Meorse Nominees Pty Ltd and Akadd Pty Ltd that contains the Commercial Hotel.

Figure 9.4.3(a) – Aerial Photograph of 60 (Lot 201) Midlands Road, Mingenew



The applicant is proposing to install 3 illuminated signs on the exterior of the Commercial Hotel building facing Midlands Road as follows:

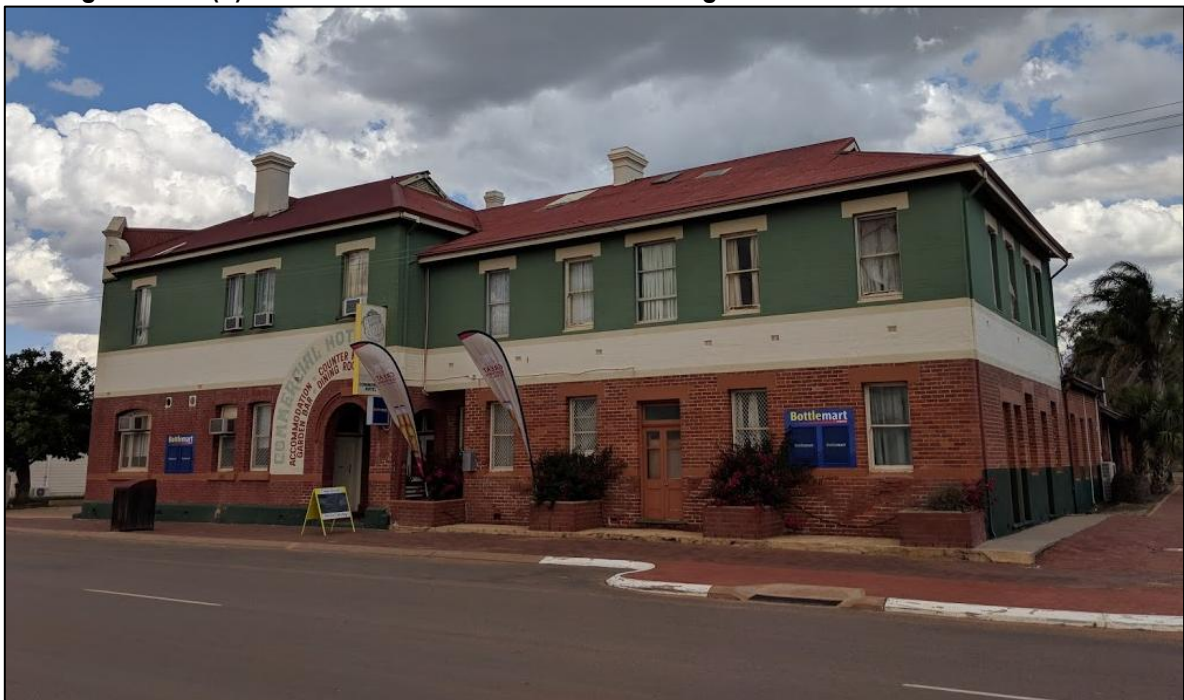
- 1.25m x 1.25m illuminated double-sided sign fixed at a right angle to the building to replace the existing sign above the main doorway on the eastern frontage;
- 1.84 x 1.25m wall mounted illuminated single-sided sign above the north-east corner doorway of the building; &
- 1.25m x 1.25m illuminated double-sided sign fixed at a right angle to the building at the south-eastern end of the Midlands Road frontage of the building.

A copy of the applicant's signage plan is provided as **Attachment 9.4.3(a)**.

Figure 9.4.3(b) – View of Commercial Hotel looking south-west from Midlands Road



Figure 9.4.3(c) – View of Commercial Hotel looking south-east from Midlands Road



Comment

Shire staff do not raise objection to the proposed signage on the following basis:

- the proposed signage is considered to be relatively low-key in its scale;
- the proposed signage is relatively low-key in its colouring using earth tones;
- the proposed signage is not dissimilar to that found on many other taverns and hotels in rural and regional areas;
- the business has recently changed ownership after a period of closure and it may be considered appropriate to permit the business to renew its signage as it seeks to re-establish itself;
- the property is zoned 'Town Centre' and a level of signage (albeit sensitively located and styled) might therefore be considered warranted in this area.

Consultation

Council is not required to undertake consultation for this application, however, Council does have the right to advertise the application under Section 9.4 of the Scheme should it wish to seek comment on the proposal and return the matter to a future meeting of Council for consideration of any received submissions, prior to making its determination.

The Commercial Hotel is not located upon the State Register of Heritage Places, and the Shire is not therefore required to forward the application to the Heritage Council of Western Australia seeking comment prior to making its determination. However, Council can invite comment from the Heritage Council of Western Australia should it wish prior to making its determination.

