



**MINUTES FOR THE  
ORDINARY COUNCIL MEETING  
HELD ON**

**Wednesday 20 March 2019**

## 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.

|   |   |  |
|---|---|--|
| <b>Petitions</b><br>A formal process where members of the community present a written request to the Council. | <b>Deputations</b><br>A formal process where members of the community request permission to address Council or Committee on an issue. | <b>Presentations</b><br>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 |
|---|---|--|

### 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](mailto: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](mailto: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

### MINUTES FOR THE ORDINARY MEETING OF COUNCIL HELD IN COUNCIL CHAMBERS ON 20 MARCH 2019 COMMENCING AT 4.30pm

#### 1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The President HM Newton declared the meeting open at 4.30pm and welcomed all in attendance.

#### 2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE COUNCILLORS

|             |                  |            |
|-------------|------------------|------------|
| HM Newton   | President        | Town Ward  |
| CR Lucken   | Deputy President | Town Ward  |
| KJ McGlinn  | Councillor       | Town Ward  |
| RW Newton   | Councillor       | Rural Ward |
| JD Bagley   | Councillor       | Rural Ward |
| GJ Cosgrove | Councillor       | Rural Ward |

#### STAFF

|            |                                |
|------------|--------------------------------|
| N Hay      | Chief Executive Officer        |
| J Clapham  | Finance Manager                |
| B Bow      | Governance Officer             |
| E Budrikis | Community Services Coordinator |

#### VISITORS

Nil

#### APOLOGIES

|            |            |           |
|------------|------------|-----------|
| LM Eardley | Councillor | Town Ward |
|------------|------------|-----------|

#### 3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

#### 4.0 PUBLIC QUESTION TIME/PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

There being no members of public present the President proceeded with the meeting allowing a period of 15 minutes for questions from the public up until 4:45pm.

#### 5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

#### 6.0 DECLARATIONS OF INTEREST

Belinda Bow – Item 11.5 (Shire of Mingenew 2018 Compliance Audit Return)- Impartiality Interest – The report details to Council the results from an audit undertaken by the Governance Officer which included auditing and reporting on areas of her own responsibility.

#### 7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

##### 7.1 ORDINARY MEETING HELD 20 FEBRUARY 2019

**OFFICER RECOMMENDATION AND COUNCIL DECISION – RESOLUTION 20031901**  
Moved: Cr McGlinn / Seconded: Cr Lucken

That the minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 20 February 2018 be confirmed as a true and accurate record of proceedings.

**AMENDMENT**

Moved: Cr Cosgrove / Seconded: Cr Lucken

That it be changed to read the following:

That the minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 20 February 2019 be confirmed as a true and accurate record of proceedings.

**CARRIED 6/0**

**SUBSTANTIVE MOTION:**

That the minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 20 February 2019 be confirmed as a true and accurate record of proceedings.

**VOTING DETAILS:**

**CARRIED 6/0**

**8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

President Newton wished to notify fellow Councillors and community members that Cr Lucken has tendered his resignation from Council. Pr Newton acknowledged and thanked Cr Lucken for his 5 years of service to the Shire of Mingenew and wished him well in his future business endeavours.

President Newton also congratulated the Mingenew Turf Club on hosting an excellent race meet.

**9.0 REPORTS/MINUTES OF COMMITTEES**

**9.1 AUDIT COMMITTEE MEETING HELD 20 MARCH 2019**

**OFFICER RECOMMENDATION AND COUNCIL DECISION – RESOLUTION 20031902**

Moved: Cr Lucken / Seconded: Cr McGlinn

That the minutes of the Audit Committee Meeting of the Shire of Mingenew held in the Council Chambers on 20 March 2019 be received.

**VOTING DETAILS:**

**CARRIED 6/0**

## 10 REPORTS BY THE CHIEF EXECUTIVE OFFICER

### 10.1 CODES OF CONDUCT- COUNCILLORS AND EMPLOYEES

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: ADM0489  
Date: 14 March 2019  
Author: Nils Hay, Chief Executive Officer

#### Summary

The Shire of Mingenew is working through a program of updating its policies and other legislatively required documents. The Shire is liaising with the Western Australian Local Government Association as part of this process and maintains a subscription to its governance/local laws service.

At the November 2018 Council Meeting, it was highlighted that a review of the existing Code of Conduct (to facilitate separate but complimentary Elected Members; and Employees; Codes) was underway.

Whilst the Employees Coded of Conduct was developed using samples obtained from other local governments, in consultation with staff, the Code of Conduct for Council Members and Committee Members was formatted from the Model Code provided by the Western Australian Local Government Association.

This report puts forward for Council consideration, a revised Code of Conduct for Councillors and Committee Members and also provides for noting, a copy of the Code of Conduct for Shire of Mingenew Employees.

#### Attachments

New draft of Code of Conduct for Council Members and Committee Members  
New draft of Code of Conduct for Employees  
Existing Shire of Mingenew Code of Conduct  
Code of Conduct for Council Members and Committee Members (WALGA Model)  
Code of Conduct Guide (Public Sector Commission)  
Local Government (Rules of Conduct) Regulations 2007

#### Background

All local governments are legislatively required to adopt a Code of Conduct(s). While Council reviews this document on an annual basis, it has not undergone any changes for a number of years.

Whilst Mingenew has historically maintained a single Code of Conduct, it is becoming more common for local governments to now have up to three individual Codes. An Elected Members/Councillors; a Committee Members; and an Employees Code. The division of the Codes enables the separate requirements of each classification of Shire stakeholder to be individually addressed, and also highlights the separation between the strategic (Council) and the Operational (employees) areas of the local government.

The Local Government (Rules of Conduct) Regulations 2007 also went some way to facilitating this change, as it introduced statutory standards that Elected Members are required to adhere to. This has reduced the requirement to provide for some items within individual local government Codes of Conduct. A copy of these Regulations are attached for reference purposes and need to be read in conjunction with the Shire of Mingenew's Code of Conduct.

