



# MINUTES OF THE ORDINARY COUNCIL MEETING

15 JUNE 2022

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON  
15 JUNE 2022 COMMENCING AT 5.00PM**

**1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

The Shire President opened the meeting at 5:00pm.

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

**Councillors**

Cr GJ Cosgrove	Shire President
Cr JD Bagley	Deputy President
Cr CV Farr	Councillor
Cr JR Holmes	Councillor
Cr HR McTaggart	Councillor
Cr AR Smyth	Councillor

**Staff**

Mr Nils Hay	Chief Executive Officer
Mr Jeremy Clapham	Manager Finance and Administration
Ms Erin Greaves	Manager Governance and Community

**Members of the Gallery**

Nil

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

Nil.

**4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME**

Nil.

**5.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

**6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

Nil.

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

7.1 ORDINARY COUNCIL MEETING HELD 20 APRIL 2022

OFFICER RECOMMENDATION - ITEM 7.1

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 20 April 2022 be confirmed as a true and accurate record of proceedings.

7.2 SPECIAL COUNCIL MEETING HELD 2 MAY 2022

OFFICER RECOMMENDATION - ITEM 7.2

That the Minutes of the Special Meeting of the Shire of Mingenew held in the Council Chambers on 2 May 2022 be confirmed as a true and accurate record of proceedings.

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

9.0 DECLARATIONS OF INTEREST

Nil.

10.0 RECOMMENDATIONS OF COMMITTEES

10.1 SHIRE OF MINGENEW LOCAL EMERGENCY MANAGEMENT COMMITTEE

10.1.1 MINUTES OF THE LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING HELD 9 MAY 2022

OFFICER RECOMMENDATION - 10.1.1

That the Minutes of the Shire of Mingenew Local Emergency Management Committee Meeting held on 9 May 2022 be received.

OFFICER RECOMMENDATION AND COUNCIL DECISION EN BLOC - ITEM 7.1, 7.2 & 10.1.1 – RESOLUTION# 01150622

MOVED: Cr HR McTaggart

SECONDED: Cr AR Smyth

1. That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 20 April 2022 be confirmed as a true and accurate record of proceedings.
2. That the Minutes of the Special Meeting of the Shire of Mingenew held in the Council Chambers on 2 May 2022 be confirmed as a true and accurate record of proceedings.
3. That the Minutes of the Shire of Mingenew Local Emergency Management Committee Meeting held on 9 May 2022 be received.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

## 11.0 CHIEF EXECUTIVE OFFICER

### 11.1 PROPOSED OUTBUILDING, 10 (LOT 87) IKEWA STREET, MINGENEW

**Location/Address:** 10 (Lot 87) Ikewa Street, Mingenew  
**Name of Applicant:** M. Western  
**Disclosure of Interest:** Nil  
**File Reference:** A424  
**Date:** 3 June 2022  
**Author:** Simon Lancaster, Planning Advisor  
**Senior Officer:** Nils Hay, Chief Executive Officer  
**Voting Requirements:** Simple Majority

#### Summary

Council is in receipt of an application to construct a 247.25m<sup>2</sup> outbuilding in place of the previous cyclone damaged 160m<sup>2</sup> shed upon 10 (Lot 87) Ikewa Street, Mingenew. The application has been presented to Council for its consideration as it exceeds the maximum outbuilding size set by the Shire of Mingenew 'Outbuildings' Local Planning Policy that can be determined under delegated authority by Shire staff.

This report recommends that Council advertise the application, and in the event of no objections being received that it be approved. Alternative resolution wording should Council wish to approve the application (without advertising) or refuse the application are provided at the end of the Comment section should Council consider an alternative resolution to the recommendation.

#### **OFFICER RECOMMENDATION – ITEM 11.1**

**MOVED:** Cr HR McTaggart

**SECONDED:** Cr AR Smyth

**That Council:**

- 1 Advertise the application for an outbuilding to be constructed upon 10 (Lot 87) Ikewa Street, Mingenew to surrounding landowners inviting comment.
- 2 At the conclusion of the 14-day advertising period, in the event that any written, author-identified objections have been received, return the matter to the August Council meeting for further deliberation.
- 3 At the conclusion of the 14-day advertising period, in the event that no written, author-identified objections have been received, grant delegated authority to the Chief Executive to approve the application for an outbuilding to be constructed upon 10 (Lot 87) Ikewa Street, Mingenew subject to the following:

#### **Conditions**

- (a) Development shall be in accordance with the plans included within Attachment 11.5 to the June 2022 Council Agenda Report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- (b) Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) considered by the Shire CEO to represent significant variation from the approved development plan may require further application and planning approval for that use/addition.
- (c) The walls and roof of the outbuilding must be of materials, finish and colours that are non-reflective (i.e. not zinalume) and complementary to the existing development upon the property to the approval of the local government.

- (d) The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and must not be used for habitation, commercial or industrial purposes.
- (e) All stormwater is to be disposed of on-site to the approval of the local government.
- (f) Any soils disturbed or deposited on-site shall be stabilised to the approval of the local government.
- (g) The applicant is responsible to ensure that no parking of vehicles associated with the development/property occurs within the road reserve, including the road verge.
- (h) If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination the approval shall lapse and be of no further effect.

Notes:

- (i) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.
- (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.

AMENDMENT TO THE MOTION AND COUNCIL DECISION - ITEM 11.1 – RESOLUTION# 02150622

MOVED: Cr HR McTaggart

SECONDED: Cr AR Smyth

That Council includes an additional condition requiring the applicant to amalgamate Lot 87 and Lot 88 Ikewa Street, Mingenew, as Condition (i) as follows:

" (i) The two lots (87 & 88 Ikewa Street, Mingenew) be amalgamated. "

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

AMENDED MOTION AND COUNCIL DECISION - ITEM 11.1 – RESOLUTION# 03150622

MOVED: Cr CV Farr

SECONDED: Cr JD Bagley

That Council:

- 1 Advertise the application for an outbuilding to be constructed upon 10 (Lot 87) Ikewa Street, Mingenew to surrounding landowners inviting comment.
- 2 At the conclusion of the 14-day advertising period, in the event that any written, author-identified objections have been received, return the matter to the August Council meeting for further deliberation.
- 3 At the conclusion of the 14-day advertising period, in the event that no written, author-identified objections have been received, grant delegated authority to the Chief Executive to approve the application for an outbuilding to be constructed upon 10 (Lot 87) Ikewa Street, Mingenew subject to the following:

Conditions

- (a) Development shall be in accordance with the plans included within Attachment 11.5 to the June 2022 Council Agenda Report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- (b) Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) considered by the Shire CEO to represent significant variation from

the approved development plan may require further application and planning approval for that use/addition.

- (c) The walls and roof of the outbuilding must be of materials, finish and colours that are non-reflective (i.e. not zincalume) and complementary to the existing development upon the property to the approval of the local government.
- (d) The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and must not be used for habitation, commercial or industrial purposes.
- (e) All stormwater is to be disposed of on-site to the approval of the local government.
- (f) Any soils disturbed or deposited on-site shall be stabilised to the approval of the local government.
- (g) The applicant is responsible to ensure that no parking of vehicles associated with the development/property occurs within the road reserve, including the road verge.
- (h) If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination the approval shall lapse and be of no further effect.
- (i) The two lots (87 & 88 Ikewa Street, Mingenew) be amalgamated.

**Notes:**

- (i) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.
- (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.

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

**Attachment**

11.1.1 Submitted application & Shire of Mingenew Outbuildings Local Planning Policy

**Background**

Lot 87 is an 850m<sup>2</sup> property fronting Ikewa Street to the north that contained a 160m<sup>2</sup> outbuilding that was damaged by Cyclone Seroja. Lot 87 also contains a portion of the residence that is primarily located upon adjoining 847m<sup>2</sup> Lot 88 which is located on the corner of Ikewa and Wattle Streets.

Lots 87 and 88 are owned by the applicant and appear on-ground to form one overall 1,697m<sup>2</sup> landholding. It is not uncommon in the Mingenew townsite for neighbouring properties to be owned by one landowner and have buildings across boundaries and the oldest available Department of Lands aerial photography indicates that the built form upon Lots 87 & 88 has been in place since at least 1998, and it is suggested that the actual site development pre-dates this by some way.

Figure 11.1(a) – Location Plan for 10 (Lots 87 & 88) Ikewa Street, Mingenew



Figure 11.1(b) – Aerial Photograph of 10 (Lots 87 & 88) Ikewa Street, Mingenew



The applicant is seeking approval to construct an 11.5m x 21.5m (247.25m<sup>2</sup>) outbuilding with a wall height of 4m and total/gable height of 5.5m.

The method of construction would involve splitting the existing enclosed portion of the shed into 2 sections and moving the northern half further northwards and inserting into the gap a new section of shed to create a larger and higher gabled outbuilding.

The new outbuilding would replace the cyclone damaged 8m x 20m (160m<sup>2</sup>) outbuilding that has a total/gable height of 4m, with the damaged lean-to section to the north of the existing shed having to have been demolished.

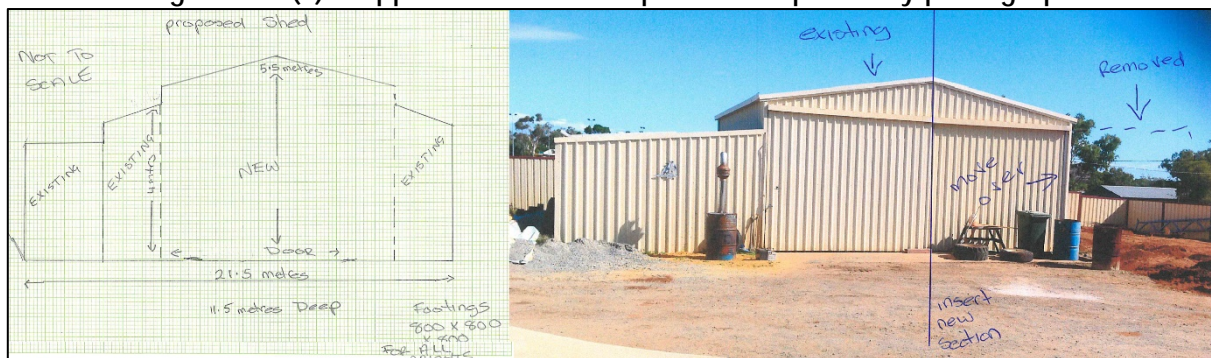
The applicant has been presented to Council for its consideration as it exceeds the 200m<sup>2</sup> maximum outbuilding area set by the Shire of Mingenew 'Outbuildings' Local Planning Policy that can be determined under delegated authority by Shire staff.

The applicant is also proposing to site the new outbuilding 0.3m from the Ikewa Steet property boundary and 0.3m from the side property boundary that abuts Vacant Crown Land to the west.

This would be closer than the current outbuilding setback which is 1.5m from the western side property boundary and the now demolished lean-to section of the former outbuilding that was located 1.5m from the Ikewa Street property boundary.

The applicant's submitted site, elevation and floor plans and supporting correspondence are provided as **separate Attachment 11.1.1** along with plans illustrating the former outbuilding prior to part demolition.

**Figure 11.1(c) – Applicant's elevation plan and explanatory photograph**



**Figure 11.1(d) – Pre-Cyclone (left) and post-cyclone (right) view of outbuilding on Lot 87 looking south-west from Ikewa Street**



**Figure 11.1(e) – Pre-Cyclone (left) and post-cyclone (right) view of outbuilding on Lot 87 looking south-east from Ikewa Street**



**Comment**

Consideration of the applicant's sought variation to the outbuilding area policy requirements may be warranted in this instance, based upon the following:

- whilst the proposed 247.25m<sup>2</sup> total outbuilding area exceeds the 200m<sup>2</sup> Outbuildings Policy requirement (for lots above 1,500m<sup>2</sup>) it is noted that the outbuilding would be partially obscured from the neighbouring vacant lot and Ikewa Street by the matching colorbond fence.
- the proposed shed would take up 14.57% of the property and this can be considered a reasonable level of site coverage, and provides sufficient non-impervious surface area upon the property to ensure stormwater runoff is captured and managed within the property boundaries rather than discharged onto Ikewa Street or Wattle Street, and requirement to retain stormwater runoff can be applied as a condition of approval by Council.
- the outbuilding would accommodate the applicant's caravan, camper trailer and vintage truck (which is the reason for the raised gable height) and it is considered preferable for these items to be secured out of the weather rather than about the property, not just for the applicant but also for general amenity and appearance.
- the outbuilding would be clad in colorbond complementary to the existing fencing and outbuilding.
- whilst the new shed would be sited forward of its existing position as viewed from Ikewa Street it would present the same length/elevation as currently can be seen on-site (now that the cyclone damaged lean-to has been demolished) once it has been attached to north of the new larger central portion.