The Shire sought the comment of Main Roads WA given the proposed signage would be facing Midlands Road which is a Primary Distributor Road. Main Roads WA have advised that *“static advertising signs directly attached to, and contained within the silhouette of, any building or fence, for the purpose of identifying the name of the business or business activity carried out within the premises”* do not require their approval. Main Roads WA further advised that:

“Main Roads has no objection to the proposed signage subject to the following conditions:

- The type of sign, size, content and location must comply with all relevant by-laws and planning schemes made by Council.*
- The sign and sign structure is to be placed on private property and shall not over hang or encroach upon the road reserve.*
- As the signage is illuminated, it must be of a low-level not exceeding 300cd/m² and shall remain static i.e. not flash, pulsate or chase.*
- The device shall not contain fluorescent, reflective or retro reflective colours or materials.*
- No other unauthorized signing is to be displayed.*
- Main Roads agreement is to be obtained prior to any future modifications.*
- Vegetation within the state road reserve shall not be removed or trimmed to improve the visibility of the proposed advertising signs.”*

Statutory Environment

Lot 201 Midlands Road, Mingenew is zoned ‘Town Centre’ under the Shire of Mingenew Local Planning Scheme No.3 (‘the Scheme’).

Section 4.2 of the Scheme lists the objectives of the ‘Town Centre’ zone as being:

“The use of land in the Town Centre Zone shall be consistent with the following objectives:

- to provide for the variety of predominantly commercial, service, social and administrative uses required to service the needs of local resident and visitor alike.*
- the maintenance and centralisation of commercial, service and other permitted uses in a compact accessible centre.*
- to encourage development in general compliance with the Mingenew Townscape Plan at Council’s discretion.*
- to provide for residential development in conjunction with commercial development. However, residential development without commercial uses is permitted at the discretion of Council.*
- to provide for pedestrian movement and sheltered spaces relating to the same.*
- to provide for the safe and efficient flow of traffic and the adequate provision of car parking facilities.*
- to encourage the development of new building or the modification/restoration of existing buildings in a manner which is compatible with the existing streetscape in terms of scale, height, design and, materials, location and faced design.*

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- *to restrict the use of the town centre for any industrial activity which is not of a low key or service nature and which does not provide for the storage of any unsightly goods from the public view.”*

Section 8.2(f) and Schedule 5 of the Scheme lists forms of exempted advertisements/signs for which application is not required to be made, however, the proposed signage does not meet with these requirements, and this matter therefore requires application.

The Shire of Mingenew Municipal Inventory of Heritage Places was prepared in 1995 as a requirement of the *Heritage of Western Australia Act 1990* to record buildings within the district of heritage significance.

Lot 201 is located upon the Shire's Municipal Inventory which describes the site as follows:

“Description

The two-storey brick and iron building occupies a prominent corner position in the main street of Mingenew, opposite the railway station.

Modifications:

Verandas and balconies removed 1970s. Some second storey timber windows replaced with aluminium.

Statement of Significance

The present Commercial Hotel commenced operations as a single storey mud brick building owned by Samuel James Philips and operated by William Henry Linthome. The front portion of the original hotel was subsequently replaced by a double storeyed brick building after 1908.

The Commercial Hotel has been the hostelry for more than a century with accommodation for 10 bedrooms and catering facilities and must have been a welcome stopover for many weary travellers.

It is the only hotel remaining in Mingenew today.

Integrity: The main structural elements of the building are intact, without significant additions and despite removal of balconies.

Recommendation/Conservation Strategy:

High level of protection appropriate, provide maximum encouragement to the owner under the town planning scheme to conserve the significance of the place.”

The relevant extract from the Shire's Municipal Inventory has been provided as **Attachment 9.4.3(b)**.

Policy Implications

Western Australian Planning Commission State Planning Policy 3.5 Historic Heritage Conservation (2007) provides some guidance when assessing alterations affecting a heritage place:

- *Development should conserve and protect the cultural significance of a heritage place based on respect for the existing building or structure, and should involve the least possible change to the significant fabric.*
- *Alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials and external finishes of the place. Compatibility requires additions or alterations to sit well with the original fabric rather than simply copying or mimicking it.”*

Financial Implications

The application would not have a budgetary impact to Council.

Strategic Implications

Section 4.2.5 of the Shire of Mingenew Townsite Local Planning Strategy (2016) addresses 'Architectural Heritage' as follows:

"Mingenew has a large number of important and picturesque heritage buildings. These buildings span various eras and styles and reflect the local building materials for this region. The buildings accommodate a range of uses from civic, retail and tourism, for example, Mingenew Commercial Hotel and the Shire Administration Office.

There is currently one building in Mingenew that is registered on the State Heritage Office's State Register of Heritage Places – the Police Residence at 31 William Street. There are also numerous places of local significance which have been recognised through the Shire's Heritage Inventory, with several of these also listed on the State Heritage Office's InHerit database.

The Local Planning Strategy lists the following buildings as having State heritage significance (although with the exception of the Police Residence none of these are included on the State Register):

- Commercial Hotel - Railway Street;*
- Post Office Quarters - Railway Street;*
- Church of the Resurrection - Victoria/Irwin Street;*
- St Joseph's Presbytery – William Street/Irwin Street;*
- Shire Office and Former Hall – Victoria Road;*
- Old Roads Board Office – Victoria Road; and*
- Police Residence – William Street.*

The above-mentioned places are identified on Figure 6 which show that the majority are located in and around the historic centre of the town being Victoria Road and Midlands Road.