#### Comment

The current Code of Conduct has provided for the Shire's past needs, but the WALGA Model has been updated over past years and for Mingenew to be reflective of best practice, it is considered timely to update the Code, to ensure its relevance to current policy and legislation. Note of the direction of other local governments (who are more commonly moving towards multiple Codes) is also warranted.

The development of the proposed two "new" Codes would seem to better reflect the legislative requirements placed on Elected Members; Committee Members; and Employees. The proposed Codes of Conduct are based on the following information and are considered to meet good levels of contemporary best practice –

1. Shire of Mingenew's previous Code of Conduct;
2. West Australian Local Government Association's Model Code of Conduct;
3. Other Local Government Codes of Conduct; and
4. Advice provided by the Public Sector Commission

### **Consultation**

- WALGA (governance/local laws service)
- Other local government Code of Conduct examples
- Shire of Mingenew staff

### **Statutory Environment**

Section 5.103(1) of the Local Government Act 1995 requires every Local Government to prepare and adopt a Code of Conduct to be observed by Council Members, Committee Members and Employees.

The Local Government (Administration) Regulations 1996 regulations 34B and 34C contain requirements (namely, gifts, and interests affecting impartiality) that must be included in an Employee Code of Conduct.

The Local Government (Rules of Conduct) Regulations 2007 provide statutory standards that Elected Members are required to adhere to (and should be read in conjunction with the Councillors & Committee Members Codes of Conduct).

Sections 5.8 and 5.9 of the Local Government Act outline how committees are established and their types. In particular, a local government may establish committees and delegate duties to those to committees, which can include council members, employees and other persons (i.e. a person who is not a council member or an employee). The inclusion of Committee Members within a local government's Code of Conduct therefore, adequately provides for those members who are not elected members, to have suitable ethical standards set for them.

The Corruption, Crime and Misconduct Act 2003 is now administered, in part, by the Public Sector Commission. The Public Sector Commission is responsible for providing misconduct prevention education and also an investigatory role into cases of alleged minor misconduct.

### **Policy Implications**

Nil.

### **Financial Implications**

There are no financial implications beyond the cost of staff time to implement and manage the Codes.

### **Strategic Implications**

The 2017 – 2021 Corporate Business Plan has a range of objectives, outcomes and actions that revolve around good governance, including 'being an open and accountable local government that is respected, professional and trustworthy'; and 'to achieve a high level of compliance.'



**Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION AND COUNCIL DECISION – RESOLUTION 20031903**

Moved: Cr Cosgrove / Seconded: Cr Bagley

That Council:

1. Adopts the Code of Conduct for Councillors and Committee Members as attached; and
2. Notes that a Code of Conduct for Employees has been developed and will be implemented (and updated as required) by the CEO.

**AMENDMENT**

Moved: Cr Cosgrove / Seconded: Cr McGlinn

That point 1 be changed to read the following:

1. Revoke the existing joint Code of Conduct and adopt the newly drafted Code of Conduct for Council Members and Committee Members (as presented in Attachment 1) effective as of the 1<sup>st</sup> April 2019.

CARRIED 6/0

**SUBSTANTIVE MOTION:**

That Council:

1. Revoke the existing joint Code of Conduct and adopt the newly drafted Code of Conduct for Council Members and Committee Members (as presented in Attachment 1) effective as of the 8<sup>th</sup> April 2019.
2. Notes that a Code of Conduct for Employees has been developed and will be implemented (and updated as required) by the CEO.

**VOTING DETAILS:**

CARRIED 6/0

**REASON FOR CHANGE TO RESOLUTION**

To ensure that the Code of Conduct for Employees is approved and implemented by the CEO prior to the repeal of the joint Code of Conduct.

## 11.0 REPORTS OF ADMINISTRATION

### 11.1 FINANCIAL REPORT FOR THE PERIOD ENDED 28 FEBRUARY 2019

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** ADM0304  
**Date:** 11 March 2019  
**Author:** Jeremy Clapham – Finance Manager

#### Summary

This report recommends that the Monthly Financial Report for the period ending 28 February 2019 as presented to the Council be received.

#### Attachment

Monthly Financial Report for period ending 28 February 2019

#### Background

The Monthly Financial Report to 28 February 2019 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 as at 28 February 2019 |           |
|---|-----------|
| Municipal Fund  | \$494,478 |
| Cash on Hand  | \$300     |
| Restricted Funds – 3 Month Term Deposit @ 2.50%             | \$545,000 |
| Trust Fund  | \$21,620  |
| Reserve fund (3 Month Term Deposit) @ 2.50%                 | \$411,269 |

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered.

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2018/2019 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.
- (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

No financial implications are indicated in this report.

**Strategic Implications**

Nil

**Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION AND COUNCIL DECISION – RESOLUTION 20031904**

Moved: Cr Newton / Seconded: Cr Bagley

That the Monthly Financial Report for the period 1 July 2018 to 28 February 2019 be received.

**VOTING DETAILS:**

**CARRIED 6/0**

## 11.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 28 FEBRUARY 2019

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:** ADM0042  
**Attachment/s:** List of Payments – February 2019  
**Disclosure of Interest:** Nil  
**Date:** 11 March 2019  
**Author:** Helen Sternick, Finance Officer  
**Authorising Officer:** Jeremy Clapham, Finance Manager

### Summary

This report recommends that Council receive the list of payments for period ending 28 February 2019 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

### Attachments

List of payments for the period ending 28 February 2019

### 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 AND COUNCIL DECISION - RESOLUTION 20031905**

Moved: Cr Lucken / Seconded: Cr Newton

That Council receive the attached list of payments for the month of February 2019 as follows:

\$7,550.50      Municipal Cheques 8591 to 8592;

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 March 2019

|              |  |
|--------------|--|
| \$462,997.33 | Municipal EFT12205 to EFT12240;                                      |
| \$20,761.19  | Municipal Direct Debit Superannuation & Payroll Deduction Payments;  |
| \$55,026.45  | Municipal Direct Debit Department of Transport (Licencing) Payments; |
| \$612.15     | Municipal Direct Debit National Australia Bank Fees; and             |
| \$585.75     | Municipal Direct Debit Other.  |

Totalling \$547,533.37.