The new location for the shed also introduces a further variation that exceeds the delegated authority of Shire staff, this being the proposed 0.3m boundary setback to Ikewa Street.

In this instance Ikewa Street is being considered the secondary street for assessment purposes as the residence fronts Wattle Street.

Table 1 of the Residential Design Codes of Western Australia ('R-Codes') recommends a 2m boundary setback for secondary streets in the R12.5 zone. On this basis the outbuilding does not meet the deemed-to-comply setback provisions under Section 5.4.3.C3 of the R-Codes and cannot be determined by Shire staff under delegated authority and requires determination by Council in regards to this aspect also.

The R-Codes Explanatory Guidelines provides the following guidance in relation to assessing matters relating to street setbacks and secondary streets:

**"Street Setback**

*The urban design presumption is for the street setback area to be free from buildings and structures, enabling a clear view to and from the street. This provides a comfortable and secure relationship and transition between public and private space.*

*From a social point of view, the street setback area and how it is developed and managed allows for comfortable communication and interaction between residents, neighbours and passers-by or callers who may not be known to the occupants. This creates the opportunity for casual and safe interaction to enhance a sense of community and safety.*

*At the same time, an open setback area provides for mutual surveillance between the street and building, enhancing security for the building (and its occupants) and for people passing by.*

*From a visual point of view, an open setback area provides a more attractive setting for the building. The street setback should also provide, depending on the location of essential services, adequate clearances from, and access to, essential services for reasons of safety and utility.*

*The same principles apply to communal streets and rights-of-way that provide the frontage to dwellings.*

*There will, of course, be exceptions, principally where the street is an arterial road carrying significant volumes of traffic.*

Frontage streets

*Street setback areas are an integral part of the streetscape and are fundamental to the amenity and particular character of residential localities. They may perform a number of different, but complementary roles:*

- *continuity of the streetscape;*
- *a visual setting for the dwelling;*
- *a buffer against noise and general activity on the public street;*
- *privacy for the dwelling;*
- *visual connection to the street, its users and to neighbours;*
- *space for car parking and access; and*
- *a transition zone between the public street and private dwelling.*

*These considerations apply particularly to public streets to influence orientation of the main frontage to dwellings as it presents to the street. Similar principles apply to communal streets, and rights-of-way used to provide frontage to dwellings. Secondary or side streets may also function in this way.*

Side or secondary streets

*Different streetscape characteristics usually occur on secondary or side streets, with the street alignments formed by the long side boundaries of corner lots. These are characterised by side fences or walls rather than open gardens, and a small setback to the building.*

*In many cases these streetscapes are being altered by urban redevelopment and infill, by the subdivision of corner lots, creating new frontages to the side street. Where this happens, similar considerations to those for setbacks to frontage streets will apply although there will be scope for common-sense rationalisation between existing houses which create the character of the street and infill development.*

*The setback area should be open but with a reduced setback for practical and streetscape reasons. Private open space may be located to one side of the building rather than a narrow strip along the rear.” (Section 4.1, pages 16-17)*

“Appropriate street setback distances

*In the case of new residential areas, the desirable street setback distance is often fixed as an integral part of the subdivision, for example as part of structure plan(s) or local development plan(s).*

*In the case of established residential areas with valued streetscapes, it will usually be the case that there is a consistent pattern of street setbacks. In these cases, new development should closely conform to the established pattern. Where the pattern varies, a setback mid-way between that of the buildings on either side may be appropriate.” (Section 4.1.1, page 18)*

Consideration of the applicant's sought variation to the secondary street setback R-Code requirements may be warranted in this instance, based upon the following:

- the shed at a 0.3m setback would be located approximately 7m from the edge of the roadway which would still provide reasonable sightlines to vehicles exiting Lot 87 onto the roadway and for vehicles travelling along Ikewa Street.
- the shed would be located 35m from the Ikewa Street and Wattle Street intersection and would not interfere with vehicle sightlines.
- the shed would present its shorter 11.5m elevation to Ikewa Street rather than the larger 21.5m elevation.
- the vehicles exiting/entering the outbuilding would gain access via the (eastern) elevation facing into Lot 87 rather than directly from Ikewa Street.
- there is ability through guttering and installation of rainwater tanks/soakwells to ensure stormwater runoff is captured and managed within the property boundaries rather than discharged onto Ikewa

Street or Wattle Street, and requirement to retain stormwater runoff can be applied as a condition of approval by Council.

- there are precedents of outbuildings with nil and reduced secondary street setbacks in the Mingenew townsite on Enanty Street, Ikewa Street, Irwin Street, King Street, Lockier Street, Moore Street, Oliver Street and Phillip Street.

In the event that Council consider that the application meets with its requirements and should be APPROVED WITHOUT ADVERTISING then it may find the following wording appropriate:

*"That Council approve the application for an outbuilding to be constructed upon 10 (Lot 87) Ikewa Street, Mingenew subject to the following:*

*Conditions:*

- 1 Development shall be in accordance with the plans included within Attachment 11.5 to the June 2022 Council Agenda Report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.*
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) considered by the Shire CEO to represent significant variation from the approved development plan may require further application and planning approval for that use/addition.*
- 3 The walls and roof of the outbuilding must be of materials, finish and colours that are non-reflective (i.e. not zincalume) and complementary to the existing development upon the property to the approval of the local government.*
- 4 The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and must not be used for habitation, commercial or industrial purposes.*
- 5 All stormwater is to be disposed of on-site to the approval of the local government.*
- 6 Any soils disturbed or deposited on-site shall be stabilised to the approval of the local government.*
- 7 The applicant is responsible to ensure that no parking of vehicles associated with the development/property occurs within the road reserve, including the road verge.*
- 8 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination the approval shall lapse and be of no further effect.*

*Notes:*

- (a) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.*
- (b) 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 Council consider that the application does not meet its requirements and that it should be REFUSED then it may find the following wording appropriate:

*"That Council refuse the application for an outbuilding upon 10 (Lot 87) Ikewa Street, Mingenew for the following reasons:*

- 1 The development is considered contrary to Sections 16 & Schedule 1(5) & Schedule 2 of the Shire of Mingenew Local Planning Scheme No.4.*
- 2 The development is considered contrary to Clause 67 of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 3 The development is considered contrary to the objectives of the Shire of Mingenew Outbuildings Local Planning Policy.*

- 4 *Approval of this application may well set an undesirable precedent for future variation to the Shire's statutory and strategic planning requirements.*

*Advice Note:*

*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."*

### **Consultation**

The Shire of Mingenew Outbuildings Local Planning Policy states that:

*"Applications that propose variation to any part of the Policy may require consultation with effected owners and/or occupiers, by means of the Shire writing directly to the surrounding landowners inviting comment, and placement of an advisory sign on-site for a period of not less than 14 days, prior to the application and any received submissions being placed before a meeting of Council for consideration.*

Council may therefore wish to write to the landowners inviting comment upon the application. In the event Council wishes to advertise the application the Shire would also place an advisory sign inviting comment on-site and place advisory/explanatory information on its website.

### **Statutory Environment**

Lots 87 & 88 are zoned 'Residential R12.5' under the Shire of Mingenew Local Planning Scheme No.4. Table 2 of the Scheme lists the objectives of the 'Residential' zone as being:

- "• To provide for a range of housing and a choice of residential densities to meet the needs of the community.*
- To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.*
- To provide for a range of non-residential uses, which are compatible with and complementary to residential development."*

Schedule 2 Part 9 Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by local government in considering a development application:

- "(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(g) any local planning policy for the Scheme area;...*
- ...(m) the compatibility of the development with its setting, including –*
  - (i) the compatibility of the development with the desired future character of its setting; and*
  - (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following —*
  - (i) environmental impacts of the development;*
  - (ii) the character of the locality;*
  - (iii) social impacts of the development;...*
- ...(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;...*
- (s) the adequacy of –*

- (i) *the proposed means of access to and egress from the site; and*
- (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
- ...(w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;...*
- ...(zb) *any other planning consideration the local government considers appropriate."*

### **Policy Implications**

The Shire of Mingenew 'Outbuildings' Local Planning Policy was adopted by Council at its 17 April 2019 meeting and reviewed at its 21 August 2019 meeting. A copy of the policy has been included within **separate Attachment 11.1.1**.

The Shire of Mingenew Outbuildings Local Planning Policy sets a maximum outbuilding area of 80m<sup>2</sup> for Mingenew townsite lots that are less than 1,500m<sup>2</sup> and 200m<sup>2</sup> for lots greater than 1,500m<sup>2</sup>. Whilst Lot 87 is 850m<sup>2</sup> in area it has been assessed under the 200m<sup>2</sup> outbuilding size/1,500m<sup>2</sup>+ lot size criteria, due it being owned in common with neighbouring 847m<sup>2</sup> Lot 88 creating a 1,697m<sup>2</sup> landholding. The reason for this assessment is that the landholding appears on-ground to be one property and due to the existing residence and effluent disposal system straddling the Lot 87/88 boundary line and the co-dependence of the residence and outbuilding there is very limited scope for their being sold into separate ownership.

The proposed shed would not comply with the 4m maximum wall height and 5m maximum total roof height set by the Outbuildings Policy with the proposed new outbuilding having a 5.5m gable apex height, although the proposed 4m outbuilding walls would meet with the maximum wall height policy requirement.

The Outbuildings Policy lists the following:

#### *"Objectives*

- 1 *To provide development standards for outbuildings specific to the Shire of Mingenew, as appropriate.*
- 2 *To provide a clear definition of what constitutes an "outbuilding".*
- 3 *To ensure that outbuildings are not used for habitation, commercial or industrial purposes by controlling building size and location.*
- 4 *To limit the visual impact of outbuildings.*
- 5 *To encourage the use of outbuilding materials and colours that complement the landscape and amenity of the surrounding areas.*
- 6 *To ensure that the outbuilding remains an ancillary use to the main dwelling or the principle land use on the property."*

#### *"Policy Provisions*

##### *General*

- 1 *Pre-fabricated garden sheds, "cubby houses", kennels and other animal enclosures (such as aviaries, stables) less than 9m<sup>2</sup> in total aggregate area and less than 2.5m in height (measured from natural ground level) are exempt from this policy provided they are located to the rear of the house, and of a design and colour considered in keeping with the amenity of the area by the local government.*
- 2 *Other than for general storage and/or agricultural purposes an outbuilding shall not be used for any commercial or industrial use without prior approval from Council.*

- 3 *The storage of accumulated personal items and any items in connection with a commercial or industrial operation (e.g. building materials, earthmoving equipment etc.) is considered contrary to the objectives of this policy and is therefore not considered sufficient justification for an increase in the maximum standards prescribed.*

*Height, Size and Setbacks*

*Outbuildings within the Residential, Rural Townsite or Tourism zones shall;*

- (a) be single storey;*
- (b) be located behind any dwelling on site;*
- (c) meet all setback requirements set out in the Local Planning Scheme and this policy;*
- (d) not be approved by the local government on a lot not containing a dwelling;*
- (e) be attached to, or setback 1.8m from any dwelling and 1.2m from any septic tank."*

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

In most circumstances the Council will adhere to the standards prescribed in a Local Planning Policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification warrants a concession and the variation granted will not set an undesirable precedent for future development.

**Financial Implications**

The application would not have a budgetary impact to Council.

**Strategic Implications**

The Mingenew Townsite Local Planning Strategy notes in Section 4.26 'Architectural Style' that:

*"In keeping with the rural nature of the community many homes have open style fencing, larger sheds and outbuildings, rain water tanks and other modern improvements."*

Lots 87 & 88 fall within the area at the eastern end of the townsite identified on the Mingenew Townsite Local Planning Strategy Map as being suitable for rezoning to 'Special Use' to allow for the development of a Live-Work Area.