These heritage places are extremely important as they provide a reference to the historic development of the town over time. The buildings are central to Mingenew's identity, are an integral part of the townscape and crucial to its sense of place and history. Regard to State Planning Policy 3.5 Historic Heritage Conservation should be given when making planning decisions that may affect heritage places.

Many of the most significant historic buildings are located on Victoria Road and visitors passing through Mingenew via the Midlands Road would generally not be aware of their presence. There is an opportunity to improve advertising along Midland Road as part of a tourism strategy for the town."

The Strategy also notes the following relevant to this application:

"6.10.3 Commercial Signage

The Shire does not have a Local Planning Policy regarding signage. It is recommended that this be undertaken to provide some consistency in regard to signage within Mingenew and to improve the overall townscape. Policy objectives and guidance should include the following:

- Ensure that signs erected or displayed in the Shire are appropriate to their location and function. New signage should not diminish the visual amenity, aesthetic, heritage significance and character of the locality or detract from the appearance of buildings and places.*
- In the case of a building on the State or Shire's Heritage Inventory, the Shire shall have regard to the historical appropriateness of the materials, style, design and*

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lettering of the sign and whether it is affixed in such a way that it causes no damage to the building and may be removed without leaving evidence of its having been affixed.

- *The Shire will endeavour to avoid the impairment of the visual amenity of the locality which may occur where:*
 - *a sign of such scale, prominence, obtrusiveness or character as to be incongruous with the surrounding land uses;*
 - *the sign adds to the danger of driver distraction;*
 - *the sign adds to the visual clutter of the locality;*
 - *numerous other signs exist on the site; and*
 - *the sign, when viewed from a position where the sign would be legible, would obscure existing signs, information, sight lines or architectural features, or would itself be obscured.*
 - *Remote advertising shall generally not be supported as it can lead to an undesirable precedent and detract from the amenity of the locality.*

Specific standards with respect to the appropriate height and dimensions of certain types of signs (i.e. pylon, freestanding, etc.) can also be included within any such Local Planning Policy.”

The Strategy also notes the following for signage on the Main Street:

Objectives	Planning Provisions
<i>Urban Design</i> <i>O1.3 To provide for a built form along Midlands and Victoria Roads that enhances and promotes the commercial, tourism and cultural role of the sub-precinct and complements the existing architectural character.</i>	<i>P1.17 Any signage on the road frontage to Midlands Road should be in a style that is in keeping with other signage throughout the town to provide an integrated theme within Mingenew.</i>

The Mingenew Townsite Revitalisation Plan (2017) identifies a range of projects, and notes of Midlands Road that:

“Mingenew Main street is a vehicle dominated main street with a lack of unifying identity where the town starts and finishes. Opportunities are there to slow traffic and increase the identity of the main street to make it more appealing to the community and visitor.”

The Revitalisation Plan recommends a range of landscaping solutions to achieve this vision. The Revitalisation Plan does make recommendation in relation to signage but these focus more on interpretative and directional signage and not advertising signage. However, it is considered that relatively low-key signage such as that proposed within the received application for the Commercial Hotel site are not contrary to the objectives of the Revitalisation Plan.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.4.3

Moved: Cr

Seconded: Cr

That Council grant formal planning approval for the proposed illuminated signage upon 60 (Lot 201) Midlands Road, Mingenew subject to compliance with the following:

Conditions:

- 1 Development shall be in accordance with plans included within Attachment 9.4.3(a) to the Council Agenda report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the buildings or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The illuminated signage shall be located within the boundaries of Lot 201 and shall not overhang or encroach upon the road reserve.
- 4 The illuminated signage shall have its electrical installation constructed and maintained to the satisfaction of the appropriate electricity supply authority and in accordance with any written law with respect to the construction and maintenance of electrical installations for illuminated signs.
- 5 The illuminated signage shall not have a light of such intensity as to cause annoyance to the public or be a traffic hazard (i.e. not exceeding 300cd/m²) and shall remain static (i.e. not flash, pulsate or chase).
- 6 The signage shall not contain fluorescent, reflective or retro reflective colours or materials.
- 7 The signage shall be maintained in a condition to the satisfaction of the local government and in the event that the signage is not maintained in a condition to the satisfaction of the local government the signage shall be removed.
- 8 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination, the approval shall lapse and be of no further effect.

Notes:

- (a) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.
- (b) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation. It is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully commences.
- (c) Should the applicant be aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

VOTING DETAILS:

9.5 BUILDING
Nil

10.0 ELECTED MEMBERS/MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
Nil

11.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

11.1 ELECTED MEMBERS

11.2 STAFF

12.0 CONFIDENTIAL ITEMS

12.1 WATER USE AGREEMENT – ASSIGNMENT

This matter will be dealt with as a confidential item in accordance with Section 5.23 of the Local Government Act as it contains information about a matter affecting an employee and/or a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

13.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 21 November 2018 commencing at 4.30pm.

14.0 CLOSURE

These minutes were confirmed at an Ordinary Council meeting on 17 October 2018.

Signed _____
Presiding Officer

Date: _____