VOTING DETAILS:

CARRIED 6/0

### 11.3 SHIRE OF MINGENEW LOCAL PLANNING SCHEME REVIEW

Location/Address: Whole of Shire  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: ADM0110  
Date: 12 March 2019  
Author: Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley  
Senior Officer: Nils Hay, Chief Executive Officer

#### Summary

Council resolved at its 21 February 2018 meeting to adopt draft Shire of Mingenew Local Planning Scheme No.4 and draft Shire of Mingenew Outbuildings Local Planning Policy for the purpose of advertising. The advertising period has now been completed and this matter is returned to Council for its further consideration. This report recommends that Council resolve to adopt the new Scheme, subject to modifications arising from the submissions received during the advertising period and forward it to the Western Australian Planning Commission ('WAPC') seeking final approval and adopt the Shire of Mingenew Outbuildings Local Planning Policy.

#### Attachment

- 11.3.a – draft Shire of Mingenew Local Planning Scheme No.4 (provided as **separate attachment** to agenda)
- 11.3.b – Copy of received submissions (provided as **separate attachment** to agenda)
- 11.3.c – Schedule of Submissions
- 11.3.d – draft Shire of Mingenew 'Outbuildings' Local Planning Policy (provided as **separate attachment** to agenda)

#### Background

The current Shire of Mingenew Local Planning Scheme No.3 was gazetted on 18 April 2008 and requires review to ensure the Shire's statutory planning document is consistent with the *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations'). The review of the Scheme has also provided an opportunity to update it with regard for the Mingenew Townsite Local Planning Strategy that was adopted by Council at its 18 November 2015 meeting and endorsed by the WAPC on 18 January 2017.

Council resolved at its 14 August 2017 meeting to initiate the preparation of Scheme No.4.

Draft Scheme No.4 was presented to Council at its 20 December 2017 meeting for initial consideration, and feedback from Council was that it sought modification to ensure that residences within the Rural Zone were exempted from the requirement to make planning application, and that greater flexibility be introduced to enable consideration to be given to development of a second residence or workers accommodation within the Rural Zone.

Draft Scheme No.4 was duly modified with regards for these directions and Council resolved at its 21 February 2018 meeting as follows:

*"That:*

- 1 Council resolve to adopt Shire of Mingenew Local Planning Scheme No.4 pursuant to Part 5 of the Planning and Development Act 2005 and forward, in accordance with Part 5 Division 3 Section 81 of the Planning and Development Act 2005, notice of the resolution to adopt and a copy of the Scheme to the Environmental Protection Authority to determine whether the Scheme should be formally assessed.*
- 2 Forward the Shire of Mingenew Local Planning Scheme No.4, in accordance with Part 4 Division 2 Section 21 of the Planning and Development (Local Planning Schemes)*

*Regulations 2015, to the Western Australian Planning Commission seeking its consent to advertise.*

- 3 *Delegate to the Chief Executive Officer to undertake minor modifications to the Shire of Mingenew Local Planning Scheme No.4 that do not significantly alter the intent of the Scheme (including but not limited to; changes to format, spelling, grammar, numbering; Model or Deemed provisions; updates necessitated by Scheme Amendments, Structure Plans, Policies or other Strategies that have been given approval in the interim period etc.) as may be required by the Western Australian Planning Commission or otherwise prior to its advertising consent being granted.*
- 4 *Upon receipt of the Western Australian Planning Commission's advice that the Shire of Mingenew Local Planning Scheme No.4 can be advertised, and compliance with Part 5 Division 3 Section 82 of the Planning and Development Act 2005, proceed to advertise the Scheme in accordance with Part 4 Division 2 Section 22 of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 5 *At the conclusion of the advertising period return the draft Shire of Mingenew Local Planning Scheme No.4, and any received submissions, to Council for its further consideration.*
- 6 *Adopt draft Local Planning Policy – Outbuildings as a draft for public comment and advertise it concurrently with the Shire of Mingenew Local Planning Scheme No.4 pursuant to Section 2.4 of the Shire of Mingenew Local Planning Scheme No.3. and Schedule 2 Part 2 Division 2 of the Planning and Development (Local Planning Schemes) Regulations 2015."*

The Environmental Protection Authority ('EPA') determined on 2 July 2018 that Scheme No.4 should not be assessed under Part IV of the *Environmental Protection Act 1986* and the Shire advised the WAPC of the EPA's determination and requested the WAPC's consent to advertise Scheme No.4.

Shire and WAPC staff then discussed and reached agreement on a Schedule of Modifications to the Scheme Text and Maps that were considered minor and gave regard for recently gazetted Schemes in the state and their standardised provisions.

The WAPC advised on 17 September 2018 of its consent to advertise Scheme No.4 subject to the prepared Schedule of Modifications and these modifications were completed by the Shire and sent to the WAPC on 14 November 2018.

Advertising of Scheme No.3 commenced on 28 November 2018 and concluded on 1 March 2019.

A copy of the advertised version of Scheme No.4 has been provided as **separate Attachment 11.3.a** and a copy of the current Scheme No.3 can be viewed for comparative purposes at the following link to the WAPC website: <https://www.dplh.wa.gov.au/mingenew>. A hard copy of either document can also be provided to Councillors upon request should they prefer.

### **Comment**

The Scheme Review process was not one of major overhauling of Scheme No.3, rather a fine-tuning exercise with changes generally limited to the following:

- Updating the Scheme text provisions to reference those as contained in the Regulations to ensure consistency and assist Council in statutory matters.



- Minor modifications to the Scheme map around the Mingenew townsite to reflect Council's planning directions as contained in the Mingenew Townsite Local Planning Strategy.
- Review of the zonings to ensure that privately owned land was not identified for public purposes and that zonings for public/Crown land matched the management purpose.

### **Consultation**

Following its resolution to prepare a new Local Planning Scheme at the 14 August 2017 meeting, Council was required as per Part 4 of the Regulations to provide notification of the resolution to stakeholders that may be affected by the scheme. The Shire wrote to 22 government agencies and service authorities and the 4 surrounding local governments, inviting any recommendations in respect of the resolution and requests for issues for consideration in Scheme No.4.