Section 4.3.9 'Amenity Impacts of Existing Industrial Development' of the Mingenew Townsite Local Planning Strategy notes that:

*"Existing industrial development in proximity to the Mingenew townsite, particularly the CBH grain receival point, is considered by residents to have some off-site amenity impacts, such as noise and dust. As a result the vacant residential land south of Ikewa Street and north of View Street is not seen locally as being attractive for development."*

*"There may be an opportunity to consider a live/work investigation area (i.e. for home based businesses and workshops) in this section of Mingenew."*

*"Objective 5.1 - Allow for a mixture of residential and small scale mixed business/light industrial uses to provide work-live options."*

*"Planning Provision 5.1 - Rezone the area between Ikewa and View Streets to a Special Use zone, with small scale light industrial uses to be permitted in association with a residence."*

## 11.2 2022 COUNCIL MEETING DATES REVIEW

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** GV.CMT  
**Date:** 20 May 2022  
**Author:** Nils Hay, Chief Executive Officer  
**Authorising Officer:** Nils Hay, Chief Executive Officer  
**Voting Requirements:** Simple Majority

### Summary

As committed to at the December 2021 Ordinary Council Meeting, which introduced two-monthly Ordinary Council Meetings, Council is required to review this decision.

### Key Points

- Some reduction in workload on months without Ordinary Council Meetings has been noticed
- There do not appear to have been any impacts on public comment or attendance at Council meetings (either positive or negative)
- It is proposed that the two-monthly meeting schedule be maintained for the remainder of 2022

**OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.2 – RESOLUTION# 04150622**  
**MOVED: Cr JD Bagley**                      **SECONDED: Cr AR Smyth**

That Council maintain the meeting schedule adopted at the December 15 2021 Ordinary Council Meeting. Specifically:

Council Meeting Dates 2022
January 2022 – Nil
16 February 2022
March 2022 – Nil
20 April 2022
May 2022 - Nil
15 June 2022
July 2022 - Nil
17 August 2022
September 2022 - Nil
19 October 2022
November 2022 - Nil
14 December 2022

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

### Background

At the 17 November 2021 Ordinary Council meeting, a Councillor motion was presented requesting a direction to the CEO to prepare a meeting schedule for 2022 to be based upon an intent to hold Ordinary Council meetings every two months. The motion was carried, and an extract of the resolution is provided below:

**COUNCILLOR MOTION AND COUNCIL DECISION - ITEM 13.1 – RESOLUTION# 10171121**  
**MOVED: Cr AR Smyth** **SECONDED: Cr JD Bagley**

That Council directs the Chief Executive Officer to prepare a meeting schedule for 2022 based upon an intent to hold an Ordinary Council Meeting every two months.

**VOTING REQUIREMENTS:** **CARRIED BY SIMPLE MAJORITY 6/1**  
 Cr JR Holmes requested that his name be recorded as voting against this item

At the 15 December Ordinary Council Meeting, Council made the following resolution:

**AMENDED MOTION AND COUNCIL DECISION - ITEM 11.1 – RESOLUTION# 05151221**  
**MOVED: Cr JD Bagley** **SECONDED: Cr GF Pearse**

That Council

1. Sets the 2022 Ordinary Council meeting dates to commence at 5:00pm, in accordance with Regulation 12(1) of the *Local Government (Administration) Regulations 1996*, as per the below schedule:

Council Meeting Dates 2022
January 2022 – Nil
16 February 2022
March 2022 – Nil
20 April 2022
May 2022 - Nil
15 June 2022
July 2022 - Nil
17 August 2022
September 2022 - Nil
19 October 2022
November 2022 - Nil
14 December 2022

Unless local public notice is provided to the contrary, all Council meetings are to be held in Council Chambers located at 21 Victoria Street, Mingenew.

2. Resolves that the meeting schedule be reviewed at the 15 June 2022 meeting.

**VOTING REQUIREMENTS:** **CARRIED BY SIMPLE MAJORITY 6/0**

To ensure that there was still capacity for the public to engage with Council in months with no Ordinary Council Meeting, Council has implemented and advertised a public question time session between 5.00pm and 5.30pm at its Concept Forum meetings during those months. So far in 2022 no members of the public have attended either a Council Meeting or Concept Forum to observe or participate in public question time.

No feedback has been reported as received by either Shire staff or Councillors in relation to the change.

### Comment

This motion was initially proposed with the intent of reducing some of the burden of agenda preparation on Council staff, as well as out of recognition for Councillor time spent preparing for, travelling to and attending meetings. The workload for staff on the 'off' months has been reduced, as expected, and the commensurate increase on the 'on' months has not been significant. To that end, one of the aims has been achieved.

At the time of the original decision, advice was sought from WALGA on the proposal, with several potential risk areas identified and risk mitigation developed, as outlined below.

*Accessibility and Transparency:*

Less frequent meetings provide less opportunity for the public to attend meetings and be heard on issues.

As noted above, there remain monthly opportunities for the public to engage with Council. To date for 2022 the public have utilised other means (letters, email, direct contact) to engage with Councillor and Council staff.

*Decisions with Statutory Timeframes:*

Some decisions, particularly those related to planning matters, have statutory timeframes that Council is required to meet.

Only one Special Council Meeting (SCM) has taken place in 2022, and this was to commence the CEO Recruitment process. The current schedule has not caused any challenges with regard to decision-making timeframes thus far.

It is noted that there will likely be a SCM to adopt the budget at some stage in July. Even with monthly meetings, both 2020 and 2021 saw SCMs for budget adoption.

*Lead-time on Decisions:*

There may be some items, without statutory timeframes, that could take longer to be resolved (especially where decisions are required at consecutive meetings).

These types of issues have not emerged. Again, important matters can be managed through a Special Council Meeting if required. It is probable that the CEO appointment process may require some such meetings. This would likely be the case regardless of Council meeting schedule.

*Community Perception of Councillor Workload:*

There is a reputational risk that such a move could be seen as Councillors attempting to abrogate their responsibilities (whilst still collecting their annual fees).

To date, no evidence of this has taken place.

*Council Agenda Length and Councillor Workload:*

In contrast to the item above, there is a risk that two-monthly meetings could result in unreasonably large agendas for Council to consider.

Again, to date this has not yet been an issue. There have been some large Concept Forum agendas, but this has not yet translated into unmanageable workloads on Ordinary Council Meeting months. If anything it simply reflects the broad array of projects and initiatives that Council is currently discussing. Some of this will, no doubt, translate into decision-making at future Ordinary Meetings.

*Loss of Connection Between Council and the Administration:*

Council meetings are an opportunity for Councillors and senior staff to check in and maintain positive working relationships, which are important to the effective operation of the Shire.

Monthly Concept Forum meetings ensure that this connection continues to be fostered.

*Summary:*

To date there appear to have been few negative impacts as a result of the change, and some reduction in administrative workload. To that end, it has been proposed that the two-monthly frequency continue until the end of 2022. In late 2022 Council will be required to adopt meeting dates for 2023 and can revisit this decision.

**Consultation**

WALGA

**Statutory Environment**

Local Government Act 1995

5.3. Ordinary and special council meetings

- (1) A council is to hold ordinary meetings and may hold special meetings.
- (2) Ordinary meetings are to be held not more than 3 months apart.
- (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.

Local Government (Financial Management) Regulations 1996

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

- (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.

**Policy Implications**

Nil

**Financial Implications**

Nil

**Strategic Implications**

Strategic Community Plan 2019-29

1.2.4 Seek innovative ways to improve organisational efficiency and effectiveness.

### 11.3 CORPORATE BUSINESS PLAN ANNUAL REVIEW

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: CM.PL.1  
Date: 1 June 2022  
Author: Nils Hay, CEO  
Voting Requirement: Absolute Majority

#### Summary

We are required to review the Shire's Corporate Business Plan 2019-23 on an annual basis, this report proposes an updated version of the CBP for the 22/23 Financial Year, being the final year of the current plan.

#### Key Points

- Annual review has seen few significant changes, with a view to keeping project load manageable for incoming CEO
- Document updated to reflect FY20/21 financials
- Updated organizational chart also added

#### **OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.3 – RESOLUTION# 05150622**

**MOVED: Cr CV Farr                      SECONDED: Cr HR McTaggart**

**That Council, by Absolute Majority, endorses the content of the reviewed version of the Corporate Business Plan 2019-2023, as presented in attachment 11.3.1.**

**VOTING REQUIREMENTS:**

**CARRIED BY ABSOLUTE MAJORITY 6/0**

#### Attachment

11.3.1 CBP Excerpt with tracked changes

11.3.2 CBP Review Document Final for Adoption (Unformatted)

#### Background

Council adopted the Corporate Business Plan 2019-23 at the July 2019 Ordinary Council Meeting and last reviewed it at the June 2021 Ordinary Council Meeting.

A proposed review document was discussed at the May 2022 Concept Forum and updated to following that discussion. A tracked changes version is attached (as not all areas required changes), as is a final version for adoption with those changes incorporated.

#### Comment

The following changes were made in reviewing the document for the 22-23 Financial Year:

#### Review Cycle

- Note regarding likely impact of legislative reform process on integrated planning and future reviews
- Removal of documents from previous review cycle
- Update of timing for future reviews of Long Term Finance Plan

#### Strategic Direction

- Removed tables as they duplicate content included in later sections of the document

Minor Review of the Strategic Community Plan

- Updated to reflect 2021 minor review

2022 Review of the Corporate Business Plan

- New section to provide context, particularly around TC Seroja, COVID-19 and the recruitment of a new Shire CEO

Four Year Priorities

- Fix typos

Key Assumptions

- Added CEO changeover
- Added line item around COVID-19

Unforeseen Impacts

- Updated section on TC Seroja impacts

Organisational Structure and Functional Responsibilities:

- Updated in line with current workforce structure (minor changes only)

Key projects:

- Added:
  - 1.1.1g Delivery of upgrades at Mingenew Airstrip
  - 5.2.2d Support local small businesses to enable ongoing delivery of key services
- Amended:
  - 2.2.1 to reference REED, rather than the Mingenew CRC

Financial Profile:

- Updated reference to ongoing development of new Long Term Financial Plan
- Updated to reflect FY20/21 Annual Report figures

Resourcing Requirements:

- Updated comments for all
- Updated 1.1.1e (Completion of town street sealing) from 'Deliver' to 'Maintain' and updated resourcing accordingly
- Updated 1.1.1f (Investigation of CBH road realignment) from 'Deliver' to 'Plan/Fund' and updated resourcing accordingly
- Added 1.1.1g (Delivery of upgrades at Mingenew Airstrip)
- Updated d 1.1.2a (Mingenew Railway Station Restoration) from 'Maintain' to 'Activate' and updated resourcing accordingly
- Updated 1.1.2g (Public Noticeboard in town centre) from 'Maintain' to 'Plan/Deliver' and updated resourcing accordingly
- Updated 1.2.3f (Update Shire Local Laws) from 'Review' to 'Hold – pending LG Act Reform'
- Updated 1.3.2c (Upgrade of Mingenew Fire Shed) from 'Deliver/Maintain' to 'Fund/Deliver' and updated resourcing accordingly
- Updated 1.4.2b (Removal of asbestos from Mingenew Common) from 'Deliver' to 'Plan' and updated resourcing accordingly
- Updated 2.1.1b (Telehealth Lobbying) from 'Maintain' to 'Deliver' and updated resourcing accordingly
- 2.2.1a (Support improvement of childcare delivery) amended to include REED and LRCI funding contribution
- 2.3.2a (Delivery of tourist information services) Replaced T&P Committee with CRC and added funding

contribution

- Updated 2.3.2b (Engage in Wildflower Country projects) from 'Deliver' to 'Plan'
- Updated 2.3.2c (Development of new local tourism products) from 'Lobby' to 'Lobby/Deliver' in light of Astrotourism event funding
- Updated 2.4.2c (Walking trails on Mingenew Hill) from 'Maintain' to 'Plan/Deliver' given ongoing delivery of project and additional BBRF funding
- Updated 2.4.2g (Tennis Facilities Upgrade) to include addition of new funding sources for project
- Updated 3.2.2a (light industrial incubator project) from 'Delivery' to 'Plan' given ongoing delays awaiting response from State Government
- Updated 5.2.2c (Audit of local home-based/micro-businesses) to push the work back into 22/23 given that it will not be undertaken in FY21/22
- Added 5.2.2d (Support local small businesses to enable ongoing delivery of key services)

Workforce Plan:

- Removed repeated text

Long Term Financial Plan:

- Updated to reflect current project development status
- Ratios removed given current state of review

Asset Management Plan:

- Fixed typo
- Referenced 22/23 review of the AMP

Risk Management:

- Updated to reflect updated Risk Registers

Measuring performance:

- Community satisfaction survey item updated to reflect June 2022 delivery timeframe
- Staff turnover KPI updated
- Comments added/updated

Completed items:

- Items added following completion:
  - 1.1.1b Coalseam Bridge upgrade
  - 1.1.1d Phillip Street Parking upgrading
  - 1.1.1e Completion of town street sealing
  - 1.1.2c Audit and reseal of town carparks
  - 1.1.2f Upgrade of Shire depo shedding
  - 5.1.1a Plan, fund and install Wi-Fi in Mingenew town centre

It should be noted that – as with many of our planning documents – the CBP remains an ambitious set of targets for an organization our size to hit. This is reflected in the number of items that have had timeframes pushed out. As has been the case over FY21-22, an update on this progress will be provided as part of the Concept Forum reporting each month.

