



MINUTES FOR THE ORDINARY COUNCIL MEETING

17 APRIL 2019



Ordinary Council Meeting Notice Paper

17 April 2019

An Ordinary Meeting of Council is called for Wednesday, 17 April 2019, in the Council Chambers, Victoria Street, Mingenew, commencing at 4.30 pm. Members of the public are most welcome to attend.

Nils Hay
Chief Executive Officer
11 April 2019

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.**

TABLE OF CONTENTS

1.0	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS.....	6
2.0	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	6
3.0	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	6
4.0	PUBLIC QUESTION TIME/PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS	6
5.0	APPLICATIONS FOR LEAVE OF ABSENCE	6
6.0	DECLARATIONS OF INTEREST	6
7.0	CONFIRMATION OF PREVIOUS MEETING MINUTES.....	6
7.1	ORDINARY MEETING HELD 20 MARCH 2019	7
7.2	SPECIAL MEETING HELD 03 APRIL 2019.....	7
8.0	ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION	7
9.0	REPORTS/MINUTES OF COMMITTEES.....	7
9.1	SHIRE OF MINGENEW BUSHFIRE BRIGADES' ANNUAL GENERAL MEETING HELD 25 MARCH 2019	7
9.2	SHIRE OF MINGENEW LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING HELD 8 APRIL 2019	7
10	REPORTS BY THE CHIEF EXECUTIVE OFFICER.....	8
10.1	STRATEGIC COMMUNITY PLAN.....	8
10.2	ASSET MANAGEMENT PLAN	11
10.3	ROAD HEIRARCHY	14
11.0	REPORTS OF ADMINISTRATION.....	16
11.1	FINANCIAL REPORT FOR THE PERIOD ENDED 31 March 2019	16
11.2	LIST OF PAYMENTS FOR THE PERIOD ENDING 31 MARCH 2019.....	19
11.3	GERALDTON ALTERNATIVE SETTLEMENT AGREEMENT.....	21
11.4	SHIRE OF MINGENEW LOCAL PLANNING SCHEME REVIEW.....	25
11.5	COMMUNITY SUPPORT POLICY	34
11.6	EMPLOYEE SUPERANNUATION POLICY.....	36
11.7	SUNDRY DEBTOR WRITE OFF	38
11.8	APPOINTMENT TO COUNCIL COMMITTEES.....	40
11.9	ANNUAL REVIEW OF THE REGISTER OF DELEGATED AUTHORITY	43
11.10	PROPOSED CARETAKERS DWELLING – DONALD STREET, MINGENEW	47
12.0	ELECTED MEMBERS/MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	54
13.0	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	54
13.1	ELECTED MEMBERS	54
13.2	STAFF	54
14.0	CONFIDENTIAL ITEMS.....	54
15.0	TIME AND DATE OF NEXT MEETING	54
16.0	CLOSURE.....	54



**MINUTES FOR THE ORDINARY MEETING OF COUNCIL HELD IN COUNCIL CHAMBERS ON
17 APRIL 2019 COMMENCING AT 4.30pm**

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The President HM Newton declared the meeting open at 4.31pm and welcomed all in attendance.

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

HM Newton	President	Town Ward
RW Newton	Deputy President	Rural Ward
KJ McGlinn	Councillor	Town Ward
GJ Cosgrove	Councillor	Rural Ward
LM Eardley	Councillor	Town Ward

APOLOGIES

JD Bagley	Councillor	Rural Ward
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STAFF

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

VISITORS

Nil

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

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

Nil

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6.0 DECLARATIONS OF INTEREST

Nil

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

EN BLOC MOTION AND COUNCIL DECISION- Resolution 17041901

Moved: Cr McGlinn / Seconded: Cr Eardley

That the Officer Recommendations in relation to the following Agenda Items be carried en bloc:

Item 7.1- Ordinary meeting held 20 March 2019

Item 7.2- Special meeting held 03 April 2019

Item 9.1- Shire of Mingenew Bushfire Brigades' Annual General Meeting held 25 March

Item 9.2- Shire of Mingenew Local Emergency Management meeting held 08 April 2019

VOTING DETAILS:

CARRIED 5/0

7.1 ORDINARY MEETING HELD 20 MARCH 2019

OFFICER RECOMMENDATION AND COUNCIL DECISION- ITEM 7.1

Moved: Cr McGlenn / Seconded: Cr Eardley

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

VOTING DETAILS:

CARRIED ENBLOC 5/0

7.2 SPECIAL MEETING HELD 03 APRIL 2019

OFFICER RECOMMENDATION AND COUNCIL DECISION- ITEM 7.2

Moved: Cr McGlenn / Seconded: Cr Eardley

That the minutes of the Special Meeting of the Shire of Mingenew held in the Council Chambers on 03 April 2019 be confirmed as a true and accurate record of proceedings.

VOTING DETAILS:

CARRIED ENBLOC 5/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil

9.0 REPORTS/MINUTES OF COMMITTEES

9.1 SHIRE OF MINGENEW BUSHFIRE BRIGADES' ANNUAL GENERAL MEETING HELD 25 MARCH 2019

OFFICER RECOMMENDATION AND COUNCIL DECISION- ITEM 9.1

Moved: Cr McGlenn / Seconded: Cr Eardley

That Council receives the minutes of the Shire of Mingenew Bushfire Brigades' Annual General Meeting held in Council Chambers on 25 March 2019 and endorse the following Brigade Motions contained within:

- a) 7.1.6- The Brigades request that the Shire of Mingenew investigate the installation of improved water infrastructure, such as a bore and water tank, to assist with firefighting at the Mingenew Airstrip.
- b) 7.1.7- The Brigades request that the Shire of Mingenew, with support from Acting Area Officer Vicki Booth, request that previous Cel-Fi purchases with ESL funds be granted eligibility due to their impact on improving fireground communications and volunteer safety.

VOTING DETAILS:

CARRIED ENBLOC 5/0

9.2 SHIRE OF MINGENEW LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING HELD 8 APRIL 2019

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 9.2

Moved: Cr McGlenn / Seconded: Cr Eardley

That Council receive the minutes of the Local Emergency Management Committee of the Shire of Mingenew held in the Council Chambers on 8 April 2019;

VOTING DETAILS:

CARRIED ENBLOC 5/0

10 REPORTS BY THE CHIEF EXECUTIVE OFFICER

10.1 STRATEGIC COMMUNITY PLAN

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0462
Disclosure of Interest: Nil
Date: 6 April 2019
Author: Nils Hay, Chief Executive Officer

Summary

The Shire of Mingenew is reviewing its Strategic Community Plan. Following extensive community consultation, a final draft has been prepared for Council to consider for endorsement.

Attachment

- Draft Strategic Community Plan
- Community Feedback Document

Background

The draft plan has been developed over the previous 6-7 months. Sue Middleton (Lateral Aspect) was engaged to conduct the review process through an RFQ process facilitated through the WALGA preferred supplier panel.

The process commenced with a Community Consultation session on 18 October 2018, and individual interviews with community members and regional stakeholders around that period.

A draft summary of the consultation sessions was presented to community for feedback through January 2019. That feedback was incorporated into a draft document presented to and workshopped with Councillors on 7 February 2019.

A second public consultation/feedback process took place with submissions open to 29 March 2019 and a public forum on 12 March 2019.

The attached final draft incorporates feedback from these activities.

Comment

The document has been subject to a high level of public comment, exceeding our legislative requirements and actively seeking to develop a document which reflects the views of our community and stakeholders. Once adopted, the next step is operationalisation of the plan through the 4-year Corporate Business Plan.

Consultation

- Councillors
- Sue Middleton
- Mingenew Community
- Regional stakeholders

Statutory Environment

Local Government Act 1995

5.56. Planning for the future

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

Local Government (Administration) Regulations 1996

19C. Strategic community plans, requirements for

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

Policy Implications

Nil.

Financial Implications

Nil; this item is already budgeted for.

The outcomes of this process will inform the future Corporate Business Plan and budgets.

Strategic Implications

The Strategic Community Plan is Council's primary strategic document, from which all others are derived. As such, the final product has wide-ranging strategic implications for the Shire, as it should serve to guide strategic decision-making for the coming decade.

An updated Corporate Business Plan will be developed to facilitate the delivery of the first four years of Strategic Community Plan activity as the Shire works through this process.