A Stakeholder Engagement Strategy was also provided as an attachment with the 14 August 2017 Council Agenda that summarised the consultation actions that informed the Mingenew Scheme Review process.

The consultant also made presentation to Councillors at the 20 December 2017 Forum Session.

Scheme No.4 was advertised as per Section 84 of the Act and Regulation 22 for a period of 90 days, commencing on 28 November 2018 and concluding on 1 March 2019, and the advertising included the following actions:

- display of the Scheme at the Shire office;
- display of the Scheme at the WAPC office in Perth;
- display of the Scheme on the Shire website;
- notice inviting comment in the Mid West Times on 28 November 2018;
- correspondence inviting comment being sent to the following 29 government agencies and service authorities :
  - Department of Biodiversity, Conservation & Attractions
  - Department of Communities
  - Department of Education
  - Department of Finance
  - Department of Fire & Emergency Services
  - Department of Health
  - Department of Jobs, Tourism, Science & Innovation
  - Department of Lands
  - Department of Local Government, Sport & Cultural Industries
  - Department of Mines, Industry Regulation & Safety
  - Department of Planning, Lands & Heritage (Aboriginal Heritage Directorate)
  - Department of Planning, Lands & Heritage (Heritage Council)
  - Department of Primary Industries & Regional Development
  - Department of Transport
  - Department of Water & Environment Regulation
  - Horizon Power
  - Housing Authority
  - Land Authority Western Australia (LandCorp)
  - Land Information Authority Western Australia (Landgate)
  - Main Roads WA
  - Telstra
  - Water Corporation
  - Western Power
  - City of Greater Geraldton
  - Shire of Irwin
  - Shire of Morawa

- Shire of Three Springs
- ATCO Gas
- Australian Gas (Dampier Bunbury Pipeline)

At the conclusion of the advertising period 10 submissions had been received, all offering either support for the Scheme or expressing technical comment/seeking minor modification to the Scheme, no objections to the Scheme were received.

Copies of the received submissions have been provided as **separate Attachment 11.3.b**.

A Schedule of Submissions has been provided as **Attachment 11.3.c** that identifies the respondents, the nature of their submissions, and provides individual comment and recommends a modification to the Scheme based upon the submissions (if considered required). Regulation 28(1)(a) requires that the Schedule of Submissions is forwarded to the WAPC with Council's resolution.

A Schedule of Modifications will also be prepared by Shire staff following Council's determination. The Schedule of Modifications will draw upon the individual recommendations of the Schedule of Submissions, and any required Council modification and will list the suggested changes to the Scheme. Regulation 28(1)(c) requires that the Schedule of Modifications is forwarded to the WAPC with Council's resolution.

### **Statutory Environment**

Section 88 of the *Planning and Development Act 2005* ('the Act') requires local governments to review their planning scheme every five years. Schemes are prepared and adopted under Part 5 of the Act and must be in compliance with the Regulations.

A chart illustrating the Scheme Review process was provided as an attachment with the 14 August 2017 Council Agenda.

### **Policy Implications**

Schedule 2 Part 2 Division 2 of the Regulations provides Council with the ability to prepare Local Planning Policies.

A Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.

Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. The Scheme prevails should there be any conflict between a Policy and the Scheme.

In areas where Council wishes to establish development guidelines and assessment criteria a Local Planning Policy can be better suited than Scheme provisions. A Policy is still considered as reasonable basis for Council to make determinations, and is an instrument that must be given due regard in instances where a development decision is appealed to the State Administrative Tribunal, but a Policy also has an improved, more responsive ability to be modified by Council where it considers that a Policy is no longer in-line with its planning, or Council considers that an individual application should be supported based upon its displayed merits.

It was considered as part of the Scheme Review process that the assessment of outbuildings within the Shire was one area where Council might wish to establish a policy to set out its requirements and assist applicants (the Policy would sit alongside Scheme No.4 and effectively replace Section 5.17 of Scheme No.3).

A draft 'Outbuildings' Local Planning Policy (provided as **separate Attachment 11.3.d**) was prepared for Council's consideration, and it was resolved at the 21 February 2018 meeting to advertise the policy concurrently with Scheme No.4. No submissions were received in relation to the draft Outbuildings Local Planning Policy.

### **Financial Implications**

The cost of preparation of the new Scheme is being funded through a grant received by the Shire from the Royalties for Regions Northern Planning Funding Program.

The Shire called for expressions of interest in accordance with the procedures laid out in its Policy Manual and received 7 submissions that were reviewed against evaluation criteria.

### **Strategic Implications**

The Scheme Review has provided an opportunity to ensure that the outcomes identified within the Shire of Mingenew Strategic Community Plan are incorporated into its statutory planning and zoning document.

### **Voting Requirements**

Simple Majority

Pr Newton foreshadowed a motion.

#### **OFFICER RECOMMENDATION AND COUNCIL DECISION- RESOLUTION 20031906**

Motion Lapsed for want of a mover

That Council:

- 1 Note the submissions received during the formal advertising period of the Shire of Mingenew Local Planning Scheme No.4 as outlined in the Schedule of Submissions provided as Attachment 11.3.c pursuant to Regulation 25 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- 2 Adopt Shire of Mingenew Local Planning Scheme No.4 pursuant to Regulation 25 of the *Planning and Development (Local Planning Schemes) Regulations 2015* subject to the modifications as outlined in the recommendations of the Schedule of Submissions and instruct Shire staff to accordingly prepare the Schedule of Modifications pursuant to Regulation 28 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- 3 Forward to the Western Australian Planning Commission the following, pursuant to Section 87 of the *Planning and Development Act 2005* and Regulation 28 of the *Planning and Development (Local Planning Schemes) Regulations 2015*:
  - (a) Notice of Council's resolution to adopt Shire of Mingenew Local Scheme No.4;
  - (b) Schedule of Submissions made on Shire of Mingenew Local Scheme No.4;
  - (c) Schedule of Modifications made to Shire of Mingenew Local Scheme No.4.
- 4 Request that the Honourable Minister for Planning grant final approval to Shire of Mingenew Local Planning Scheme No.3.
- 5 Inform those agencies and persons who made a submission on the Shire of Mingenew Local Planning Scheme No.4 of its decision.
- 6 Adopt Local Planning Policy – Outbuildings pursuant to Section 2.4 of the Shire of Mingenew Local Planning Scheme No.3 and Schedule 2 Part 2 Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and proceed to publish a notice to this effect in a local newspaper.