Upon endorsement the attached document will be appropriately formatted.

Consultation

- Councillors
- Leadership team

### **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) Regulation 1996:

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

- (1) A local government is to ensure that a corporate business 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 corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
- (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.
- (4) A local government is to review the current corporate business plan for its district every year.
- (5) A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.
- (6) A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine whether or not to adopt the plan or the modifications.
- (7) If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.

### **Policy Implications**

Nil

### **Financial Implications**

The Plan is the key driver for the annual budget and the long-term financial plan. This linkage ensures that community priorities are adequately funded and that appropriate and endorsed rating strategies are in place to allow any financial impact on the community to be carefully considered.

### **Strategic Implications**

This is a key strategic document; each item has been identified in terms of its links to the Strategic Community Plan 2019-29. It also has links to:

- Annual Budget
- Long Term Financial Plan
- Workforce Plan
- Asset Management Plan

#### 11.4 METHOD TO FILL ELECTED MEMBER VACANCY FOLLOWING EXTRAORDINARY ELECTION

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** GV.ELE.6  
**Date:** 5 June 2022  
**Author:** Erin Greaves, Governance & Community Manager  
**Authorising Officer:** Nils Hay, Chief Executive Officer  
**Voting Requirements:** Absolute Majority

##### Summary

With the resignation of Cr GF Pearse, there are a number of Committee positions vacant that Council will need to consider filling either from existing Councillors or by waiting for an outcome on the vacancy.

##### Key Points

- Cr GF Pearse resigned 1 April 2022 and an Extraordinary Election was to be held to fill the vacancy
- At the close of Nominations at 4pm Tuesday, 7 June 2022, no nominations had been received.
- Section 4.57 of the Local Government Act 1995 indicates the next steps if less candidates than vacancies are received
- Council may identify a suitable person for the role and nominate them for the position. Subject to their approval, Council may appoint a person by Absolute Majority

##### **OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.4 – RESOLUTION# 06150622**

**MOVED:** Cr JR Holmes

**SECONDED:** Cr CV Farr

1. That Council seeks to identify a suitable candidate for the current vacancy in accordance with s.4.57(3) of the *Local Government Act 1995* (an appointment will require an Absolute Majority decision of Council).
2. If no appointment is made by 17 August 2022, by Absolute Majority, Council seeks approval from the Electoral Commissioner for the vacancy to remain vacant until the next Ordinary Local Government Election as per s.4.17(3) of the *Local Government Act 1995*.

**VOTING REQUIREMENTS:**

**CARRIED BY ABSOLUTE MAJORITY 6/0**

##### Background

At the 20 April 2022 Ordinary Council meeting, Council decided to hold an Extraordinary Election to fill the vacancy left by former Cr Pearse's resignation. The Election date was set for 13 July 2022, which meant nominations opened Monday, 30 May 2022 and closed at 4pm, Tuesday, 7 June 2022 (to account for the Public Holiday on the Monday).

The Chief Executive Officer received no nominations as of 4pm, 7 June 2022.

##### Comment

Council may have more success in identifying a suitable candidate and approaching them directly, as is provided for under s.4.57(3) of the Local Government Act 1995.

Should Council not be successful in making an appointment in accordance with s.4.57(3), it may be able to seek permission from the Electoral Commissioner for the vacancy to remain unfilled until the next ordinary Election (October 2023).

### **Statutory Environment**

Local Government Act 1995

#### **4.17. Cases in which vacant offices can remain unfilled**

- (1) *If a member's office becomes vacant under section 2.32 on or after the third Saturday in July in the election year in which the term of the office would have ended under the Table to section 2.28, the vacancy is to remain unfilled and the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*
- (2) *If a member's office becomes vacant under section 2.32 —*
  - (a) *after the third Saturday in January in the election year in which the term of the office would have ended under the Table to section 2.28; but*
  - (b) *before the third Saturday in July in that election year, the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*
- (3) *If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow\* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

*\* Absolute majority required.*

#### **(4A) Subsection (3) applies —**

- (a) *if —*
  - (i) *the office is for a district that has no wards; and*
  - (ii) *at least 80% of the number of offices of member of the council in the district are still filled;**or*
- (b) *if —*
  - (i) *the office is for a ward for which there are 5 or more offices of councillor; and*
  - (ii) *at least 80% of the number of offices of councillor for the ward are still filled.*
- (4) *If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.*

#### **4.57. Less candidates than vacancies**

- (1) *If, at the close of nominations, there are no candidates for the office or offices to be filled at the election, an extraordinary election is to be held to fill the office or offices as if it or they had become vacant on the day after the close of nominations.*
- (2) *If, at the close of nominations, the number of candidates is less than the number of offices to be filled at the election —*
  - (a) *the candidate or candidates is or are elected; and*
  - (b) *an extraordinary election is to be held to fill the remaining office or offices as if it or they had become vacant on the day after the close of nominations.*
- (3) *If, at the close of nominations for an extraordinary election required under subsection (1) or (2) there are no candidates or the number of candidates is less than the number of offices to be filled at the election, the council may appoint\* to any unfilled office a person who would be eligible to be a candidate for election to the office and who is willing to accept the appointment.*

*\* Absolute majority required.*

- (4) *A person appointed under subsection (3) is to be regarded as having been elected.*

### **Policy Implications**

Nil

**Financial Implications**

Nil

**Strategic Implications**

Strategic Community Plan 2019-29

1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders

## 11.5 ANNUAL REVIEW OF DELEGATIONS AND UPDATE OF REGISTER

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
File Reference: GV.AUT.2  
Disclosure of Interest: Nil  
Date: 1 June 2022  
Author: Erin Greaves, Governance Officer  
Authorising Author: Nils Hay, Chief Executive Officer  
Voting Requirements: Absolute Majority

### Summary

In order to meet the local government's statutory obligation to review its delegations at least once a year to facilitate effective and efficient decision making.

### Key Points

- Local governments are required to review its delegations at least once every financial year
- The last review was undertaken by Council in June 2021
- The Register provided, lists all delegations made from the state government to the local government, Council to Committees and Council to the Chief Executive Officer or other personnel
- The CEO may delegate to any employee a power or discharge where appropriate

### **OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.5 – RESOLUTION# 07150622**

**MOVED: Cr JD Bagley**

**SECONDED: Cr CV Farr**

That Council adopts, by Absolute Majority, the updated Delegations Register as presented in Attachment Booklet – June 2022, satisfying the requirement under s5.18 of the *Local Government Act 1995* to undertake an annual review at least once every financial year.

**VOTING REQUIREMENTS:**

**CARRIED BY ABSOLUTE MAJORITY 6/0**

### Attachments

11.5.1 Proposed Updated Delegations Register v1.7 (NLM211586)

### Background

Local Governments are required to keep a register of delegations and to review the delegations at least once every financial year, as per *Local Government Act 1995* s5.18 and s5.46. These delegations include those from Council to the Chief Executive Officer and Committees, and the Chief Executive Officer to other staff. Council has not yet reviewed the Register this financial year.

### Comment

A significant review process was undertaken prior to the Delegations Review in June 2021 and there have been no legislation changes identified that impact existing delegations. Therefore, no changes have been proposed.

A review of Delegations (sub-delegations i.e. from the Chief Executive Officer to employees) and Authorisations will be undertaken internally, following Council's review to ensure alignment with the delegations.

### Statutory Environment

*Local Government Act 1995*

**5.16. Delegation of some powers and duties to certain committees**

- (1) Under and subject to section 5.17, a local government may delegate\* to a committee any of its powers and duties other than this power of delegation.

\* Absolute majority required.

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
- (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
  - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

**5.17. Limits on delegation of powers and duties to certain committees**

- (1) A local government can delegate —
- (a) to a committee comprising council members only, any of the council's powers or duties under this Act except —
    - (i) any power or duty that requires a decision of an absolute majority of the council; and
    - (ii) any other power or duty that is prescribed; and
  - (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and
  - (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —
    - (i) the local government's property; or
    - (ii) an event in which the local government is involved.
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).

**5.18. Register of delegations to committees**

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

**5.42. Delegation of some powers and duties to CEO**

- (1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
- (a) this Act other than those referred to in section 5.43; or
  - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

\* Absolute majority required.

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

**5.43. Limits on delegations to CEO**

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;

- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) *the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) *any power or duty that requires the approval of the Minister or the Governor;*
- (i) *such other powers or duties as may be prescribed.*

**5.44. CEO may delegate powers and duties to other employees**

- (1) *A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.*
- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) *This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —*
  - (a) *the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and*
  - (b) *the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its delegation to the CEO.*
- (4) *Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.*
- (5) *In subsections (3) and (4) — conditions includes qualifications, limitations or exceptions.*

**5.45. Other matters relevant to delegations under this Division**

- (1) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*
  - (a) *a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and*
  - (b) *any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.*
- (2) *Nothing in this Division is to be read as preventing —*
  - (a) *a local government from performing any of its functions by acting through a person other than the CEO; or*
  - (b) *a CEO from performing any of his or her functions by acting through another person.*

**5.46. Register of, and records relevant to, delegations to CEO and employees**

- 1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
- 2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*
- 3) *A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*

*Specific statutory requirements are outlined within the Register for each delegation made.*

**Policy Implications**

The Delegations Register will link with and guide some Council and internal policies. Reference to the relevant Council Policy for each delegation is listed within the register.

**Financial Implications**

Delegations allow for a more streamlined and timely service for its ratepayers and stakeholders creating resourcing efficiencies, where Council oversight is not required as direction has been provided through the delegation, policy or other instrument, or an employee is suitably qualified and/or experienced to undertake the power/duty.

**Strategic Implications**

Strategic Community Plan 2019-2029

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

## 11.6 JOINT VENTURE AGREEMENT FOR AGED PERSONS UNITS

**Location/Address:** 12 Victoria Street, Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** CP.LSO.1  
**Date:** 8 June 2022  
**Author:** Erin Greaves, Governance & Community Manager  
**Authorising Officer:** Nils Hay, Chief Executive Officer  
**Voting Requirements:** Simple Majority

### Summary

The Shire's Joint Venture Agreement (JVA) with "Homeswest" (now Department of Communities) is due to expire 20 August 2022 and Council are presented with the options to extend, renew or terminate the Agreement.

### Key Points

- The Shire has a Joint Venture Agreement with Homeswest that was established to formalise the financing and management of the Aged Persons Units (APUs)
- The JVA is due to expire in August 2022
- Council is presented with options available upon expiry of the Agreement
- The recommendation is for the Agreement to be extended

**OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.6 – RESOLUTION# 08150622**  
**MOVED: Cr JR Holmes**                      **SECONDED: Cr AR Smyth**

**That Council:**

1. Agrees in principle, to extend the Term of the Joint Venture Agreement (JVA) with "Homeswest" for the four Aged Persons Units at 12 (Lot 66) Victoria Street, Mingenew in accordance with Clause 7.1 of the JVA; and
2. Obtains a valuation for the property to determine the Current Market Value of the Land and Units, and revised project equities.

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

### Attachment

11.6.1 Joint Venture Agreement (original) – August 1997

### Background

In August 1997, Council entered into a Joint Venture Agreement (JVA) with "Homeswest" (now Department of Communities) to fund and construct the four aged persons units at 12 Victoria Street, Mingenew.

The Agreement sets out the

The total project cost at the time was \$357,130, with the Shire contributing \$54,777 and holding an equity percentage of 15.37% (OEI) and Homeswest contributing \$302,353 with 84.66% (HEI) equity.