Voting Requirements

Absolute Majority

President Newton foreshadowed a motion

OFFICER RECOMMENDATION AND COUNCIL DECISION – Resolution 17041902

Moved: Motion Lapsed for want of a mover

1. Adopt the 2019-2029 Shire of Mingenew Strategic Community Plan, giving local public notice detailing where and when the document can be inspected; and
2. Give discretion to the Chief Executive Officer to make minor editorial changes to the Strategic Community Plan that do not affect the intent of its content.

FORESHADOWED MOTION

Moved: Pr Newton / Seconded: Cr Cosgrove

That Council lay item 10.1 on table to allow for further review by Elected Members of the plan.

VOTING DETAILS:

CARRIED 5/0

10.2 ASSET MANAGEMENT PLAN

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference:
Disclosure of Interest: Nil
Date: 6 April 2019
Author: Nils Hay, Chief Executive Officer

Summary

The Shire of Mingenew has reviewed its Asset Management Plan (AMP); the document is presented to Council for adoption in accordance with Section 19DA of the Local Government (Administration) Regulations 1996.

Attachment

- Shire of Mingenew Infrastructure Asset Management Plan December 2011
- Draft Asset Management Plan

Background

The Shire's Asset Management Plan is now over 7 years old (adopted February 2012 – Resolution #120208). An updated draft plan has been developed by Moore Stephens in consultation with the Shire in line with the Department of Local Government's Integrated Planning and Reporting Asset Management Guidelines.

Comment

While the presented document represents a significant update on its predecessor, it has been developed using information from the latest endorsed version of several Council documents (Corporate Business Plan and Long Term Financial Plan) which – while technically current – are themselves overdue for review and likely to undergo changes which will, in turn, impact on the AMP.

This includes, for example, a \$2m Heavy Vehicle Bypass and \$1m Recreation Centre Upgrade item which (see s4.4.2) make up a significant Asset Renewal Expenditure item that will have to be considered through the budget process, but is likely to be in excess of Council's ability to deliver in a fiscally responsible way.

As a key part of Local Government's Integrated Planning Framework, the Asset Management Plan can – and should – be revisited once the revised Strategic Community Plan is completed, and the associated Corporate Business Plan and Long Term Financial Plan updates have taken place, as these will have an impact on future asset renewal plans. This is anticipated to only be a relatively minor update, given that the framework of the current plan will remain fundamentally the same, it will simply bring projected asset renewal activity into line with the Shire's updated Integrated Planning framework.

Section 13 deals with an improvement plan to further assist with improving the next iteration of the AMP, and this will include:

- Adoption of a road hierarchy and related longer-term road maintenance plan
- Development of the same for other asset classes

This will provide greater foresight with regard to planned infrastructure renewals and will reduce the gap between required and planned renewal activities. Many of these deficits which are stated in the current plan exist simply because there is no plan from which to draw figures (beyond the current year's budget) – not because Council has no intention of conducting those activities.

While room for improvement will always exist, the presented Plan meets Council's obligations in respect to the *Local Government Act 1995* and Local Government (Administration) Regulations 1996 relating to the Integrated Planning framework.

Consultation

- Finance Manager
- Moore Stephens

Statutory Environment

Local Government Act 1995

5.56. Planning for the future

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

Local Government (Administration) Regulations 1996

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

- (3) A corporate business plan for a district is to —
 - (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and
 - (b) govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and
 - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

2012 Strategic Community Plan item 4.4.3 - Develop and implement Asset Management Planning
Corporate Business Plan Project 19 – Develop and implement Asset Management Planning

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION – Resolution 17041903

Moved: Cr Cosgrove / Seconded: Cr Eardley

1. Adopt the 2019 Shire of Mingenew Asset Management Plan, giving local public notice detailing where and when the document can be inspected; and
2. Give discretion to the Chief Executive Officer to make minor editorial changes to the Asset Management Plan that do not affect the intent of its content.

AMENDMENT

Moved: Pr Newton / Seconded: Cr Eardley

That the following clause be added:

- 3 That the Shire of Mingenew Asset Management Plan come back to Council for review following the completion of the Long-Term Financial Plan.

VOTING DETAILS:

CARRIED 5/0

SUBSTANTIVE MOTION

1. Adopt the 2019 Shire of Mingenew Asset Management Plan, giving local public notice detailing where and when the document can be inspected; and
2. Give discretion to the Chief Executive Officer to make minor editorial changes to the Asset Management Plan that do not affect the intent of its content.
3. That the Shire of Mingenew Asset Management Plan come back to Council for review following the completion of the Long-Term Financial Plan.

VOTING DETAILS:

CARRIED 5/0

10.3 ROAD HEIRARCHY

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference:
Disclosure of Interest: Nil
Date: 6 April 2019
Author: Nils Hay, Chief Executive Officer

Summary

In line with draft Asset Management Plan recommendations, and as a milestone towards improved road infrastructure expenditure planning, a Road Hierarchy has been developed for adoption by Council.

Attachment

- Draft Shire of Mingenew Road Hierarchy

Background

This document has been flagged as a suggested addition to our asset management framework in our draft Asset Management Plan. It will help to inform future road construction/renewal prioritisation and asset management planning.

Comment

This document was developed utilising input from the Shire's recent road asset pickup process and incorporated feedback from the March 2019 Road Inspection. It is not a proscriptive or legislatively required document, but it will allow the Shire to demonstrate to both external funding bodies (such as MRWA), and the community, the varying levels of priority given to our roads. It will also help to inform future road construction/renewal prioritisation and asset management planning.

Scope exists to review and amend the document over time, as the strategic importance and/or condition of various roads changes, or the funding sources available to them shift.

Consultation

- Works Supervisor
- Greenfield Technical Services Consulting Engineers

Statutory Environment

Nil.

Policy Implications

Nil.

Financial Implications

Nil. It will, however, influence future investment in road infrastructure through its role in guiding road construction plans and asset management plans.

Strategic Implications

2012 Strategic Community Plan outcome 2.5 – Safe and functional road and ancillary infrastructure
Corporate Business Plan Project 11 – Roads Program

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION – Resolution 17041904

Moved: Cr Cosgrove / Seconded: Cr: Newton

That Council:

1. Adopt the draft Road Hierarchy as attached; and
2. Give discretion to the Chief Executive Officer to make minor editorial changes to the Road Hierarchy that do not affect the intent of its content.

VOTING DETAILS:

CARRIED 5/0

11.0 REPORTS OF ADMINISTRATION

11.1 FINANCIAL REPORT FOR THE PERIOD ENDED 31 March 2019

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0304
Date: 10 April 2019
Author: Jeremy Clapham – Finance Manager

Summary

This report recommends that the Monthly Financial Report for the period ending 31 March 2019 as presented to the Council be received.

Attachment

Monthly Financial Report for period ending 31 March 2019

Background

The Monthly Financial Report to 31 March 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 31 March 2019	
Municipal Fund	\$1,016,628
Cash on Hand	\$300
Restricted Funds – 3 Month Term Deposit @ 2.50%	\$548,563
Trust Fund	\$21,620
Reserve fund (3 Month Term Deposit) @ 2.50%	\$413,855

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 17041905

Moved: Cr Newton / Seconded: Cr Eardley

That the Monthly Financial Report for the period 1 July 2018 to 31 March 2019 be received.

VOTING DETAILS:

CARRIED 5/0

11.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 MARCH 2019

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Attachment/s: List of Payments – March 2019
Disclosure of Interest: Nil
Date: 10 April 2019
Author: Helen Sternick – Finance Officer

Summary

This report recommends that Council receive the list of payments for period ending 31 March 2019 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

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 17041906

Moved: Cr Cosgrove / Seconded: Cr Newton

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

\$12,187.15	Municipal Cheques 8593 to 8594;
\$823,403.74	Municipal EFT12241 to EFT12302 and EFT12332;
\$18,005.28	Municipal Direct Debit Superannuation & Payroll Deduction Payments;
\$71,081.90	Municipal Direct Debit Department of Transport (Licensing) Payments;

\$174.59	Municipal Direct Debit National Australia Bank Fees; and
\$12,601.78	Municipal Direct Debit Other.
Totaling \$937,454.41.	