#### **FORESHADOWED MOTION**

Moved: Pr Newton / Seconded: Cr Cosgrove

That Council:

1. Refer the item back to the reporting officer so that the following information can be provided:
  - a) The ramifications of the Outbuilding Policy to a property owner who would require an oversized shed [exceed the maximum height].
  - b) The ramifications to existing residential or hobby farming owners, if any, who are in a zone that is to be classified as industrial.
2. That point 4 be changed to read:  
Request that the Honourable Minister for Planning grant final approval to Shire of Mingenew Local Planning Scheme No.4.

VOTING DETAILS:

CARRIED 6/0

#### 11.4 EMPLOYEE SUPERANNUATION POLICY

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: ADM0489  
Date: 6/03/2019  
Author: Jeremy Clapham, Finance Manager  
Authorising Officer: Nils Hay, Chief Executive Officer

##### Summary

To present an Employee Superannuation Policy for Council consideration.

##### Attachment

Proposed Policy – 1.3.8 Employee Superannuation

##### Background

Council does not presently have a Policy on how employee superannuation arrangements are carried out. This Policy details the arrangements and contributions the Shire will make to employee superannuation.

##### Comment

Presently the Shire pays the Super Guarantee Charge as per legislation and also contributes up to 5% extra of an employees salary, based on whether the employee elects to also pay an extra 5% of their salary. These arrangements are contained within the Employment Contracts signed between the employees and the Shire. This Policy addresses the formalisation of these arrangements.

##### Consultation

Nils Hay – Chief Executive Officer, Belinda Bow – Governance Officer

##### Statutory Environment

Superannuation Guarantee Contribution (Administration) Act 1992.

##### Policy Implications

The adoption of this policy will ensure that Council is adhering to the Superannuation Guarantee Contribution (Administration) Act 1992 and also make clear how the arrangements and contributions of employee superannuation are processed.

##### Financial Implications

There will be an increase in employee costs of up to 5% of an employee's salary, dependant on whether an employee elects to take advantage of the matching contribution that the Shire may make.

##### Strategic Implications

Nil

##### Voting Requirements

Simple Majority

Pr Newton foreshadowed a motion.

OFFICER RECOMMENDATION AND COUNCIL DECISION– ITEM 11.4 [PROCEDURAL MOTION]  
That Council adopt the attached Policy – 1.3.8 Employee Superannuation, effective immediately.

The motion lapsed for want of a mover.

**FORESHADOWED MOTION**

Moved: Pr Newton / Seconded: Cr McGlinn

That Council lay Item 11.4 on the table until the following information can be provided:

- a) The financial impact if all employees took advantage of the co-contribution;
- b) The current percentage of staff accessing the matched co-contribution; and
- c) The current percentage/s of co-contribution offered to staff.

**VOTING DETAILS:**

**CARRIED 6/0**

## 11.5 SHIRE OF MINGENEW 2018 COMPLIANCE AUDIT RETURN

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:** ADM0057  
**Disclosure of Interest:** Belinda Bow- Impartiality- Auditing and reporting on own work  
**Date:** 10 March 2019  
**Author:** Belinda Bow, Governance Officer  
**Authorising Author:** Nils Hay, Chief Executive Officer

### Summary

The Compliance Audit Return for the calendar year of 2018 will undergo review by the Shire of Mingenew's Audit Committee on Wednesday 20<sup>th</sup> March. Subject to a positive recommendation by the Committee, Council are requested to adopt the CAR so that it may be submitted to the Department of Local Government and Communities by 31 March 2018.

### Attachment

1. Department of Local Government and Communities 2018 Compliance Audit Return (CAR).

### Background

The aim of the Compliance Audit Return is to build good governance by promoting and enforcing compliance through continuous improvement. It is a checklist of a local government's compliance with the requirements of the Local Government Act 1995 (the Act) and its regulations and it focuses on areas considered high risk as determined by the Department.

Each year local governments are required to complete the Compliance Audit Return for the period 1 January to 31 December. The CAR is to be reviewed by the Audit Committee, adopted by Council and submitted to the Director of the Department of Local Government and Communities by 31 March each year.

For the year 2018, the CAR focused on the following areas:

- Commercial Enterprises by Local Government
- Delegation of Power/Duty
- Disclosure of Interest
- Disposal of Property
- Elections
- Finance
- Integrated Planning and Reporting
- Local Government Employees
- Official Conduct
- Tenders for Providing Goods and Services

2 new questions were included in this return which related to whether the appropriateness and effectiveness of the local government's systems and procedures in accordance with regulation 17 of the Local Government (Audit) Regulations 1996 had been undertaken.

### Comment

The annual Compliance Audit Return for the Shire of Mingenew was completed by Internal Audit. The audit required sourcing of evidence of compliance for each legislative requirement on the return. Evidence was found through the source documents such as, but not limited to, minutes of meetings and resolutions of Council, declarations of interest, annual/primary returns, registers, financial reports, synergy records and

newspapers / public notices. Links to such evidence have been recorded on the CAR for easy reference should, in future, the audit result come into question.

The audit identified 3 areas in which the Shire was non-compliant in meeting requirements of the Act and its regulations as contained within the Compliance Audit Return.

#### **Tenders for Providing Goods & Services- Non-Compliant**

##### *Q24- Did the LG comply with F&G r24F in relation to an adopted regional price preference policy*

- r24F (1) A policy cannot be adopted by a local government until at least 4 weeks after the publication of the Statewide notice of the proposed policy.....
- (3) An adopted policy cannot be applied until the local government gives Statewide notice that it has adopted that policy.
- (4) The local government is to ensure that a copy of an adopted regional price preference policy is — (a) included with any specifications for tenders to which the policy applies.....