In regard to expiration of the Agreement, Clause 7 provides:

*"7.1 At least six months before the expiration of the Term, but not earlier than 18 months*

*before the expiration of the Term, the Parties shall agree to one of the following courses of action:*

- a) to enter into a new joint venture agreement between the Parties on new terms and conditions with a view to continuing the Project;*
- b) to extend the Term of the existing Agreement for a further period as agreed between the Parties;*
- c) to assign or transfer the Organisation's Interest in the Joint Venture Property to another organisation or party which agrees to be bound by all the terms and conditions of this agreement for a new term or is willing to negotiate a new Joint Venture agreement with Homeswest;*
- d) the Organisation to buy out Homeswest's equitable Interest in the Joint Venture at its Current Market Value;*
- e) Homeswest to purchase the Organisation's equitable Interests in the Joint Venture Property at its Current Market Value, and thereby transfer proprietorship of the Land to Homeswest ;*
- f) to sell the Joint Venture Property at its Current Market Value and divide the proceeds of the sale between the Parties based on each Party's percentage equitable Interest in the Joint Venture as identified in Item 3 of the Schedule.*

*7.2 In the event that the Parties agree to renew or extend the Agreement pursuant to clauses 7. 1a) & 7. 1b), or agree to transfer the Organisation's Interest pursuant to clause 7. 1c), then the equitable Interests in the Joint Venture of each Party shall be revalued at their Current Market Values in accordance with the formula stated in Annexure C of this Agreement. The revised project equities shall be entered into Item 5 of the Schedule.*

*7.3 In the event that the Parties agree to pursue the options identified in Clauses 7 .1 d), 7 .1 e) or 7. 1 f), then the percentage equitable Interests in the Joint Venture of each of the Parties shall be as stated in Item 3 of the Schedule.*

*7.4 The Current Market Value of the Land and the other Joint Venture Property shall be determined by a Valuer approved by Homeswest. In the event of a disagreement between the Parties about the valuation, the Current Market Value of the Land and the other Joint Venture Property shall be determined by taking the average of 2 valuations thereof by 2 Valuers, one nominated by Homeswest and the other nominated by the Organisation, and this determination shall be final and binding upon the Parties."*

The Department of Communities contacted the Shire in April 2022 to discuss the impending Agreement expiration and a virtual meeting with representatives from the Property Management team. During this meeting, representatives indicated that the option to renew was their preferred option. No term length was proposed but would be negotiated based on condition and expected useful life. The Shire's asset management system estimates the "useful life" of the Aged Person Units to be 32 years (from construction), which would be 2029.

### Comment

A comment regarding each of the options are provided below:

#### New JVA

- would allow the Shire to seek advice on the contractual requirements to ensure it is structured in the Shire's interest and reflects contemporary contract management practice;
- provides an opportunity to consider changes to the arrangements and the structure of each of the parties, with a focus on management of the Aged Persons Units (APUs) and current social housing policies;
- would attract legal costs for the development of a new Agreement

#### Extend the JVA

- would require minimal costs (valuation) and resourcing to execute
- The Shire's equity may change - Annexure C of the JVA (page 28 of Attachment 11.6.1) outlines how the equity under renewal or extension is calculated and an example is provided under Financial Implications

- Department of Communities preferred option

Assign or Transfer the Shire's Interest

- No appropriate party has been identified
- The Shire would be relieved of responsibility to maintain and manage the property and there would be savings to the Shire
- Reputational risk to Shire in not supporting housing for seniors and vulnerable members of the community
- Have two Independent Living Units adjacent to the units that the Shire would still manage

Buy Out Homeswest's Interest

- An indicative valuation was sought from Harcourts Dongara but to-date no response has been received
- Council would need to fund the buy out, the current Budget does not provide for this

Homeswest to Buy Out the Shire's Interest

- Not likely given the Department's feedback
- Valuation would be required

Sell the Property and Divide Proceeds

- Selling the property would reduce affordability and availability of suitable housing for seniors within the Shire
- Valuation would be required

It is the Officer's Recommendation that an extension to the existing agreement be sought and a valuation obtained to determine the revised equity interests. Given the estimated useful life, it is suggested that a 5 year term plus option to extend yearly for 2 years be used as a starting point for negotiations.

Once a valuation has been obtained and the revised equitable interests determined, the Shire can commence negotiations with the Department and return to Council for a final determination.

Consultation

Department of Communities

Statutory Environment

Local Government Act 1995

Policy Implications

Nil

Financial Implications

If the option to extend or renew is agreed, the JVA requires that a revaluation to be done which would cost approximately \$1,000 (cost shared with Department based on equity).

The following is an example of how the revaluation would impact the equitable interests as per Annexure C (Revaluation of Equities Formula):

Step 1 – Equitable interest in Land

Total of Land Costs = Land Costs contributed by Shire + Land Costs contributed by Homeswest

\$22,946 = \$22,946 + \$0

Shire's Equitable Interest in Land = 100%

Homeswest's Equitable Interest in Land = 0%

Step 2 – Equitable Interest in Units

Total of Construction Costs = Construction Costs\* contributed by Shire + Construction Costs contributed by Homeswest

\*Construction Costs plus any subsequent agreed improvements (no value for improvements provided for this exercise)

$$\$334,184 = \$31,831 + \$302,353$$

Shire's Equitable Interest in Units = 9.52%

Homeswest's Equitable Interest in Units = 90.47%

Step 3 – Revaluation of Equitable Interests in Joint Venture

Current Market Value of Land (L) = \$20,000

Current Market Value of Units (U) = \$300,000

Shire's Equitable Interest in Land = \$20,000 x 100% = \$20,000

Homeswest's Equitable Interest in Land = \$20,000 x 0% = \$0

Shire's Equitable Interest in Units = \$300,000 x 9.52% = \$28,560

Homeswest's Equitable Interest in Units = \$300,000 x 90.47% = \$271,410

Total Project Value (TPV) = \$20,000 + \$0 + \$28,560 + \$271,410 = \$319,970

***Shire's revised equitable interest =***

$$\$20,000 + \$28,560 / \$319,970 \times 100 = 15.18\%$$

***Homeswest revised equitable interest***

$$\$0 + \$271,410 / \$319,970 \times 100 = 84.82\%$$

In this scenario, the Shire's equitable interest has decreased, although this does not factor any improvements made since construction and is not based on an actual valuation.

Strategic Implications

Strategic Community Plan 2019-29

3.1.2 Develop local housing market (support new business model)

## 11.7 APPOINTMENT TO COMMITTEES FOLLOWING COUNCILLOR RESIGNATION

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** GV.CMT.4  
**Date:** 9 June 2022  
**Author:** Erin Greaves, Governance & Community Manager  
**Authorising Officer:** Nils Hay, Chief Executive Officer  
**Voting Requirements:** Absolute Majority

### Summary

With the resignation of Cr GF Pearse, there are a number of Committee positions vacant that Council will need to consider filling either from existing Councillors or by waiting for an outcome on the vacancy.

### Key Points

- A vacancy exists on the Audit & Risk Committee for a Council member following the resignation of Cr GF Pearse. The Committee's Terms of Reference require that the Committee consist of at least four members, including one external member. It has been Council's preference to operate with four Elected Members and one Independent Member, but the position could remain vacant.
- Former Cr GF Pearse also held a number of proxy delegate positions, but it is not considered urgent that these be filled until there is an outcome on how of if the current Elected Member vacancy is to be filled.
- Elected Member Committee appointments are generally reviewed following each ordinary local government election but may be amended by Council by Absolute Majority decision at any time.

### OFFICER RECOMMENDATION – ITEM 11.7

That Council, by Absolute Majority, appoints:

1. Cr \_\_\_\_\_ to the Shire of Mingenew Audit & Risk Committee;
2. Cr \_\_\_\_\_ as proxy delegate to the Behaviour Complaints Committee;
3. Cr \_\_\_\_\_ as proxy delegate to the Regional Joint Development Assessment Panel; and
4. Cr \_\_\_\_\_ as proxy delegate to the Northern Country Zone of WALGA.

### OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.7 – RESOLUTION# 09150622

MOVED: Cr HR McTaggart

SECONDED: Cr AR Smyth

That Council, by Absolute Majority, appoints:

1. Cr JR Holmes to the Shire of Mingenew Audit & Risk Committee;
2. Cr JR Holmes as proxy delegate to the Behaviour Complaints Committee;
3. Cr JR Holmes as proxy delegate to the Regional Joint Development Assessment Panel; and
4. Cr JR Holmes as proxy delegate to the Northern Country Zone of WALGA.

**VOTING REQUIREMENTS:**

**CARRIED BY ABSOLUTE MAJORITY 6/0**

### Attachment

- 11.7.1 Audit & Risk Committee Terms of Reference
- 11.7.2 Behaviour Complaints Committee Terms of Reference
- 11.7.3 Northern Country Zone of WALGA Information Pack

### **Background**

The Shire recently called for nominations for Council through an Extraordinary Election process to fill the vacant position left by the resignation of former Cr GF Pearse. At the close of nominations, no nominations had been received. A separate report is presented for Council to consider its options with regard to the vacancy.

As the vacancy may not be filled immediately, Council should consider whether to fill the existing vacancies on Council Committees and external organisations.

Former Cr Pearse held the following Council representative positions:

- Audit & Risk Committee Member
- Behaviour Complaints Committee – proxy delegate
- Joint Development Assessment Panel – proxy delegate
- Northern Country Zone – proxy delegate

Current Membership of the Committees impacted by the vacancy are:

#### **Shire of Mingenew Audit & Risk Committee**

Cr HR McTaggart (Chairperson)

Cr GJ Cosgrove

Cr AR Smyth

*Vacant*

Ms Jane Bagshaw – Independent Member

#### **Shire of Mingenew Behaviour Complaints Committee**

Cr JD Bagley

Cr AR Smyth

Cr CV Farr

Proxy delegates – Cr HR McTaggart, Cr GJ Cosgrove and *vacant*

#### **Joint Development Assessment Panel**

Cr GJ Cosgrove

Cr JD Bagley

Proxy delegates – Cr CV Farr and *vacant*

#### **Northern Country Zone of WALGA**

Cr GJ Cosgrove

Cr HR McTaggart

Proxy delegates - *vacant*

### **Comment**

There is no urgency to fill the vacancies, and Council does have the option to operate without a fourth Council member on its Audit & Risk Committee however, the timeframe for Council filling the vacancy is currently unknown therefore, it is suggested that Council fill the current vacancies now and a review can be undertaken if/when the Council vacancy is filled.

The Audit & Risk Committee Terms of Reference require that the Committee consist of at least four members, including an independent member although it has been Council's past practice to have four Elected Members on the Committee plus an independent member. It is anticipated that the Committee will next be meeting in late June / July.

The Behaviour Complaints Committee (BCC) has three proxy delegates to ensure that, should a member of Council receive a complaint against them, and the matter is presented before the BCC, then that member or members do not form part of the sitting Committee and proxies can be used. The BCC meets only as required.

A Development Assessment Panel (DAP) is an independent decision-making body comprised of technical experts and elected local government members. These panels determine development applications made under local and region planning schemes, in the place of the original decision maker (where certain criteria is met). All Development Assessment Panel (DAP) members are appointed by the Minister for Planning and are based on recommendation from local governments. The Regional Joint Development Assessment Panel (JDAP) has not yet had cause to meet. If there is likely to be a matter for the DAP to consider, all nominated Panel members would be required to undertake specialist training.

The Northern Country Zone of WALGA provide the opportunity for local and regional issues to be discussed and matters shared between the local and State Council level. The next Northern Country Zone of WALGA meeting is to be held on 27 June 2022 and hosted in Mingenew.

#### **Statutory Environment**

Local Government Act 1995

#### **Policy Implications**

Nil

#### **Financial Implications**

Nil

#### **Strategic Implications**

Strategic Community Plan 2019-29

1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders

## 11.8 NORTH WEST STOCK ROUTE

<b>Location/Address:</b>	Yandanooka West Road, Mingenew South Road & Victoria Road reserves
<b>Name of Applicant:</b>	Department of Planning, Land & Heritage
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	GR.STL 8 / OCR225476
<b>Date:</b>	30 May 2022
<b>Author:</b>	Simon Lancaster, Planning Advisor
<b>Senior Officer:</b>	Nils Hay, Chief Executive Officer
<b>Voting Requirements:</b>	Simple Majority

## Summary

The Department of Planning, Lands & Heritage ('DPLH') are considering entry of the former North West Stock Route alignment onto the State Register of Heritage Places. This report recommends that Council request the DPLH remove the alignment as it relates to the Shire of Mingenew from the area under consideration for entry onto the State Register of Heritage Places.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.8 – RESOLUTION# 10150622  
MOVED: Cr JD Bagley                      SECONDED: Cr AR Smyth

That Council request that the Department of Planning, Lands & Heritage remove the former North West Stock Route alignment as it relates to the Shire of Mingenew local government area from the area under consideration for entry onto the State Register of Heritage Places.