VOTING DETAILS:

CARRIED 5/0

11.3 GERALDTON ALTERNATIVE SETTLEMENT AGREEMENT

Location/Address: Various Crown Land
Name of Applicant: Department of Planning, Lands & Heritage
Disclosure of Interest: Nil
File Reference: ADM0491
Date: 7 April 2019
Author: Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer: Nils Hay, Chief Executive Officer

Summary

Council is in receipt of further correspondence from the Department of Planning, Lands & Heritage seeking comment in relation to various Crown Land parcels within the Shire of Mingenew that have been identified as areas of interest for the native title claimants and are currently being considered for inclusion into the Indigenous Land Use Agreements.

Attachment (both provided as separate **CONFIDENTIAL** Attachments)

Attachment 11.3(a) - draft Shire response for Council discussion

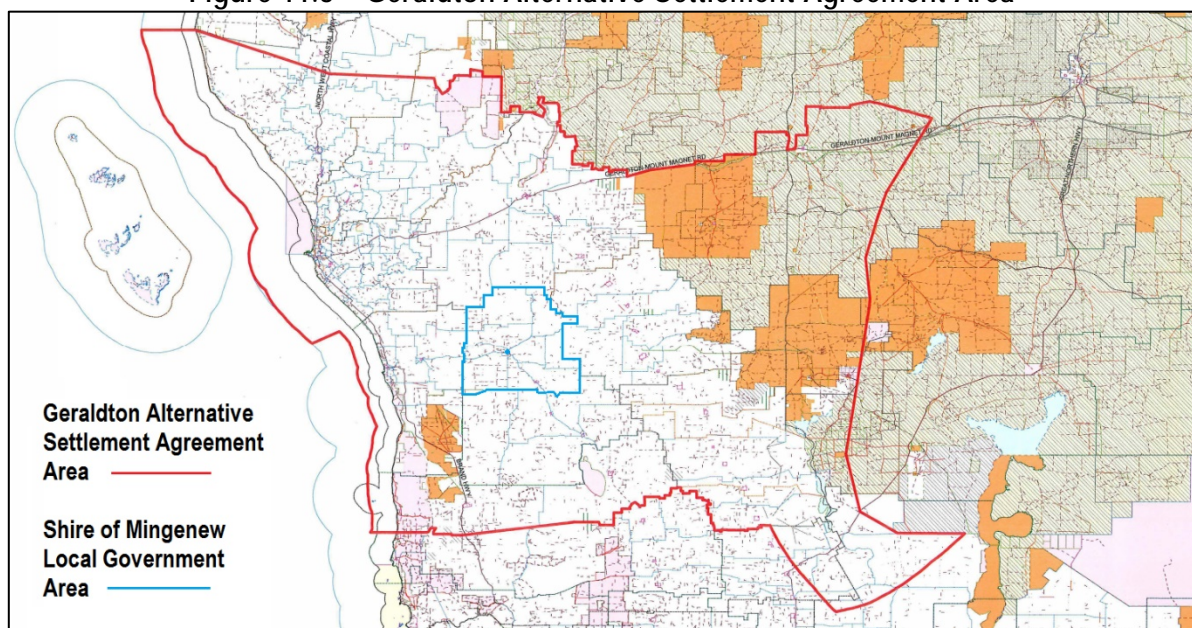
Attachment 11.3(b) – update in relation to previous Council response

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.

Figure 11.3 – Geraldton Alternative Settlement Agreement Area



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).

Comment

The Department of Planning, Lands & Heritage are seeking Council's comment upon 6 parcels of Crown Land 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 11.3(a) provides a cadastral map and aerial photograph and individual comment upon each Crown Land parcel and it is suggested that this form the basis for Council's discussion and response to the Department of Planning, Lands & Heritage.

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 19 May 2019** upon the matter relating to **Separate CONFIDENTIAL Attachment 11.3(a)**.

The Department of Planning, Lands & Heritage have also provided comment in relation to a response that Council made at its 19 December 2018 meeting concerning 9 parcels of Crown land and an update in relation to this matter has been provided as **Separate CONFIDENTIAL Attachment 11.3(b)** for Council's consideration.

Consultation

The Department of Planning, Lands & Heritage advised the Shire on 21 December 2018:

"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."

In relation to Council's query arising from its 19 September 2018 meeting the Department of Planning, Lands & Heritage advised the Shire on 23 October 2018:

"Please note that the GASA team will not be referring to adjoining land owners, noting that this Agreement is mediated by the federal court. The GASA Team will be referring to Main Roads WA

and the Department of Biodiversity, Conservation and Attractions, as well as a number of other agencies, for comments."

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.

- 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 AND COUNCIL DECISION- Resolution 17041907

Moved: Cr Cosgrove / Seconded: Cr Eardley

That Council endorse and forward the Shire response to the Department of Planning, Lands & Heritage as outlined in Attachments 11.3(a) and 11.3(b).

VOTING DETAILS:

CARRIED 5/0

11.4 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:	4 April 2019
Author:	Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer:	Nils Hay, Chief Executive Officer

Summary

Council resolved at its 20 March 2019 meeting to defer determination on the Shire of Mingenew Local Planning Scheme No.4 and Outbuilding Local Planning Policy pending receipt of further information relating to:

- 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.

The Comment section of this report provides further information in relation to these queries and the 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

- 11.4.a – draft Shire of Mingenew Local Planning Scheme No.4 (provided as **separate attachment** to agenda)
- 11.4.b – Copy of received submissions (provided as **separate attachment** to agenda)
- 11.4.c – Schedule of Submissions
- 11.4.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 also provided an opportunity to update it with regard for the Mingenew Townsite Local Planning Strategy.

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

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 to adopt draft Scheme No.4 and draft Shire of Mingenew Outbuildings Local Planning Policy for the purpose of advertising.

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 11.4.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.

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.

Comment

- a) the ramifications of the Outbuilding Policy to a property owner who would require an oversized shed (exceed the maximum height)

Council queried at its 20 March 2019 meeting the ramifications of the Outbuildings Local Planning Policy to a property owner who would require an oversized shed.

The introduction of the policy would establish the criteria under which Shire staff would be able to assess and approve shed applications i.e. where an application meets with the policy provisions set by Council it would be approved under delegated authority.

In the event an application is received for an outbuilding that exceeds the policy provisions it would be advertised for comment to surrounding landowners and then presented to Council for its consideration of the application (and any received submissions). Council would retain the right to approve an application on-merit, or require modification to the application prior to approval, or refuse the application.

The intention of the policy is to establish a procedure for the handling of outbuilding applications that ensures efficiency for applicants where the proposed shed meets with the delegation criteria set by Council, and call in for Council's determination, those applications that exceed this criteria.

Current Scheme No.3 contains the criteria for the assessment of outbuildings as outlined in below **Table 1**, and as part of the Scheme Review process it was recommended that these requirements be transferred into a Local Planning Policy to better accord with the new Regulations. The other advantage of setting the criteria within a policy rather than in the scheme is that should Council wish to review its criteria the policy review process is quicker and less expensive than the protracted scheme amendment process.

Table 1 – current Scheme No.3 Outbuilding requirements

Zone / Lot Size	Maximum area (m ²)	Maximum wall length (m)	Maximum wall height (m) (to be measured at natural ground level)	Maximum roof height (m)
Rural, Rural Residential	Exempt from the area and height requirements of this policy			
All other zones - on lots under 1,500m ²	55 (zincalume) 75 (other than zincalume)	8 (parapet)	3	4
All other zones - on lots over 1,500m ²	75 (zincalume) 150 (non-masonry) 200 (masonry)	N/A	4	5

Table 2 – proposed Outbuilding Local Planning Policy requirements

Zone / Lot Size	Maximum area (m ²)	Maximum wall length (m)	Maximum wall height (m) (to be measured at natural ground level)	Maximum roof height (m)
Rural, Rural Residential	Exempt from the area and height requirements of this policy			
All other zones - on lots under 1,500m ²	80	10	3	4
All other zones - on lots over 1,500m ²	200	N/A	4	5

It is understood that Council may consider that the current and proposed outbuilding height requirements are overly restrictive. In the event that Council considers that the Outbuildings Local Planning Policy criteria do not meet its requirements it may wish to amend Part 6 of the Officer Recommendation as follows:

- “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, subject to the following modifications:
- the maximum wall height on lots under 1,500m² be amended from 3m to 3.5m;
 - the maximum roof height on lots under 1,500m² be amended from 4m to 4.5m;
 - the maximum wall height on lots over 1,500m²* be amended from 4m to 4.5m;
 - the maximum roof height on lots over 1,500m²* be amended from 5m to 5.5m.
- (Note: this policy applies to lots zoned Residential, Rural Townsite or Tourism not lots zoned Rural, Rural-Residential or Industrial)”

Again it should be noted that were Council to make resolution as per the above this would not preclude its ability to consider applications not in accordance with the policy, instead it would set the criteria under which Shire staff can make determination under delegated authority, and applications seeking variation would be presented to Council for determination.