In relation to r24F(4)- on one occasion a tender request package was found not to include information pertaining to the availability of a Regional Price Preference Policy. I have not examined the quotation documentation for expenditure (>\$150,000) that was disseminated via the Walga e-quotes portal, but it would be prudent to ensure future quotation for all expenditure above tender threshold, even through Walga e-quotes, includes a copy of the Regional Price Preference Policy given that we want to encourage regional investment.

In relation to r24F(1) and (2), I have not been able to locate any evidence of state-wide advertising of the Shire's proposal to implement a Regional Price Preference Policy or any Council Report presenting feedback on such a proposal, going back to 2001-2002. I have found the Council Report in the March 2002 Minutes, advising the then Council that the Regional Price Preference Policy was non-compliant as it had not undertaken the state-wide advertising and consultation period as per r24F, prior to becoming operational. Council's resolution at that time was for the CEO to advertise and report back to Council however I have been unable to locate the subsequent report. Given that I am unable to verify that the process was completed as per statutory requirements I believe it would be prudent for Council to review in the near future, the policy and commence the advertisement and consultation process again to ensure the Shire is in future able to demonstrate that a complete process was undertaken. The process as per F&G r24E, would require the Shire to:

- r24E(1)....(b) give Statewide public notice of the intention to have a regional price preference policy and include in that notice —
- (i) the region to which the policy is to relate; and
- (ii) details of where a complete copy of the proposed policy may be obtained; and (iii) a statement inviting submissions commenting on the proposed policy, together with a closing date of not less than 4 weeks for those submissions; and
- (c) make a copy of the proposed regional price preference policy available for public inspection in accordance with the notice.....
- (4) A policy cannot be adopted by a local government until the local government has considered all submissions that are received in relation to the proposed policy and, if that consideration results in significant changes to the proposed policy, then the local government must again give Statewide public notice of the altered proposed regional price preference policy.

#### **Integrated Planning and Reporting- Non-Compliant**

*This section of the CAR is a non-statutory requirement for 2018.*

##### *Strategic Plan*

- The Strategic Community Plan outlines community long term (10+ years) vision, values, aspirations and priorities, with reference to other local government plans, information and resourcing capabilities. A full review with community consultation is required every four years with a desktop review every two years.



- The Shire's community Strategic Plan was last adopted in 2012 and was due for its major review in 2016. It is now 3 years over-due. The strategic plan is in its final stages of preparation and is expected to be presented to Council in the coming months.

#### *Corporate Business Plan*

- The Corporate Business Plan is a plan that details the services, operations and projects a local government will deliver within a rolling 4-year period. It also includes the processes for delivering these and the costs associated. The financial representation of "Year 1" of the Corporate Business Plan, including detailed statutory financial requirements would be the 'annual budget'. The remainder of the plan should outline the local government's operations (including services, assets, Council priorities and projects), with detailed financial estimates, administrative responsibility and link to the Strategic Community Plan.
- Council last reviewed and endorsed its Corporate Business Plan in 2017. It requires review every 12 months in accordance with r19DA(4). It is expected to be reviewed once the Shire's Community Strategic Plan is complete.

#### *Asset Management Plan*

- The Asset Management Plan feeds into the Corporate Business Plan and Long-Term Financial Plan and is to be reviewed every 4 years, though ideally updated every 12 months. The last Asset Management Plan was last adopted by Council in 2013 and was due in 2017. The development of a new plan was outsourced to Moore Stephens in 2018 however with staff turnover its completion was delayed. This plan is now in the final stages of review and is expected to be presented to Council in the coming months.

#### *Workforce Plan*

- The workforce plan was last adopted by Council in 2013. This requires review at least 4 yearly in line with review of the Community Strategic Plan to ensure service provision levels are maintained and knowledge loss avoided. This is now overdue.

#### *Long Term Financial Plan*

- The Long-Term Financial Management Plan is a 10+ year plan, and to be reviewed in line with the community strategic plan (4-yearly). The plan was last adopted by Council in 2013 for the period 2013-2023. This plan was updated by the previous CEO during the 2016/17 financial year, but I have been unable to find evidence of Council endorsement of such a plan. It is expected to be presented to Council in the later stages of 2018 once the Strategic Plan has been completed.

### **Delegations- Non-compliant**

As you can see in the comments section to question 5 & 7 for Disclosure of Interest, 2 instances of officers breaching the LGA were identified during 2018, relating to the disclosure period of 2017 and 2018. These breaches were found when cross checking the Delegations Register against the Financial Interest Register. In these 2 instances officers were recorded as having received delegated powers but failed to submit Primary or Annual Returns in accordance with s5.75 & 5.76 of the LGA. Given that the Act considers such a failure as a serious breach of the Act, these instances were reported to the Corruption and Crime Commission. An ensuing investigation was conducted and concluded in December 2018. Therefore whilst the 2018 CAR reports a non-compliance in this area- the non-compliance had already been identified and dealt with by Management and the CCC. Apart from this instance, the Delegations Register and Financial Interest Register are currently up to date and consistent with one-another.

### **Delegations- Compliant but Action Required**

*Did all personnel exercising delegations under the Act keep, on all occasions, a written record as required by s5.46(3) & Admin r19.*

*r19 Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —*

- (a) how the person exercised the power or discharged the duty; and*
- (b) when the person exercised the power or discharged the duty; and*

- (c) *the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.*

Whilst tasks undertaken under delegated authority do have a paper trail as per legislated requirements, the documentation is not readily available or centralised making it an onerous process to locate records within the Shire's synergy records system. The Shire would benefit from a simple centralised register to ensure this information is more readily available and should be looked at in 2019.

### Consultation

Jeremy Clapham- Finance Manager

Neil Hartley- Project Officer

Logo Appointments

### Statutory Environment

- Section 7.13(i) Local Government Act 1995 requires that the Local Government carry out an annual audit on their compliance with specific statutory obligations which may be prescribed in the Regulations.
- Regulation 13- prescribes the scope of the Compliance Audit Return
- Regulation 14- requires the Audit Committee to review the CAR and report the result to Council prior to adoption and submission to the Department by the 31 March each year
- Regulation 15 Local Government (Audit) Regulations 1996 refers to the requirement for a certified copy of the compliance audit return to be presented to the Director General of the Department by the 31 March each year.