**VOTING REQUIREMENTS:** CARRIED BY SIMPLE MAJORITY 6/0

## Background

The DPLH initially wrote to the Shire on 21/12/21 advising that it considered that the former North West Stock Route alignment, commencing at Star Swamp in North Beach and extending for approximately 335km to Allanooka Swamp in Allanooka, had cultural heritage significance and should be entered onto the State Register of Heritage Places ('State Register').

The DPLH have also included a 48km spur alignment, running 40km east from Mount Adams before heading north for 8km to terminate south of Mingenew townsite and it this spur alignment that impacts the Shire of Mingenew.

The DPLH considered that the North West Stock Route (also known as the Old North Road) being one of the earliest gazetted stock routes in the state was instrumental in the development of the pastoral industry north of Perth and the resulting settlement and expansion of towns along the route.

A copy of the DPLH's 21/12/21 correspondence was provided as an attachment with the 16/2/22 Council Agenda and the supporting information prepared by the DPLH can be accessed at the following link:

<https://consultation.dplh.wa.gov.au/heritage/north-west-stock-route/>

The Shire raised several queries and concerns in relation to the proposal with the DPLH, particularly in relation to the affected privately owned land within the Shire of Mingenew, and a copy of this 5/1/22 Shire correspondence was also provided as an attachment with the 16/2/22 Council Agenda.

The DPLH responded on 27/1/22 answering some of the Shire's queries and also advising that the DPLH had removed privately owned land (as it related to the Shire of Mingenew local government area) from the area under consideration upon the consultation maps and updated its website consultation hub accordingly. A copy of this DPLH correspondence was also provided as an attachment with the 16/2/22 Council Agenda.

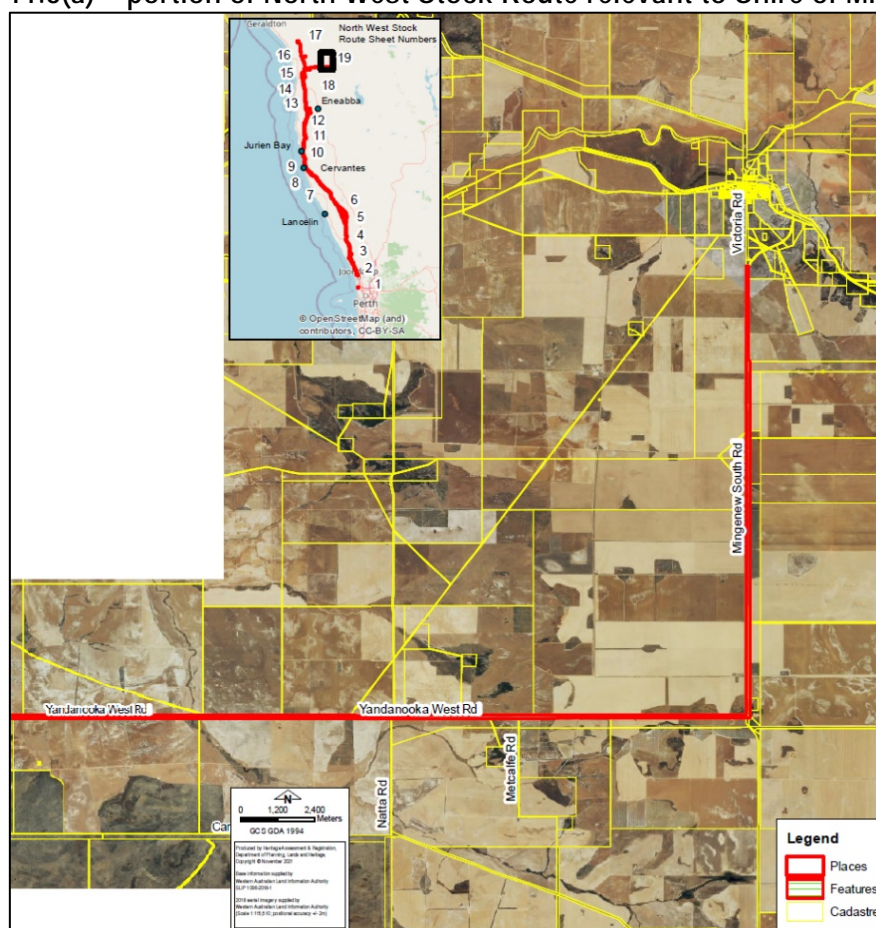
Council resolved at its 16/2/22 meeting as follows:

*"That Council advise the Department of Planning, Lands & Heritage that it does not support the registration of the former North West Stock Route alignment as it relates to the Shire of Mingenew local government area upon the State Register of Heritage Places."*

Since that time the DPLH have been in contact with the Shire to provide further information in support of their proposed inclusion of the North West Stock Route on the State Register. These discussions have included suggestion that the Shire could seek exemption and/or delegations for certain works within the curtilage of the North West Stock Route within the Shire of Mingenew.

It is not considered, given the prescriptive nature of the *Heritage Regulations 2019*, that exemptions capable of satisfying the requirements of the Shire of Mingenew (or other local governments along the route) could be granted. Even in the event that exemptions were provided this would still provide an unnecessary additional layer of bureaucracy to applicants and additional unjustified administrative burden to the Shire. On this basis the previous Council resolution to oppose the inclusion of the North West Stock Route on the State Register should be maintained, and the DPLH be requested to remove the section as it relates to the Shire of Mingenew from any further consideration.

Figure 11.8(a) – portion of North West Stock Route relevant to Shire of Mingenew



### Comment

Entry of the North West Stock Route on the State Register would require that works within the alignment must be referred to the DPLH for assessment and advice.

The North West Stock Route, as it relates to the Shire of Mingenew now relates only to the Yandanooka West Road, Mingenew South Road & Victoria Road reserves (the initially advertised alignment included privately owned land and this was removed following query made by the Shire). This would mean that the only types of works anticipated to occur within the North West Stock Route area, as it relates to the Shire of Mingenew, would be Shire works and some service provider/utility works, this is not the case further south along the alignment in other local government areas where other forms of tenure become involved.

The *Heritage Regulations 2019* allows for some exemptions where referral is not required such as minor repair/maintenance involving like-for-like materials and these are addressed in more detail in the Statutory Environment section of this report.

More significant local government works within the road reserve, such as sealing, grading, gravel resheeting, installation of culverts, reforming roadside drainage, realignment, intersection widening/improvements, earthworks, firefighting equipment (e.g. tanks, standpipes, bores, radio masts etc.) and erection of bulky structures would require referral to DPLH.

New and upgrading servicing works would also require referral e.g. installation of overhead or underground powerlines, above or below ground water pipelines, pumping stations, transformer/padmounts, private/public telecommunications lines, telecommunications/internet infrastructure (e.g. masts, aerials, dishes), gas pipelines etc.

The classification of the alignment as either primary or secondary significance does not reduce the referral process for works within these areas, rather is taken into account during the assessment of proposed works.

There is not a requirement under the *Heritage Act 2018* to refer works proposed on land adjacent to a site upon the State Register. However, the *Planning and Development (Local Planning Schemes) Regulations 2015* requires, where an application for development approval is required, that the local government consider the heritage conservation of any place that is of cultural significance, and the effect of the proposal on the cultural heritage significance of the area in which the development is located. On this basis the Shire would be required, where it is considered that a proposed works on adjacent land may impact the cultural heritage significance of the North West Stock Route, to refer the matter to the DPLH for their comment.

Where the works are required to be referred, the *Heritage Act 2018* states that the Shire must not make a decision that would be likely to adversely affect a significant component of the place unless the decision made is consistent with the advice received from the DPLH. This requirement does not apply if the Shire considers that there is '*no feasible and prudent alternative*' to the decision made. There is no further guidance as to what would fit within the definition of '*no feasible or prudent alternative*'.

One area of concern for the Shire is that the North West Stock Route alignment being considered by the DPLH includes part of the airstrip infrastructure. The initially advertised alignment included Reserve 27425 i.e. the entire airstrip reserve (as shown in red outline in Figure 116(b) below). Following the Shire's correspondence Reserve 27425 has been removed by the DPLH. so that the alignment is now just the Mingenew South Road reserve. However this will still mean that any Shire (or other party) works between the airstrip and the carriageway will require referral to the DPLH e.g. airstrip works, associated infrastructure works including buildings, landing lights, signage, access works, fencing, gates etc.

Figure 11.8(b) – Reserve 27425 Mingenew Airstrip



On this basis it is not considered that amendment to Council's previous stance in relation to this matter be made, and that Council should request that the DPLH remove the section of the alignment relevant to the North West Stock Route from further consideration onto the State Register.

It is noted that the section relevant to the Shire of Mingenew is a 48km spur of the main coastal route and its removal from the DPLH's ongoing consideration would not impact the continuity of the alignment or the broader discussion on the 335km North West Stock Route.

### Consultation

The DPLH website originally advised that submissions in relation to this matter must be received by 28/3/22 whilst the Fast Facts Sheet on the website advises that the comment period closed on 28/2/22. The DPH advised the Shire on 11/4/22 that it had extended the stakeholder comment period until 28/10/22.

DPLH are consulting with the 8 local governments along the former North West Stock Route, being the City of Stirling, City of Wanneroo, Shire of Gingin, Shire of Dandaragan, Shire of Coorow, Shire of Carnamah, Shire of Irwin and Shire of Mingenew.

It is considered that not all of the issues relevant to the Shire of Mingenew would be relevant to each of the local governments along the route, although it is likely that they would share many of them. It is also likely that the local governments where the former North West Stock Route passes through more built up areas or land subject to subdivision and development pressure may have additional concerns with the DPLH's proposal.

Following the DPLH's completion of the consultation process the Heritage Council of Western Australia will meet to consider whether the alignment is of State significance and should it be supported this matter will be forwarded to the Minister for Heritage for final determination.

Part 3 Division 2 Section 42 – Entry in register of the *Heritage Act 2018* states that:

"42 Entry in register

- (1) *As soon as practicable after receiving a direction under section 41(1)(a) in relation to a place, the Council must make an entry in the register in relation to the place in accordance with section 36(2).*
- (2) *The Council must —*
  - (a) *publish in the Gazette a notice in relation to the entry in the register setting out a land description of the place and any other prescribed particulars; and*
  - (b) *give notice in accordance with section 163 of the entry in the register to —*
    - (i) *each owner of the place; and*
    - (ii) *each person prescribed for the purposes of this subsection;**and*
  - (c) *give statutory notification of the entry in the register; and*
  - (d) *notify the Valuer-General of the entry in the register.*
- (3) *The Council may publish, in accordance with the regulations, an advertisement in relation to the entry in the register."*

*"163 Notices and statutory notification*

- (1) *Unless this Act provides otherwise, notice may be given to a person —*
  - (a) *by giving the person notice in writing; or*
  - (b) *if permitted under the regulations, by giving the person notice by means of an electronic communication (as defined in the Electronic Transactions Act 2011 section 5(1)); or*
  - (c) *if permitted under the regulations, by publishing an advertisement in accordance with the regulations; or*
  - (d) *in another prescribed way.*
- (2) *Notice must be given within the period, if any, specified in the regulations.*
- (3) *A requirement under this Act to give statutory notification of an event is satisfied, subject to and in accordance with regulations, by taking steps to have the event registered, recorded or noted by the Registrar of Titles, the Registrar of Deeds and Transfers, or another person or agency, as appropriate to the case, under —*
  - (a) *the Mining Act 1978; or*
  - (b) *the Registration of Deeds Act 1856; or*
  - (c) *the Transfer of Land Act 1893; or*
  - (d) *any other written law dealing with the registration of interests in or affecting land."*

**Statutory Environment**

Section 45 of the now repealed *Heritage of Western Australia Act 1990* required every local government to compile a Municipal Inventory of places within its district which in its opinion are, or may become, of cultural heritage significance. The Shire of Mingenew Municipal Inventory of Heritage Places was prepared in 1996.