- b) the ramifications to existing residential or hobby farming owners, if any, who are in a zone that is to be classified as industrial.

The below **Figures 11.4(a) & 11.4(b)** illustrate the proposed amendment to allow for future expansion in the area north of the existing Mingenew industrial area. This change is in accordance with 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.

Figure 11.4(a) Scheme No.3 Map extract

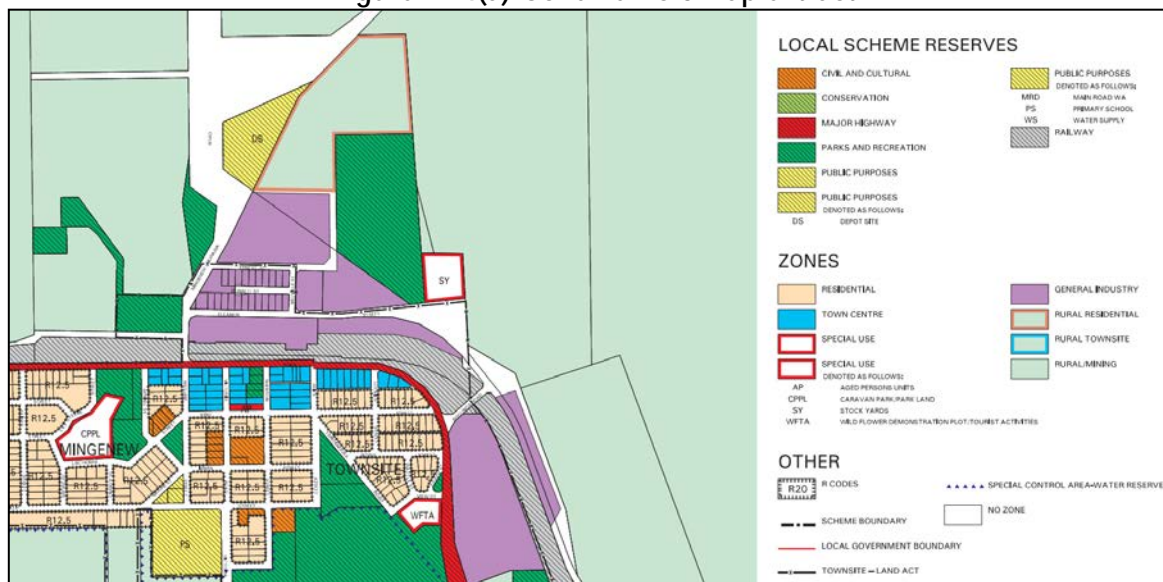
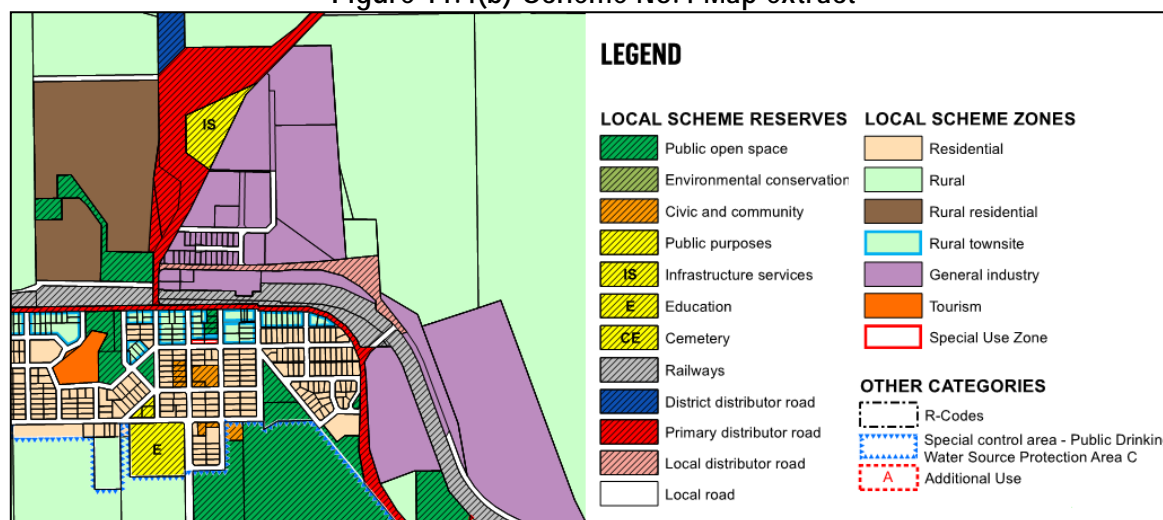


Figure 11.4(b) Scheme No.4 Map extract



The Strategy noted that additional industrial land supply may be required in future particularly for industrial uses which require larger lots. The Strategy also noted that industrial expansion should be directed away from the townsite. The Strategy also recommended that future rural-residential subdivision should be located at the base of Mingenew Hill rather than north of the industrial area as shown in current Scheme No.3.

It is understood that Council wished to confirm that the landowner with the existing house in the area north of the existing industrial area would retain the ability to live in their house and conduct hobby farming activities following the transition from the 'Rural-Residential' to 'General Industry' zone.

The ability to continue a land use that existed prior to the zoning of the land is allowed for under Section 22 of the Scheme No.4 text which states:

"22 Non-conforming uses

- (1) Unless specifically provided, this Scheme does not prevent -
 - (a) the continued use of any land, or any structure or building on land, for the purpose for which it was being lawfully used immediately before the commencement of this Scheme; or*
 - (b) the carrying out of development on land if -
 - (i) before the commencement of this Scheme, the development was lawfully approved; and*
 - (ii) the approval has not expired or been cancelled.***
- (2) Subclause (1) does not apply if –
 - (a) the non-conforming use of the land is discontinued; and*
 - (b) a period of 6 months, or a longer period approved by the local government, has elapsed since the discontinuance of the non-conforming use.**
- (3) Subclause (1) does not apply in respect of a non-conforming use of land if, under Part 11 of the Act, the local government –
 - (a) purchases the land; or*
 - (b) pays compensation to the owner of the land in relation to the non-conforming use.**

23 Changes to non-conforming use

- (1) A person must not, without development approval-
 - (a) alter or extend a non-conforming use of land; or*
 - (b) erect, alter or extend a building used for, or in conjunction with, a non-conforming use; or*
 - (c) repair, rebuild, alter or extend a building used for a non-conforming use that is destroyed to the extent of 75% or more of its value; or*
 - (d) change the use of land from a non-conforming use to another use that is not permitted by the Scheme.**
- (2) An application for development approval for the purposes of this clause must be advertised in accordance with clause 64 of the deemed provisions.*
- (3) A local government may only grant development approval for a change of use of land referred to in subclause (1)(d) if, in the opinion of the local government, the proposed use –
 - (a) is less detrimental to the amenity of the locality than the existing non-conforming use; and*
 - (b) is closer to the intended purpose of the zone in which the land is situated.**

24 Register of non-conforming uses

- (1) The local government may prepare a register of land within the Scheme area that is being used for a non-conforming use.*
- (2) A register prepared by the local government must set out the following –
 - (a) a description of each area of land that is being used for a non-conforming use;*
 - (b) a description of any building on the land;*
 - (c) a description of the non-conforming use;*
 - (d) the date on which any discontinuance of the non-conforming use is noted.**
- (3) If the local government prepares a register under subclause (1) the local government –
 - (a) must ensure that the register is kept up-to-date; and*
 - (b) must make a copy of the register available for public inspection during business hours at the offices of the local government; and**

- (c) *may publish a copy of the register on the website of the local government.*
- (4) *An entry in the register in relation to land that is being used for a non-conforming use is evidence of the matters set out in the entry, unless the contrary is proved."*

It should also be noted that Scheme No.4 does not preclude the development of additional habitable buildings within the 'General Industry' zone as it lists 'Caretaker's Dwelling' as a 'D' use in the Zoning Table for the 'General Industry' zone, which *"means that the use is not permitted unless the local government has exercised its discretion by granting planning approval"*.