### Policy Implications

There are no policy implications to be considered as part of this report.

### Financial Implications

There are no financial implications to be considered as part of this report.

### Strategic Implications

Community Strategic Plan

Outcome 4.2 – An open and accountable local government that is respected, professional and trustworthy

Outcome 4.5 – Achieve a high level of compliance

### Voting Requirements

Simple Majority

#### OFFICER RECOMMENDATION AND COUNCIL RESOLUTION – RESOLUTION 20031907

Moved: Cr Newton / Seconded: Cr Lucken

That Council:

1. Notes that the Shire's Audit Committee has reviewed the compliance audit return for the period of 1 January 2018 to 31 December 2018; and
2. Adopts the Local Government Compliance Audit Return for the period 1 January to 31 December 2018 as contained in Attachment 1 noting the 3 areas of non-compliance;
3. Authorises the Shire President and the Chief Executive Officer to sign the joint certification and lodge with the Department of Local Government and Communities.

VOTING DETAILS:

CARRIED 6/0

## 11.6 SHIRE OF MINGENEW AUDIT AND RISK COMMITTEE TERMS OF REFERENCE

**Location/Address:** Shire of Mingenew  
**Name of Application:** Shire of Mingenew  
**File Reference:** ADM0057  
**Disclosure of Interest:** Nil  
**Date:** 14 March 2019  
**Author:** Nils Hay, Chief Executive Officer

### Summary

At the December 2018 Audit Committee meeting discussion was held regarding the role and structure of the Council's Audit Committee. The Terms of Reference for the Committee were further discussed at the February 2019 Ordinary Meeting. This paper seeks to confirm the Terms of Reference.

### Attachments

- Draft Audit Committee Terms of Reference
- Office of the Auditor General Information for Local Governments
- Draft Expression of Interest documentation for recruitment of Independent Audit Committee Member

### Background

At the December 2018 Audit Committee Meeting the following motion was passed:

#### **OFFICER RECOMMENDATION AND COMMITTEE RESOLUTION – ITEM 6.2**

**Moved: Cr Newton / Seconded: Cr Bagley**

**That Council on recommendation from the Audit Committee:**

- 1. Requests that the Chief Executive Officer prepare an Audit Committee Terms of Reference for adoption at the February 2019 Ordinary Meeting of Council**

#### **AMENDMENT**

**Moved: Cr Newton / Seconded: Cr Bagley**

**That the word 'adoption' be changed to 'consideration'.**

#### **SUBSTANTIVE MOTION**

**That Council on recommendation from the Audit Committee:**

- 1. Requests that the Chief Executive Officer prepare an Audit Committee Terms of Reference for consideration at the February 2019 Ordinary Meeting of Council.**

**VOTING DETAILS:**

**CARRIED 6/0**

Council's audit function is becoming increasingly important as the Office of the Auditor General (OAG) assumes responsibility for auditing local governments. The OAG's current approach includes both External Audits (which all local governments are subject to) as well as Performance Audits related to specific areas of Local Government operations, for which a sample of local governments are selected. It is the OAG's intent that, over a period of several years, all WA local governments will undergo some form of Performance Audit.

At the February 2019 Ordinary Meeting of Council the following motion was passed:

**OFFICER RECOMMENDATION AND COUNCIL DECISION- RESOLUTION 20021903**

**Moved: Cr Lucken / Seconded: Cr McGlinn**

**That Council:**

- 1. Adopt the attached Audit Committee Terms of Reference, with the following modifications:**
  - i. Audit Committee Membership is made up of <4-8> members with <3-7> elected and one external person; and**
  - ii The Audit Committee shall meet <4> times per year; and**
- 2. Directs the Chief Executive Officer to release an Expression of Interest campaign to recruit a suitably qualified independent Audit Committee member; and**
- 3. Directs the Chief Executive Officer to provide Council with details of applicants and an assessment framework so that Council may select an independent Audit Committee member at the March 2019 Ordinary Meeting of Council.**

**AMENDMENT**

**Moved: Cr Newton / Seconded: Cr Eardley**

**That point 1 be removed from the motion.**

**CARRIED 7/0**

**SUBSTANTIVE MOTION**

**That Council:**

- 1. Directs the Chief Executive Officer to release an Expression of Interest campaign to recruit a suitably qualified independent Audit Committee member; and**
- 2. Directs the Chief Executive Officer to provide Council with details of applicants and an assessment framework so that Council may select an independent Audit Committee member at the March 2019 Ordinary Meeting of Council.**

**VOTING DETAILS:**

**CARRIED 6/1**

A separate paper will be presented at the March 2019 Ordinary Meeting of Council to potentially appoint an independent member to the Audit and Risk Committee.

**Comment**

Should Council endorse the addition of an independent party to the Audit and Risk Committee, it will be possible to clarify this element of the Terms of Reference and seek to adopt the document.

The remaining elements to clarify are:

- The number of meetings to be held per year. The Department of Local Government, Sport and Cultural Industries guidelines recommend four; and
- The number of members on the committee. Presently all seven Councillors are part of the audit committee. If this approach is endorsed, there will be a committee of eight.

These 'default' settings have been utilised in the draft Terms of Reference.

**Consultation**

- Lynn Fogg, Governance Advisor, WALGA
- Robert Hall and Marius van der Merwe, Auditors, Butler Settineri

**Statutory Environment**

**Local Government Act 1995**

**Part 7.1A. Audit Committee**

- (1) A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.
- (2) The members of the audit committee of a local government are to be appointed\* by the local government and at least 3 of the members, and the majority of the members, are to be council members.

- (3) A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent the CEO as a member of an audit committee.
- (4) An employee is not to be a member of an audit committee.