The *Heritage Act 2018* replaced the 1990 legislation and required that local governments update their Municipal Inventories into Local Heritage Surveys. The Shire of Mingenew has been awarded a grant by the DPLH to review its Municipal Inventory and it is anticipated it will take approximately 12 months to complete the statutory process.

The *Planning and Development (Local Planning Schemes) Regulations 2015* also introduced the requirement that local governments *"must establish and maintain a Heritage List to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation"*. Upon conclusion of the Municipal Inventory review/Local Heritage Survey preparation process the Shire will be in position to formally consider its Heritage List.

Part 5 Division 1 of the *Heritage Act 2018* defines a proposal as follows:

*“proposal means —*

- (a) an application for development approval; or*
- (b) a proposal, project, plan, programme, policy, public work, operation or undertaking for or relating to the development of any land owned, occupied or managed by a public authority; or*
- (c) any other proposal by a public authority to exercise any of its powers in a way that would or might significantly affect the physical character of any land; or*
- (d) a submission or application relating to the development of land of a kind prescribed to be a proposal for the purposes of Division 2;”*

Part 5 Division 2 – Referral of proposals of the *Heritage Act 2018* states:

*“Subdivision 1 — Proposals that must be referred*

*72 Proposals to which Subdivision applies*

- (1) This Subdivision applies to a proposal that, if implemented, would, or would be likely to, affect —*
  - (a) a registered place; or*
  - (b) a place that is the subject of a heritage agreement to which the Council is a party; or*
  - (c) a place that is the subject of a protection order, if the terms of the order give the Council discretion to authorise works that the order would otherwise prohibit.*
- (2) For the purposes of subsection (1), a proposal may affect a place even if it is not directly related to that place.”*

*“73 Referral of certain proposals to Council*

- (1) A decision-maker considering a proposal to which this Subdivision applies must refer the proposal to the Council for its advice.*
- (2) The decision-maker must refer the proposal under subsection (1) as soon as practicable after it becomes aware of the proposal.”*

*“75 Decision on referred proposal*

- (1) In respect of a referred proposal, a decision-maker must not make a decision that would, or would be likely to, adversely affect to a significant extent a place mentioned in section 72(1) (even though the decision is not directly related to that place) unless —*
  - (a) the decision-maker has used its best endeavours to ensure that each person involved in the implementation of the proposal will take all measures to minimise any adverse effect that they can reasonably take; and*
  - (b) the decision-maker has complied with section 73; and*
  - (c) the decision-maker has either received advice on the referred proposal from the Council under section 74 or waited the prescribed period to receive advice; and*
  - (d) subject to subsection (2), the decision made is consistent with advice received from the Council.*
- (2) Subsection (1)(d) does not apply if the decision-maker finds that there is no feasible and prudent alternative to the decision made.”*

Note: References in the above extract from the *Heritage Act 2018* to ‘Council’ are to the Heritage Council of WA and not a local government Council.

If the North West Stock Route is listed on the State Register the impacted local governments must comply with the requirements of the *Heritage Act 2018* and the *Heritage Regulations 2019*. Whilst major works are required to be referred to the DPLH Regulation 41(1) of the *Heritage Regulations 2019* does provides exemption from referral for some minor works as follows:

- “(a) an application for a building permit or demolition permit under the Building Act 2011 if-
  - (i) the application arises from approval of a proposal that has already been referred under section 73(1) of the Act; and*
  - (ii) the Council has given its advice in relation to the referred proposal;**
- (b) building maintenance that does not involve-
  - (i) the removal of, or damage to, the existing fabric of the buildings; or*
  - (ii) the use of new materials;**
- (c) cleaning that is low pressure, non-abrasive and non-chemical;*
- (d) gardening or landscape maintenance that does not involve a major alteration of the layout, contours, structures, significant plant species or other significant features on the land;*
- (e) repairs, including replacing missing or deteriorated fabric with like for like fabric, that does not involve the removal of, or damage to, the significant fabric of the building;*
- (f) replacement of utility services using existing routes or voids that does not involve the removal of, or damage to, the fabric of the building;*
- (g) repainting of the surface of a building-
  - (i) in the same colour scheme and paint type if they are appropriate to the substrate and do not endanger the survival of earlier paint layers; and*
  - (ii) without disturbing or removing an earlier paint layer unless it is chalking, flaking or peeling;**
- (h) an excavation, that does not affect archaeological remains, for the purpose of exposing, inspecting, maintaining or replacing utility services;*
- (i) the erection or installation of a temporary security fence, scaffold, hoarding or surveillance system that does not affect the fabric of a building, the landscape or archaeological features of the land;*
- (j) signage that —
  - (i) does not obscure signage that has an integral relationship to the land; or*
  - (ii) is temporary and does not have a deleterious effect on the fabric of a building; or*
  - (iii) is temporarily located behind a shop window but is not internally illuminated or flashing;*  
*or*  - (iv) advertises that a place is for sale or lease but does not remain on the place for more than 10 days after the place is sold or leased;**
- (k) digging a new grave or the erection of a monument or grave marker of materials, size and form that are consistent with the character of the place.”*

### **Policy Implications**

There are no local planning policies relevant to this application.

### **Financial Implications**

The inclusion of the North West Stock Route onto the State Register will create additional administrative burden for the Shire that will carry cost. Even in the event that DPLH could provide exemption for works beyond those listed in the *Heritage Regulations 2019* this would still create a new regulatory element for the Shire that it would be required to navigate. It is also noted that this would have a greater proportionate impact on the smaller, less resourced local governments along the alignment (Mingenew being the smallest of all).

### **Strategic Implications**

Entry of a place upon the State Register of Heritage Places is reserved for places of state cultural heritage significance and is the highest recognition afforded at the state level ensuring that proposed changes respect the heritage values of the place.

There is 1 site on the State Register within the Shire of Mingenew, this being the Mingenew Police Group (comprising the Police Station, former Courthouse and associated Police Residence) upon Reserves 7422 & 24354 William Street, Mingenew. Council resolved to advise the DPLH at its 20/9/17 meeting that it had no objection to the Police Group being entered onto the State Register of Heritage Places providing that this was supported by the relevant management authorities, being WA Police and Government Regional Officer Housing. The Mingenew Police Group was entered on the State Register by the DPLH on 2/11/18.

The draft Shire of Mingenew Local Heritage Survey that would replace the current Shire of Mingenew Municipal Inventory of Heritage Places was received by Council at its 20/4/22 meeting and advertised for comment until 23/5/22.

The Survey lists the North West Stock Route as being Category 4 (1 being the highest significance and 4 the lowest) and is therefore not recommended for inclusion on the Local Heritage List, let alone the State Register.

## 11.9 BUSH FIRE BRIGADE POSITION STATEMENT

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: ES.VOL.1  
Date: 31 May 2022  
Author: Nils Hay, Chief Executive Officer  
Authorising Officer: Nils Hay, Chief Executive Officer  
Voting Requirements: Simple Majority

### Summary

WALGA is developing an advocacy position on arrangements for the management of volunteer bushfire brigades and this paper seeks to provide feedback to assist with future lobbying in this space.

### Key Points

- With introduction of new Work Health and Safety Act 2020, there has been renewed focus on resourcing requirements to compliantly manage Bush Fire Brigades (BFBs)
- The Shire of Mingenew, despite ongoing lobbying for several years, does not have a DFES-subsidised Community Emergency Services Manager (CESM) in place, who could potentially assist with BFB management, including improvement of WHS compliance
- It is proposed that the Shire support WALGA position to give local governments the option to transfer responsibility for BFBs to the DFES (a so-called "hybrid model")

### OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.9 – RESOLUTION# 11150622

MOVED: Cr AR Smyth                      SECONDED: Cr JR Holmes

That Council:

1. Supports WALGA's Advocacy Position for Arrangements for Management of Bush Fire Brigades:
  - A. "The Association advocates that the State Government must provide for:
    - a. A clear pathway for Local Governments to transfer responsibility for the management of Bush Fire Brigades to the State Government when ongoing management is beyond the capacity, capability and resources of the Local Government;
    - b. The co-design of a suite of relevant guidelines and materials to assist those Local Governments that manage Bush Fire Brigades;
    - c. Mandatory and minimum training requirements for Bush Fire Brigade volunteers supported by a universally accessible training program managed by the Department of Fire and Emergency Services (DFES); and
    - d. The recognition of prior learning, experience and competency of Bush Fire Brigade volunteers.
  - B. That a Working Group comprising representatives of WALGA and DFES be established to develop a process and timeline for the transfer of responsibility for Bush Fire Brigades in accordance with 1(a).
  - C. Where management of Bush Fire Brigades is transferred to DFES in accordance with 1(a), DFES should be resourced to undertake the additional responsibility."
2. That, if DFES were appropriately resourced and the option was available, the Shire of Mingenew would seek to transfer responsibility for the management of its BFBs to the State Government.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

### **Attachments**

11.9.1 WALGA Infopage Proposed Advocacy Position on Arrangements for Management of Volunteer Bush Fire Brigades

11.9.2 WALGA Proposed Advocacy Position: Arrangements for Management of Bush Fire Brigades May 2022

### **Background**

See the attached documents for information on the sector-wide background to this issue.

Council discussed this matter at its December 2021 Concept Forum, which specifically addressed the increased compliance workload that was emerging in this area.

Following that meeting, Council staff have continued to work with BFB Captains around the matter of the new WHS Act and seek to improve our WHS compliance. It remains an area that requires further resourcing which – in the absence of a CESM – is typically undertaken by the CEO or Government and Community Manager.

### **Comment**

It is important that Council is ensuring the safety of its BFB volunteers and meeting its compliance requirements under both the WHS Act, Bush Fires Act and other relevant legislation.

Arguably, this could be achieved more effectively by DFES, as the subject matter experts, should the Shire not have the necessary resources to do so. This is a necessary conversation for the sector to have, and it is reasonable to adopt a position which provides the option for those local governments for whom handing BFB responsibility to DFES would result in improved outcomes to at least have the option to do so.

Given the resourcing requirements, should the option be made available, it is recommended that the Shire of Mingenew seek to transfer management of BFBs to the State Government. If this is the eventual path that Council chooses to follow, it is likely that such a move will still be several years away due to ongoing legislative review processes and the – not insignificant – requirement for DFES to be able to resource such a change.

Whilst this resolution does not bind Council to any future action, it does provide both DFES and the sector with a better understanding of our position on this matter, and potentially allows for our position – and that of other local governments – to be factored in to the development of the Consolidated Emergency Services Act.

### **Consultation**

WALGA

### **Statutory Environment**

Bush Fires Act 1954

Work Health and Safety Act 2020

### **Policy Implications**

Nil

### **Financial Implications**

Nil

### **Strategic Implications**

Strategic Community Plan 2019-29

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

1.3.2 Provide services and processes to enhance public safety

## 11.10 NORTH MIDLANDS REGIONAL CLUB DEVELOPMENT PLAN

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** RS.LSN  
**Date:** 7 June 2022  
**Author:** Margaret Rowe, Community Development Officer  
**Authorising Officer:** Erin Greaves, Governance & Community Manager  
**Voting Requirements:** Simple Majority

### Summary

Six local governments in the North Midlands region secured funding for a consultant to develop a Regional Club Development Plan to assist the sporting clubs in the North Midlands. Mike Pforr from Gather Consultancy was appointed to carry out this work.

### Key Points

- Through the DLGSC's Every Club Grant, six local governments in the North Midlands region were able to develop a joint North Midlands Regional Club Development Plan.
- Mike Pforr from Gather Consultancy was appointed to carry out community consultation in each local government and develop the Plan
- The community consultation sessions and survey enabled the consultant to identify and review individual and shared issues faced by sporting clubs in the region to assist in developing high-level implementation strategies for local governments to support sporting clubs in the region.

### **OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.10 – RESOLUTION# 12150622**

**MOVED:** Cr JR Holmes

**SECONDED:** Cr CV Farr

**That Council endorses the North Midlands Regional Club Development Plan 2022, as presented.**

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

### Attachment

11.10.1 North Midlands Regional Club Development Plan

### Background

A \$10,000 Every Club Grant from the Department of Local Government, Sport and Cultural Industries (DLGSC) was awarded jointly to develop a Regional Club Development Plan for the Shire of Morawa, Shire of Perenjori, Shire of Coorow, Shire of Carnamah, Shire of Three Springs and Shire of Mingenew. Grant funds were used to engage a consultant to undertake community consultation sessions and prepare the Plan.