Caretaker's Dwelling is defined in Scheme No.4 as *"means a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant."*

Schedule 1 of the Scheme No.4 text also continues Council's current Scheme No.3 provisions relating to Caretaker's Dwellings as follows:

- "1 Caretaker's dwellings:
- (a) *are limited to one caretaker's dwelling per lot;*
 - (b) *shall be limited in floor area to a maximum of 100 square metres; and*
 - (c) *prior to approval being granted the land upon which it is to be established is developed and/or is in use for a purpose requiring oversight by a caretaker, as determined by the local government.*
- 2 *A caretaker's dwelling can only be occupied once the predominant use requiring a caretaker has been constructed and/or is operational.*
- 3 *The use of a caravan as a caretaker's dwelling is not permitted except in the conjunction with an approved caravan park or camping ground.*
- 4 *A caretaker's dwelling shall be occupied by the owner, manager or an employee of the use that is established on the land.*
- 5 *The local government will not support the caretaker's dwelling to be sold separately from the predominant use of the land."*

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, notifying of its intention to commence the scheme review process and inviting any recommendations in respect of the resolution and requests for issues for consideration in Scheme No.4.

The Scheme review also built upon the workshops and consultation phase that informed the preparation of the Mingenew Townsite Local Planning Strategy.

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 11.4.b**.

A Schedule of Submissions has been provided as **Attachment 11.4.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 should 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 11.4.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

OFFICER RECOMMENDATION AND COUNCIL DECISION- Resolution 17041908

Moved: Cr Cosgrove / Seconded: Cr Newton

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 11.4.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.4.
- 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.

**Note: In the event that Council considers that the outbuilding policy height requirements should be increased an amended Part 6 of the Officer Recommendation is included in the Comment Section of the report for Council's consideration.*

VOTING DETAILS:

CARRIED 5/0

11.5 COMMUNITY SUPPORT POLICY

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

Summary

To present for council consideration a Community Support Policy to improve clarity regarding Council's support of community groups and formally guide the 2019/20 Community Assistance Scheme, and any future iterations of that program.

Attachment

- 1- Proposed policy - 1.4.2 Supporting the Community v1
- 2- Relevant procedures- to be distributed at the meeting

Background

The Shire is trialling a Community Assistance Scheme (CAS) in the 2019/20 Financial Year, which is intended to streamline and provide greater transparency around the support that Council provides community groups.

This Policy guides not only that process, but also other instances of Shire support, including sponsorship, to ensure that there are clear guidelines for both community groups and Council officers with regards to the nature and amount of support available, and the terms under which such support will be provided.

Comment

There is presently limited clarity when it comes to the awarding of either financial or in-kind support requests to community groups, beyond historical precedent. Likewise, budgeting for such requests tends to rely largely on historical patterns rather than actual need.

The intent of the CAS is to both capture the needs of the upcoming financial year as part of the budgeting process (noting that there must be contingency for unforeseen requests and opportunities during the year), while also seeking to provide the Shire with better value from its contributions by requiring a degree of project planning to be in place by the requesting organisations. Rather than the Shire providing an amount of money to a group, and the group then determining how to spend it, the group will come to Council with a planned project and the Shire can then decide if/how it will assist.

It's a process that has operated successfully in other Local Government Areas, and initial engagement with some community groups within Mingenew has yielded a general willingness (and even enthusiasm) to participate in the process.

Administratively, this approach should also assist with the end-of-year reporting of Shire contributions and capture of this information for our Annual Report.

It will include management of:

- CAS grants
- Waivers of fees and charges
- Smaller sundry donations (under \$200.00)
- Sponsorship and

- Self-supporting loans.

Consultation

- Shire Leadership Team

Statutory Environment

Nil

Policy Implications

This represents the adoption of a new policy.

Financial Implications

The policy proposes that a proportion of Shire rates income is allocated to the program, rather than a set amount. A figure of 1.5% has been chosen for the coming financial year; this equates to approximately \$27,000 – which is reflective of past years' expenditure in this area.

It also provides capacity to increase (or decrease) the funding pool on the basis of income performance.

Strategic Implications

2012 Strategic Community Plan outcome 4.1.1 – Continue to support community groups

Corporate Business Plan Project 19 Outcome 2 – Long term financial sustainability whilst meeting community needs

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION- Resolution 17041909

Moved: Cr McGlenn / Seconded: Cr Cosgrove

That Council:

1. Adopt the Policy titled 1.4.2 Supporting the Community v1 as presented as attachment 1, with no modifications;
2. Note the Community Support Procedures document, approved by the CEO on the 13 February 2019, as presented in attachment 4.

VOTING DETAILS:

CARRIED 5/0

11.6 EMPLOYEE SUPERANNUATION POLICY

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0489
Date: 9 April 2019
Author: Jeremy Clapham, Finance Manager
Authorising Officer: Nils Hay, Chief Executive Officer

Summary

To present an Employee Superannuation Policy for Council consideration.

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.

Surrounding Shires all have Policies covering superannuation arrangements.

Comment

Presently the Shire pays the Super Guarantee Charge as per legislation and also contributes up to 5% extra of an employee's 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.

Surrounding Shires have similar arrangements, co contributing between 3% and 6% of an employee's salary. The Shire of Coorow co contributes 6%, the Shire of Morawa co contributes 5%, the Shire of Three Springs co contributes 3% to 5% dependent on the type of employment and the Shire of Carnamah contributes 6% or pays 22% above Award Salaries dependent on the type of employment.

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

OFFICER RECOMMENDATION AND COUNCIL DECISION- Resolution 17041910

Moved: Cr Newton / Seconded: Cr Cosgrove

That Council adopt the attached Policy – 1.3.8 Employee Superannuation

VOTING DETAILS:

CARRIED 5/0

11.7 SUNDRY DEBTOR WRITE OFF

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: A802
Date: 9 April 2019
Author: Jeremy Clapham, Finance Manager
Authorising Officer: Nils Hay, Chief Executive Officer

Summary

Council is requested to approve the following Sundry Debtor write off:

- DK05 – \$796.85

Background

The account relates to water charges for the period 1 July 2017 to 31 August 2018 for Property Assessment No. A802.

Comment

There were a range of plumbing issues at this property which were difficult to identify and repair. There were problems with pumps, sewerage and pipes. On more than one occasion, the issues resulted in standing water on the property. Eventually all of the issues were resolved, however the nature of the issues (and Council's responsibility for the maintenance of the building's plumbing) meant that it was not deemed reasonable to pass the water charges for this period on to the tenant.

Consequently, during this time the tenant did not pay the water account. The tenant resumed paying the water account once all of the issues were fixed. As a gesture of goodwill towards the tenant for the inconvenience caused, it is recommended to write this outstanding amount off. The amount exceeds the Chief Executive Officer's delegated authority to do so.

Consultation

Ella Budrikis – Community Services Coordinator.

Statutory Environment

Local Government (Financial Management) Regulations 1996.

Policy Implications

Policy 2.3.2 – Debt Collection Policy – Directive C: All debt collection arrangements are treated strictly confidential. Appropriate reports detailing outstanding debts and collection action will be provided to Council on a monthly basis.

Financial Implications

There will be a reduction in income of \$796.85 for this Financial Year.

Strategic Implications

Nil

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION- Resolution 17041911

Moved: Cr Newton / Seconded: Cr McGlinn

That Council authorise the amount of \$796.85 to be written off debtor account DK05.

VOTING DETAILS:

CARRIED 5/0

11.8 APPOINTMENT TO COUNCIL COMMITTEES

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0303
Date: 04/04/2019
Author: Belinda Bow, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer

Summary

Council are requested to review appointments to Council Committees.

Attachment

Nil

Background

Following the resignation of Cr Lucken, vacancies in the following Council Committees now require filling:

- Executive Management Committee
- RAV Network Review Committee
- Town Hall Refurbishment Committee- if Council wish
- Audit and Risk Committee- if Council wish.