### **Local Government (Audit) Regulations 1996**

#### **r.16. Functions of audit committee**

An audit committee has the following functions —

- a. to guide and assist the local government in carrying out —
  - i. its functions under Part 6 of the Act; and
  - ii. its functions relating to other audits and other matters related to financial management;
- b. to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;
- c. to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to —
  - i. report to the council the results of that review; and;
  - ii. give a copy of the CEO's report to the council;
- d. to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —
  - i. regulation 17(1); and
  - ii. the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- e. to support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government;
- f. to oversee the implementation of any action that the local government —
  - i. is required to take by section 7.12A(3); and
  - ii. has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and
  - iii. has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and
  - iv. has accepted should be taken following receipt of a report of a review conducted under the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c); to perform any other function conferred on the audit committee by these regulations or another written law.

### **Policy Implications**

Nil. Policies may be required to guide Audit and Risk Committee operations in the future.

### **Financial Implications**

Minor. No payment can be made to the external Committee member, however they are eligible to claim reasonable travel expenses related to their performance in the role. There will be some nominal administrative costs associated with the additional committee meetings.

### **Strategic Implications**

Community Strategic Plan

Outcome 4.2 – An open and accountable local government that is respected, professional and trustworthy

Outcome 4.5 – Achieve a high level of compliance

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION AND COUNCIL DECISION - RESOLUTION 20031908**

Moved: Cr Bagley / Seconded: Cr McGlinn

That Council:

Adopt the attached Audit and Risk Committee Terms of Reference, where:

- i) Audit and Risk Committee Membership is made up of 8 members with 7 elected

- members and 1 external party; and
- ii) The Audit and Risk Committee shall meet 4 times per year.

**AMENDMENT**

Moved: Cr Newton / Seconded: Cr Bagley

Point i should read as follows:

- i) Audit and Risk Committee Membership is made up of up to 8 members, with up to 7 elected members and 1 external party; and

**SUBSTANTIVE MOTION**

Adopts the attached Audit and Risk Committee Terms of Reference, where:

- i) Audit and Risk Committee Membership is made up of up to 8 members with up to 7 elected members and 1 external party; and
- ii) The Audit and Risk Committee shall meet 4 times per year.

**VOTING DETAILS:**

**CARRIED 6/0**

## 11.7 BUDGET REVIEW

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: ADM0130  
Date: 15 March 2019  
Responsible Officer: Jeremy Clapham, Finance Manager

### Summary

Council is requested to review and adopt the documentation tabled for the 2018/2019 Budget Review.

### Attachment

Budget Review Document

### Background

Regulation 33A of the Local Government (Financial Management) Regulation 1996 requires Council to conduct a review of its budget between 1 January and 31 March in each financial year. The Regulation requires that the results be submitted to Council to determine whether to adopt the review and recommendations made. Within 30 days of the review a copy of the review and determination is to be provided to the Department of Local Government, Sport and Cultural Industries.

### Comment

The attached budget review is to comply with the Shire's statutory obligations.

The budget review has been prepared to include information required by the Local Government Act 1995, Local Government (Financial Management) Regulations 1996 and Australian Accounting Standards.

This report provides information by program and nature or type, and is based on the eight month period from 1 July 2018 to 28 February 2019.

The budget review reflects a view of the position of the Shire of Mingenew, projected full year revenue and expenditure against full year original budget.

The projected actuals are based on the information provided for each program, with an estimated zero increase/decrease in the closing funding surplus/(deficit) compared to original budget.

In the attachment is an explanation of identified major expenditure and revenue expectations of specific projects not proceeding, reduction in revenue or timing issues.

### Consultation

Nils Hay; Chief Executive Officer  
Helen Sternick; Finance Officer

### Statutory Environment

Local Government Act 1995  
Local Government (Financial Management) Regulations 1996  
Australian Accounting Standards

### Policy Implications

Nil

**Financial Implications**

While the proposed amended budget does re-allocate funds across several areas, the final result provides a balanced budget.

**Strategic Implications**

The Budget Review process is an integral part of the integrated planning frameworks and risk management processes carried out by Council.

**Voting Requirements**

Absolute Majority

**OFFICER RECOMMENDATION AND COUNCIL DECISION– RESOLUTION 20031909**

Moved: Cr Newton / Seconded: Cr Bagley

That Council

1. Adopts the 2018/2019 Budget Review as tabled; and
2. That administration staff make the required budget amendments within the chart of accounts to reflect those changes adopted in “Note 5 – Predicted Variances” within the 2018/19 Budget Review document.

**VOTING DETAILS:**

**CARRIED 6/0**



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

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

13.1 ELECTED MEMBERS  
Nil

13.2 STAFF  
Nil

14.0 CONFIDENTIAL ITEMS

OFFICER RECOMMENDATION AND COUNCIL DECISION- ITEM 14.0 [PROCEDURAL MOTION]

Moved: Cr Bagley / Seconded: Cr Lucken

That the meeting be closed to members of the public in accordance with section 5.23(2) of the Local Government Act to allow Council to discuss:

(b) The personal affairs of any person; and

(c) Concerns 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.

VOTING DETAILS:

CARRIED 6/0

14.1 APPOINTMENT OF AN INDEPENDENT MEMBER TO THE SHIRE OF MINGENew AUDIT AND RISK COMMITTEE – CLOSED [s5.23(2)(b)(c)]

OFFICER RECOMMENDATION AND COUNCIL DECISION – RESOLUTION 20031910

Moved: Cr Newton / Seconded: Cr McGlenn

That Council:

1. Note that Expressions' of Interest were called via state-wide and local public notice; and
2. Endorse Mr Maurice Battilana's application to join the Shire of Mingenew's Audit and Risk Committee as an independent member; and
3. Appoint Mr Maurice Battilana to the Shire of Mingenew's Audit and Risk Committee for a two-year term.

VOTING DETAILS:

CARRIED 6/0

OFFICER RECOMMENDATION AND COUNCIL DECISION- ITEM 14.0 [PROCEDURAL MOTION]

Moved: Cr Newton / Seconded: Cr McGlenn

That the meeting be re-opened to members of the public.

VOTING DETAILS:

CARRIED 6/0

15.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 17 April 2019 commencing at 4.30pm.

16.0 CLOSURE

The President thanked all for attending and closed the meeting at 5.05pm.

These minutes were confirmed at an Ordinary Council meeting on 17 April 2019.

Signed \_\_\_\_\_  
Presiding Officer

Date: \_\_\_\_\_