The term of appointment for each Committee will be post elections in October 2019.

Comment

Town Hall Refurbishment Committee

Despite the removal of Cr Lucken from the Town Hall Refurbishment Committee, the Committee still meets the requirement of s5.8 of the LGA given that 3 persons, being Cr Bagley, Cr R. Newton and the CEO remain appointed to the Committee. Council can either elect to appoint another person or leave as is and just reaffirm the current appointments.

Audit and Risk Committee

For the Audit and Risk Committee, full Council is currently appointed. Even though there is no limit to the number of councillors who can participate on such a committee, Council should consider the optimum committee numbers, shared work load and relevant skills or experience that a councillor can bring to the Audit and Risk Committee.

I would recommend that the number be reduced to make the committee more workable which is the philosophy behind the committee structure. To have a committee which is composed of full Council would really signal that the committee itself should be dispensed with and the business conducted through full Council which again is not the aim of the committee.

WALGA Northern Country Zone Representatives

Whilst Cr Lucken was replaced by Cr Bagley at the November 2018 Ordinary meeting of Council as the Shire representative for the WALGA Northern Country Zone, Cr Bagley and Council are requested to review this appointment given Cr Bagley's previous expressions of uncertainty around ability to commit to such a role.

Consultation

Nil

Statutory Environment

- All committees are to be established and reaffirmed in accordance with provisions of Sections 5.8-5.18 of the LGA 1995.
- Committees whether new or re-established, must be "created" by absolute majority, with members also appointed by absolute majority.

Policy Implications

Nil

Financial Implications

There are no financial implications as a result of filling Committee vacancies.

Strategic Implications

By completing this process, the Shire will be achieving the following Community Strategic Plan 2012 civic leadership outcomes:

4.5- Achieve a high level of compliance

4.2- An open and accountable local government that is respected, professional and trustworthy.

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION- Resolution 17041912

Moved: Cr Newton / Seconded: Cr Eardley

In accordance with provisions of s5.10 of the LGA, the following Committees of Council shall have as its members the following Councillors, for the term ending post elections in October 2019:

Executive Management Committee:

1. Pr H. Newton
2. Cr R. Newton
3. Cr Bagley, subject to his acceptance

Town Hall Refurbishment Committee:

1. Cr R. Newton
2. Cr Bagley
3. Pr H. Newton
4. CEO N. Hay

RAV Network Review Committee:

1. Cr Cosgrove
2. CEO N. Hay
3. Cr Bagley, subject to his acceptance

Audit & Risk Committee:

1. Cr Cosgrove
2. Cr Bagley
3. Cr McGlinn
4. Cr Eardley
5. Cr R. Newton
6. Pr H. Newton

And the following persons are appointed as Shire delegates for the WA Local Government Association

Northern Country Zone:

1. Pr H. Newton
 2. Cr R. Newton
- Proxy- Cr McGlinn

VOTING DETAILS:

CARRIED 5/0

11.9 ANNUAL REVIEW OF THE REGISTER OF DELEGATED AUTHORITY

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0342
Date: 10 April 2019
Author: Belinda Bow, Governance Officer

Summary

To present Council with the annual review of the Register of Delegations as required by s5.18 of the Local Government Act 1995 for consideration and endorsement.

Attachment

Attachment 1 Register of Delegated Authority v1.3 (Current)
Attachment 2 Register of Delegated Authority v1.4 (Proposed Register).

Background

In June 2018, the Shire took the opportunity to update the layout, both in terms of content and structure, of the Delegations Register to bring the Register into alignment with the WALGA proforma Delegations Register. This review has further still refined those delegations to be consistent with WALGA's proformas but with the following notable exceptions:

- a) Sections from all legislations that would permit the instigation of legal proceedings excluding recovery of rates have been excluded;
- b) Sections from the LGA that would permit an amendment to the rates record (for previous 5 years) as this would have a flow on effect to rate payers have been excluded.
- c) Sections that would enable the CEO to take possession of land as a means of recovery of rates debt have been excluded.

As the above powers/functions have not been included in the instruments of delegation that power rests with Council.

2 new delegations have been proposed- a) Investment of Money and b) Illegal Development under the Planning & Development Act. Summaries of these delegations are included below and in the instrument of delegation themselves (see attachment 2).

The following table provides an overview of the evolution of the Shire's existing delegations register to the proposed delegations register.

Delegation Number	Delegation Title	Recommended Changes
CD01	Payments from Municipal or Trust Fund	<ul style="list-style-type: none">Removed "incur liabilities" as is an authorisation.Included quotation documentation requirements which means the CEO should not make a payment from the bank unless that documentation is provided.Subject to budgetary constraints
CD02	Debts, Waiver, Concessions, Write Off and Recovery	<ul style="list-style-type: none">Increased the CEO's ability to waiver a debt or grant a concession to local clubs/not for profit groups to \$1,000 to bring into line with the proposed Community Assistance Policy.Debt write off still remains at \$100.
CD03	Rates	<ul style="list-style-type: none">Removed references to s6.41 as instructional not delegation.Added section 6.50 to allow CEO to determine rates due dates

CD04	Expressions of Interest, Tenders and Tender Exempt Procurement	<ul style="list-style-type: none"> Specified amount on tender exempt procurement to \$150,000 in line with CD01- [payments of >\$150,000 require council resolution documentation]. Included condition 2 which authorises the CEO to accept tenders up to \$150,000 (if called). Included condition 1d.
CD05	Disposal of Land (Including Buildings) Via Lease or Licence	<ul style="list-style-type: none"> Changed description of functions to increase clarity
CD06	Authorised Persons for the Purposes of the Local Government Act 1995	<ul style="list-style-type: none"> Function 2 removed as is an authorisation not delegation
CD07	Reserves under Control of Local Government	<ul style="list-style-type: none"> Added s3.53(3) to permit authority to agree/manage an unvested facility [thoroughfare, bridge, jetty, drain or watercourse belonging to the Crown when partially in 2 or more Shires. Added condition 1.
CD08	Thoroughfares	<ul style="list-style-type: none"> Added r5- authority to serve a notice to prevent inconvenience to the public or danger from falling materials Added r7A- Authority to require an owner or occupier of land to remove any thing that has fallen from the land or from anything on the land, which is obstructing a public thoroughfare Added r7- Authority to require an owner occupier of land to remove any part of a structure, tree or plant that is encroaching, without lawful authority on a public thoroughfare Added further descriptions to 'function' section of delegation. Added condition 5 in line with WALGAs recommendation for insurance purposes
CD09	Closing of Thoroughfares	<ul style="list-style-type: none"> Removed s3.50(4) as is instructional, not delegation Removed sections pertaining to Road Traffic Act as a separate piece of legislation requiring separate delegation.
CD10	Powers of Entry	<ul style="list-style-type: none"> Removed s3.31 as is instructional Added s3.28 to authorise exercising of powers
CD11	Remove, Impound and Dispose of Property	<ul style="list-style-type: none"> Removed s3.42(1) and s3.44 as instructional Added condition 1- "Exercising of delegation s3.47A is only to be used where reasonable efforts have been made to identify and contact an owner have failed" in regard to destruction of animal.
CD12	Building Act 2011	<ul style="list-style-type: none"> Amended r53 to r51 regarding pool barriers inspections Added s118(2)- If there is non-compliance with a building order, authority to cause an authorised person to: <ul style="list-style-type: none"> a. take any action specified in the order; or b. commence or complete any work specified in the order; or c. if any specified action was required by the order to cease, to take such steps as are reasonable to cause the action to cease [s.118(2)]. Added s131- Authority to determine an application from a n interested person to inspect and copy a building record
CD13	Bush Fire Act 1954	<ul style="list-style-type: none"> Added s13(4). Added r15- Authority to determine permits to burn during prohibited burning times that have previously been refused by a Bush Fire Control Officer. Added s24F- to authorise the burning of garden waste during prohibited burning times. Added r39B- Authority to determine, during a Prohibited Burning Time, if a firebreak around a landing ground for an aeroplane has

		<p>been satisfactorily prepared & to issue directions, during a Prohibited Burning Time, to a Bush Fire Control Officer, regarding matters necessary for the prevention of fire on land used as a landing ground for an aeroplane [r.39B(3)].</p> <ul style="list-style-type: none"> Added condition 1C.
CD14	Powers and Duties under Local Planning Scheme No. 3	<ul style="list-style-type: none"> No changes required
CD15	Public Health Act 2016	<ul style="list-style-type: none"> Added condition 3
CD16	Food Act 2008	<ul style="list-style-type: none"> Have included the EHO in parts of this delegation as the Food Act provides no provision for the CEO to subdelegate (in line with per condition 1) Added r51.
CD17	Authorised Persons- Caravan Parks and Camping Grounds Act 1995	<ul style="list-style-type: none"> Removed as is an authorisation
CD18	Dog Act 1976	<ul style="list-style-type: none"> Removed s10A- payment towards cost of sterilisation for resident in hardship. Removed s19, s26 & s44 as instructional Added condition that authorises CEO sub-delegation (otherwise not provided for within Dog Act)
CD19	Cat Act 1976	<ul style="list-style-type: none"> Added s49(3)- authority to recover costs associated with destruction of cat Removed s12, s13, s27, s34 & s40 as instructional
CD20	CD20 Planning and Development Act- Illegal Development	<p>NEW DELEGATION</p> <ul style="list-style-type: none"> To provide CEO with ability to stop illegal works that in violation with planning scheme
CD21	Road Traffic Code 2000	Removed as State Government delegation.
CD22	Power to Invest and Manage Investments	<p>NEW DELEGATION</p> <ul style="list-style-type: none"> To authorise the CEO to invest money held in the trust/municipal fund that is required for any other purpose- required for the use of term deposits.

The Delegation Register now also contains several express delegations from the State Government. Council is not required to accept or reject these delegations, but they have been included in the register for Council to note and for the CEO to easily reference when required.

Comment

As above.

Consultation

WALGA Subscriptive Services- Governance

Statutory Environment

Local Government (Audit) Regulations 1996
Local Government (Functions & General) Regulations 1996
Local Government (Administration) Regulations 1996
Local Government (Rules of Conduct) Regulations 2007

Policy Implications

- Proposed changes to Council Delegation 03.... Waiver of fees has been done to align with the proposed Supporting the Community Policy.
- Proposed introduction of CD22 Power to Invest and Manage Investment's has been introduced so the CEO is able to sub-delegate maximum investment amounts/conditions to strengthen controls in this area and implement the policy and management procedure 1.3.3 Investment of Surplus Funds.

Financial Implications

As all delegations are subject to Council's adopted budget, there would not be any financial implications if the amendments proposed to the Delegation Register were endorsed.

Strategic Implications

This proposal will support the achievement of the following objectives and strategies detailed in the Community Strategic Plan:

Outcome 4.2.1 Continue to deliver quality local government services

Outcome 4.5.1 Ensure compliance with local, town planning, building and health, and all other relevant legislation

Voting Requirements

Absolute Majority.

OFFICER RECOMMENDATION AND COUNCIL DECISION– Resolution 17041913

Moved: Cr Newton / Seconded: Cr Cosgrove

That Council:

1. Notes completion by Council as the delegator, of the 2018/19 annual statutory review of the Register of Delegated Authority, in accordance with s5.18 and s5.46 of the Local Government Act 1995, s47(2) of the Cat Act 2011 and s10AB of the Dog Act 1976.
2. Revokes the following listed delegations as detailed in Attachment No.1 under the Caravan Parks and Camping Act 1995 and the Road Traffic Code 2000:
 - a) CD17 Authorised Persons- Caravan Parks and Camping Grounds Act 1995
 - b) CD21 Road Traffic Code 2000
3. Approves all listed delegations as detailed in Attachment No. 2, inclusive of amendments as described in Attachment No.2- Register of Delegated Authority v1.4, in accordance with s5.17 and s5.42 of the Local Government Act 1995, s10AA of the Dog Act 1986, s44 of the Cat Act 2011, s127 of the Building Act 2011, s48 of the Bush Fires Act 1954, s118 of the Food Act 2008 and s21 of the Public Health Act 2016.
4. Designates the Chief Executive Officer and the Environmental Health Officer as an 'Authorised Officer' under the Caravan Parks and Camping Act 1995 in accordance with CA1 as detailed in Attachment 2.

VOTING DETAILS:

CARRIED 5/0

11.10 PROPOSED CARETAKERS DWELLING – DONALD STREET, MINGENEW

Location/Address: Lot 24 Donald Street, Mingenew
Name of Applicant: P & K Starick
Disclosure of Interest: Nil
File Reference: A438
Date: 10 April 2019
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 site 2 transportable buildings upon Lot 24 Donald Street, Mingenew to serve as a caretaker's dwelling and amenities room. This report recommends that Council support the proposal in-principle and grant delegated authority to the Shire CEO to grant conditional approval.

Attachment

Attachment 11.10 - Copy of application (provided as confidential attachment)

Background

Lot 24 is a 4,083m² property that fronts Ernest Street to the north and the Donald Street cul-de-sac to the east. Lot 24 in conjunction with adjoining Lots 1-5 Eleanor Street and Lots 22 & 23 Ernest Street serve as the transport depot for Paul Starick Transport.

Figure 11.10(a) – Aerial Photograph of Lot 24 Donald Street, Mingenew



The applicant is proposing to purchase 2 transportable buildings and locate them upon Lot 24 to the north of the existing workshop, with one to serve as accommodation for drivers and the other as a kitchen/lunch room for the transport depot.

The applicant is currently negotiating for the purchase of 2 transportable buildings and is seeking certainty before committing to their purchase. A copy of the submitted application that includes a supporting letter, examples of the transportable buildings and a site plan is provided as **Attachment 11.10**.

Figure 11.10(b) – View of proposed location for transportable buildings looking west



Figure 11.10(c) – View of proposed location for transportable buildings looking east



Comment

Council may consider it appropriate to offer its support in-principle to provide certainty for the applicant and enable them to proceed with the purchase of the 2 transportable buildings and issue the Shire CEO with delegated authority to approve the planning and building applications upon receipt of more detailed information.

It is suggested that a subsequent planning approval issued by the Shire CEO upon submission of the finalised and accepted plans should be made subject to the following conditions:

"That Council grant planning approval for the siting of relocated building(s) upon Lot 24 Donald Street, Mingenew, subject to compliance with the following conditions:

- 1 Development shall be in accordance with the approved plans and subject to any modifications required as a consequence of any conditions 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 building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.*
- 3 The relocated building(s) are required to be painted or clad in a colour that is complementary to the adjacent workshop, to the approval of the local government.*
- 4 The applicant is required to undertake works to the relocated building(s) to improve their visual appearance, inclusive of a verandah/lean-to and skirting between the floor level and ground level, to the approval of the local government.*
- 5 The building(s) must not be occupied until they are deemed compliant with the relevant requirements of the Building Code of Australia.*
- 6 Landscaping is required to be installed and maintained for the purpose of softening and screening the visual impact of the development to the approval of the local government.*
- 7 A bond of \$5,000 must be lodged by the applicant with the local government that will be returned upon completion of the requirements pertaining to the abovementioned conditions within a period of 12 months, and in the event that the works described in the application are not carried out within the 12-month timeframe the bond shall be forfeited to the local government.*
- 8 The caretaker's dwelling shall not be used for general residential habitation and must only be occupied by persons associated with industrial operations carried out upon the property.*
- 9 The applicant is advised that the caretaker's dwelling is sited in an area zoned for industrial purposes and may therefore be currently affected, or may in the future be affected, by noise, dust, vibration or other emissions and impacts commensurate with an industrial area.*

Advice Notes:

- (i) In regards to condition 7 should the bond be forfeited then Shire staff will present a report to Council for its consideration outlining how the forfeited bond monies should be expended to address the outstanding conditions.*
- (ii) If an applicant is 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."*

In the event that the applicant was unable to purchase the transportable buildings as outlined in their submitted information and sought to instead purchase/site structures of a comparable nature upon the

property then it is considered that the Shire CEO should address this revised application under the issued delegation.

However, in the event that the proposed buildings, that the applicant sought to site upon the property were, in the opinion of the Shire CEO, to represent significant variation to that presented in Attachment 11.10 (e.g. poorer condition, and/or significantly larger, and/or significantly different appearance or materials, and/or in a different location upon the property) then the Shire CEO would use their discretion and return this matter to Council for its reconsideration.

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.

Statutory Environment

Lot 24 and the surrounding lots are zoned 'General Industrial' under the Shire of Mingenew Local Planning Scheme No.3 ('the Scheme').

Section 4.2 of the Scheme lists the objectives of the 'General Industrial' zone as being:

- "The use of land in the General Industrial Zone shall be consistent with the following objectives—*
- To provide for industrial use on a location where it does not detract from the built environment of Mingenew Townsite.*
 - To provide land for industrial development which is reasonably flat and permits ease of use and development.*
 - To provide land for industrial development which can be provided with easy road access for industrial traffic.*
 - To provide serviced land which can be developed in a manner which minimises industrial impact on the townsite area.*
 - To provide sufficient good land to enable Council to cater for the land needs of anticipated industrial development within the townsite area."*

The Scheme lists 'Caretaker's Dwelling' as a 'D' use in the Zoning Table for the 'General Industrial' zone which *"means that the use is not permitted unless the local government has exercised its discretion by granting planning approval"*.

Caretaker's Dwelling is defined in the Scheme as *"means a dwelling on the same site as a building, operation or plant used for industry, and occupied by a supervisor of that building, operation or plant."*

It is considered that the proposal to site a small (approximately 45m²) habitable building for occasional use by drivers employed by/associated with the transport business that operates from the property would meet with the definition of 'caretaker's dwelling' and could be considered by the Shire.

Scheme No.3 also include the following requirements relevant to Caretaker's Dwellings:

"5.23 Caretakers Dwellings

- 5.23.1 A caretaker's dwelling shall not be constructed on any lot until an approved predominant use for that lot has been established and the local government*

has resolved that the dwelling is incidental to the predominant use of the lot and the future inhabitants will not be placed in an unduly hazardous position.

- 5.23.2 *Where the local government approves the development of a caretaker's dwelling such dwelling is required to be located at the rear of the lot and screened from the road frontage unless otherwise approved by the local government.*
- 5.23.3 *The total floor area measurement of a caretakers dwelling from the external face of walls (including verandahs) shall not be greater than 100m².*
- 5.23.4 *Only one caretakers dwelling is permitted on a given lot. This includes the provision of only one caretakers dwelling on a lot with existing and/or proposed strata lots.*
- 5.23.5 *The use of a caravan as a caretakers dwelling is not permitted.*
- 5.23.6 *A caretakers dwelling shall not be occupied by any person other than the owner or manager or an employee of the use established on the land.*
- 5.23.7 *The local government will not support the subdivision or development of land that will—*
 - (a) allow a caretakers dwelling to be sold separately from the predominant use of the land; or*
 - (b) restrict the future potential use of the land."*

The *Planning and Development Act 2005* requires local governments to review their planning scheme every 5 years and the Shire is nearing completion of its scheme review process. Draft Scheme No.4 does not propose any major changes in relation to caretaker's dwellings (i.e. they remain a discretionary use in the 'General Industry' zone). However, for comparative purposes the draft Scheme No.4 provisions relevant to 'Caretaker's Dwelling' are provided below:

- "1 *Caretaker's dwellings:*
 - (a) are limited to one caretaker's dwelling per lot;*
 - (b) shall be limited in floor area to a maximum of 100m²; and*
 - (c) prior to approval being granted the land upon which it is to be established is developed and/or is in use for a purpose requiring oversight by a caretaker, as determined by the local government.*
- 2 *A caretaker's dwelling can only be occupied once the predominant use requiring a caretaker has been constructed and/or is operational.*
- 3 *The use of a caravan as a caretaker's dwelling is not permitted except in the conjunction with an approved caravan park or camping ground.*
- 4 *A caretaker's dwelling shall be occupied by the owner, manager or an employee of the use that is established on the land.*
- 5 *The local government will not support the caretaker's dwelling to be sold separately from the predominant use of the land."*

Scheme No.3 also states that:

"5.13 Transportable Buildings

5.13.1 Planning Consent Necessary

The use of transportable buildings for any purpose within the Scheme area is subject to the planning consent of Council.

5.13.2 Standard of Buildings

The Council shall require that the standards of finish of transportable buildings are agreed on prior to the issue of planning consent and must be consistent with those prevailing in the locality in which the building is to be located.

5.13.3 Council may permit the erection or placement of a transportable building on a lot providing that the design of the building is to the satisfaction of the Council and—

- (a) is in a satisfactory condition;*
- (b) will not detrimentally affect the amenity of the area;*
- (c) is permanently affixed to the ground; and*
- (d) has a facade appropriate to that prevailing in the vicinity.*

5.14 Secondhand Buildings

Secondhand buildings may only be erected within the Shire at Councils discretion. All secondhand buildings shall comply with Councils policy and Council shall have regard to the impact on the amenity of the surrounding locality."

Policy Implications

Nil.

Financial Implications

The application would not have a budgetary impact to Council.

Strategic Implications

Section 4.2.3 of the Shire of Mingenew Townsite Local Planning Strategy (2016) notes the following relevant to the industrial area

"Within the 'General Industry' zoned area there are 20 vacant lots which do not contain substantial improvements. Of these lots, three lots are used for gravel hard stand storage associated with trucking companies. The 'General Industry' zoned area also contains six larger lots consisting of approximately 9.91ha, which could be further subdivided should demand require. However, subdivision into smaller lots is not recommended (down to 1000m², similar to those on Donald Street), as it appears from the lack of development in this section that such lots are too small to accommodate industrial development. There are also two non-conforming dwellings located along Donald Street and it is envisaged that at some time in the future these lots will convert to industrial use. There are no vacant industrial buildings in the area at present.

Whilst further subdivision of the existing 'General Industry' zoned land is possible in some instances, it is also considered that additional industrial land supply may be required, particularly for industrial uses which require larger lots."

Section 6.5 of the Strategy also notes the following for the Eleanor Street industrial precinct:

Objectives	Planning Provisions	Priority Level
Land Use O4.1 Development will be predominantly industrial in nature with incompatible uses encouraged to relocate.	P4.1 - Any subdivision of larger existing parcels of industrial land should incorporate a variety of lot sizes as part of any subdivision design. Particularly larger lots than what is currently available along Eleanor and Donald Streets.	Short Term
	P4.2 - Service Commercial and Light Industrial land uses are to be encouraged to locate in close proximity to the Midlands Road.	Short Term
	P4.3 - To encourage further General Industrial expansion, consideration should be given to the rezoning, subdivision and redevelopment of the Parks and Recreation Reserve on Lot 12092 Ernest Street for industrial land uses. This would necessitate the relocation of the polocrosse facility.	Medium Term
	P4.4 - Future demand for General Industry expansion should be encouraged on Lots 2 and 3 Ernest Street. Some incentive may be required to facilitate the relocation of the existing residences. This option would require the rezoning to industry. Further Rural Residential subdivision in this location should be discouraged.	Long Term

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION- Resolution 17041914

Moved: Cr Cosgrove / Seconded: Cr Eardley

That Council advise the applicant that:

- 1 Council supports in-principle the siting of relocated building(s) upon Lot 24 Donald Street, Mingenew for the purpose of a caretaker's dwelling and kitchen/lunchroom.
- 2 Upon the applicant's confirmation of the exact nature of the relocated building(s), they are required to lodge sufficient information with the Shire of Mingenew as is required to determine the necessary planning and building permit applications.
- 3 The relocated building(s) are not to be used for any purpose until such time as the necessary planning and building approvals have been obtained from the Shire of Mingenew.

Notes:

- (a) The Shire CEO is issued delegated authority by Council to determine an application that is generally in accordance with Attachment 11.10.
- (b) In the event that the applicant submits plans that are considered by the Shire CEO to significantly vary from those contained in Attachment 11.10 then this matter shall be returned to Council for its determination.

VOTING DETAILS:

CARRIED 5/0

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
Nil

15.0 TIME AND DATE OF NEXT MEETING
Next Ordinary Council Meeting to be held on Wednesday 15 May 2019 commencing at 4.30pm.

16.0 CLOSURE
President Newton thanked all for attending and closed the meeting at 5.29pm

These minutes were confirmed at an Ordinary Council meeting on 15 May 2019.

Signed _____
Presiding Officer

Date: _____