The Consultant held community consultation sessions across the region, with Mingenew hosting a workshop on 30 March 2022. The aim of the workshops was to identify the key issues and themes consistent across the region to develop a Club Development Plan. Surveys were also issued during the consultation period.

The purpose of the Plan is to identify and develop a regional approach to meeting the club development aspirations and needs of sporting clubs in the North Midlands region. The plan will enable the Shires to work collaboratively, leverage regional funding for training, governance and opportunities as a regional cohort. Acquittal of the grant and therefore, adoption of this Plan needs to be completed by 30 June 2022.

### Comment

Findings from the survey results and community consultation sessions were analysed and relevant strategies were proposed:

1. **VOLUNTEERING**
  - 1.1 Reduce red tape and become more flexible with administration and coaching duties.
  - 1.2 Share people resources across sporting clubs, such as joint committees.
  - 1.3 Encourage opportunities for younger people to be involved.
  - 1.4 Sports Associations and Department of Local Government, Sport and Cultural Industries to come to shires and upskill/run programs.
2. **FUNDING**
  - 2.1 Maintain contact with Department of Local Government, Sport and Cultural Industries Mid-West officer.
  - 2.2 Communicate between clubs and share ideas for event funding and fixture scheduling.
  - 2.3 Strengthen relationships and promotional opportunities with tourism/business/mining.
3. **COMMUNICATION AND INFORMATION**
  - 3.1 Work as regional focus and promote regional recreation.
  - 3.2 Strong communication between the North Midlands local government Community Development Officers.
  - 3.3 Strong relationship with Department of Local Government, Sport and Cultural Industries Mid-West Officer.
  - 3.4 Synchronize game times.
  - 3.5 Establish multi-sports committees.
4. **CONSIDER THE ENVIRONMENT**
  - 4.1 More flexible seasonal fixtures e.g., shorter or “bubble- like” games.
  - 4.2 More summer sport options.
  - 4.3 More hybrid models for younger and older (AFL 9's etc.).
  - 4.4 Continue to reduce travel through fixturing and use of videoconferencing for meetings.
5. **INCREASE POPULATION** (Acknowledging this strategy sits outside of traditional Recreation)
  - 5.1 Activities and events that increase people working, living and staying in shire.
  - 5.2 Increase opportunities for more accommodation.
  - 5.3 Work with State and Federal departments to increase populations.

The Mingenew consultation session only had a small participation rate, with 4 attendees. A summary of the discussion at the session is outlined in the table below:

STRENGTHS	BARRIERS	GOALS
<ul style="list-style-type: none"> <li>Great Sports Culture.</li> <li>Winter sports on one day.</li> <li>Clubs allow 12-15 y.o. to train with adults.</li> <li>Flexible/progressive tennis club.</li> <li>Family oriented.</li> </ul>	<ul style="list-style-type: none"> <li>12-18 y.o. not in town.</li> <li>Increased distance from other North Midlands Towns.</li> <li>Volunteer burn-out.</li> <li>Population numbers.</li> <li>Funds for maintaining facility.</li> </ul>	<ul style="list-style-type: none"> <li>Increase Population.</li> <li>Increase presence in town of specialist skills &amp; coaches.</li> <li>More support for volunteers.</li> <li>Infrastructure maintenance funding.</li> </ul>

Whilst community representation was minimal, the information gleaned is consistent with feedback from other community consultation sessions and aligns with many of the outcomes of the Shire's Strategic Community

Plan. As the Shire is looking to undertake a major review of its Strategic Community Plan in the next 12 months, this will inform that document and decisions impacting sport and recreation.

This Plan also highlights the benefits of continuing to strengthen the Community Development network in the region so that communication and coordination of sport and recreation activities has a positive impact on the shared outcomes identified.

**Consultation**

Mike Pforr, Gather Consultancy

North Midlands local governments

Department of Local Government, Sport and Cultural Industries (DLGSC)

**Statutory Environment**

Local Government Act 1995

**Policy Implications**

Nil

**Financial Implications**

Nil

**Strategic Implications**

Strategic Community Plan 2019-29

2.1.2 Develop healthcare and recreation services for all community to ensure the well-being and health of all age groups within the community.

2.4.1 Support community volunteers to maximise impact of their contributions.

## 12 FINANCE

### 12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 30 APRIL 2022

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:** FM.FRP  
**Attachment/s:** Monthly Financial Report – April 2022  
**Disclosure of Interest:** Nil  
**Date:** 12 May 2022  
**Author:** Helen Sternick, Senior Finance Officer  
**Approved by:** Jeremy Clapham, Finance & Administration Manager  
**Voting Requirement:** Simple Majority

#### Summary

This report recommends that the Monthly Financial Report for the period ending 30 April 2022 as presented to the Council be received.

**OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.1 – RESOLUTION# 13150622**

**MOVED: Cr CV Farr                      SECONDED: Cr AR Smyth**

**That the Monthly Financial Report for the period 1 July 2021 to 30 April 2022 be received.**

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

#### Attachment

12.1.1 Monthly Financial Report for period ending 30 April 2022

#### Background

The Monthly Financial Report to 30 April 2022 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Summary Information
- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Statement of Financial Activity Information
- Cash and Financial Assets
- Receivables
- Other Current Assets
- Payables
- Rating Revenue
- Disposal of Assets
- Capital Acquisitions
- Borrowings
- Lease Liabilities
- Cash Reserves
- Other Current Liabilities
- Operating Grants and Contributions
- Non-operating Grants and Contributions
- Bonds and Deposits
- Budget Amendments

- Explanation of Material Variances

### Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 30 April 2022	
Municipal Funds – Corporate cheque account	\$150,345
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$1,536,298
Term Deposit – Reserves	\$472,169

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 2021/22 financial year.

The 2020/21 Annual Financial Report has been audited and the opening surplus for the 2021/22 financial year has been adjusted as per audit requirements.

### 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 —

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

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

## 12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 31 MAY 2022

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:** FM.FRP  
**Attachment/s:** Monthly Financial Report – May 2022  
**Disclosure of Interest:** Nil  
**Date:** 8 June 2022  
**Author:** Helen Sternick, Senior Finance Officer  
**Approved by:** Jeremy Clapham, Finance & Administration Manager  
**Voting Requirement:** Simple Majority

### Summary

This report recommends that the Monthly Financial Report for the period ending 31 May 2022 as presented to the Council be received.

**OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.2 – RESOLUTION# 14150622**  
**MOVED: Cr McTaggart**                      **SECONDED: Cr Smyth**

**That the Monthly Financial Report for the period 1 July 2021 to 31 May 2022 be received.**

**VOTING REQUIREMENTS:**    **CARRIED BY SIMPLE MAJORITY 6/0**

### Attachment

12.1.1 Monthly Financial Report for period ending 31 May 2022

### Background

The Monthly Financial Report to 31 May 2022 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Summary Information
- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Statement of Financial Activity Information
- Cash and Financial Assets
- Receivables
- Other Current Assets
- Payables
- Rating Revenue
- Disposal of Assets
- Capital Acquisitions
- Borrowings
- Lease Liabilities
- Cash Reserves
- Other Current Liabilities
- Operating Grants and Contributions
- Non-operating Grants and Contributions
- Bonds and Deposits
- Budget Amendments
- Explanation of Material Variances

### Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 31 May 2022	
Municipal Funds – Corporate cheque account	\$568,193
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$1,536,445
Term Deposit – Reserves	\$472,169

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 2021/22 financial year.

The 2020/21 Annual Financial Report has been audited and the opening surplus for the 2021/22 financial year has been adjusted as per audit requirements.

### 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**

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

### 12.3 LIST OF PAYMENTS FOR THE PERIOD 1 APRIL 2022 TO 31 MAY 2022

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:** FM.CRD  
**Attachment/s:** List of Payments – April 2022 and May 2022  
**Disclosure of Interest:** Nil  
**Date:** 9 June 2022  
**Author:** Maria Snowden Giles, Finance/Payroll Officer  
**Approved by:** Jeremy Clapham Finance & Admin Manager  
**Voting Requirement:** Simple Majority

#### Summary

This report recommends that Council receive the list of payments for period 1 April 2022 to 31 May 2022 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

**OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.3 – RESOLUTION# 15150622**  
**MOVED: Cr AR Smyth                      SECONDED: Cr JD Bagley**

That Council receive the attached list of payments for the period of 1 April 2022 to 31 May 2022 as follows:

\$3,912,783.10 Municipal EFTs;  
\$129,056.65 Municipal Direct Debit Department of Transport (Licencing) Payments;  
\$137,876.28 Municipal Direct Debit Other;  
\$3651.53 Municipal Other Charges;  
\$304,918.42 Net Salaries  
\$4,384,513.66 Total Payments

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

#### Attachment

12.3.1 List of Payments – April 2022 and May 2022

#### 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.

#### 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**

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

## 12.4 RATES – SALE OF LAND

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
File Reference: RV.RAT.1 / A152  
Attachment/s: Nil  
Disclosure of Interest: Nil  
Date: 8 June 2022  
Author: Megan Smith, Finance Officer  
Authorized By: Jeremy Clapham, Finance & Administration Manager  
Voting Requirement: Absolute Majority

### Summary

Council is requested to review and adopt the documentation tabled for the Sale of Land.

#### OFFICER RECOMMENDATION – ITEM 12.4

MOVED: Cr CV Farr                      SECONDED: Cr AR Smyth

That Council, by Absolute Majority:

1. Agrees to the sale of vacant land at Lot 5, 7 Bride Street, Mingenew via public auction with a reserve price of \$5,000  
OR
2. Agrees to Council taking possession of the land.

#### AMENDMENT TO THE MOTION AND COUNCIL DECISION - ITEM 12.4 – RESOLUTION# 16150622

MOVED: Cr JR Holmes                      SECONDED: Cr AR Smyth

That Council agrees to Point 1 of the Officer's recommendation and agrees to Point 2 should the reserve price not be met from the public auction. The resolution to read:

1. "...reserve price of \$5,000; and
2. Agrees to Council taking possession of the land, if the reserve is not met through public auction."

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

#### AMENDED MOTION AND COUNCIL DECISION - ITEM 12.4 – RESOLUTION# 17150622

MOVED: Cr JR Holmes                      SECONDED: Cr CV Farr

That Council, by Absolute Majority:

1. Agrees to the sale of vacant land at 7 (Lot 5) Bride Street, Mingenew via public auction with a reserve price of \$5,000; and
2. Agrees to Council taking possession of the land, if the reserve is not met through public auction.

VOTING REQUIREMENTS:

CARRIED BY ABSOLUTE MAJORITY 6/0

### Background

The property at 7 (Lot 5) Bride Street Mingenew has rates outstanding for more than three years. It has not been possible to enter an acceptable and successful arrangement for the payment of the balance owing. Numerous written notifications have been directed to the last known postal address of the ratepayer, both directly and by our nominated debt collection agency, leading to bailiff action which was unsuccessful due to inability to directly locate the ratepayer. Correspondence advised of a PSSO (property seizure) and that it will be the intention to refer the matter to Council with a recommendation to sell the property to recover the outstanding balance. Multiple legal avenues have been explored at a direct cost to Council.

### Comment

Council resolution 121108 MFA 11/12-01 approved the sale of this property when the debt was at \$2,750.24 in 2012, however it did not proceed due to the owner agreeing to a weekly payment arrangement on the basis that Council would write off legal costs of \$942.37 and the subsequent legal costs reduced by 50% to \$993.50. These fees were written off, but the owner did not adhere to the payment arrangement.

Council Resolution 19121810 agreed to waive the legal and penalty interest of \$7,118.81 in December 2018 on the basis that the owner agreed to a payment schedule. This waiver was undertaken however the owner did not adhere the agreement. Further interest calculations against this property ceased for approximately 18 months.


An attempt was made in March 2022 via a neutral intermediary to contact the owner to ascertain any interest in selling the property. A successful contact would have foregone the costs to Council of a forced sale including the advertising and auction/sale costs. Further, using the email address on record, an email was sent on 7 April 2022 advising of a party potentially interested in purchasing the land, however no response was received and there is no guarantee that the email reached the ratepayer.

The last known address of the owner was a property in Geraldton in which there was a half owner stake, however this property has recently been sold in what appears to be a forced sale via 'Mortgagee in Possession'.

Note needs to be taken of an issue whereby the boundary line has been encroached by a shed built on the property of 5 Bride Street, thereby slightly reducing the size of 7 Bride Street. This issue may need to be disclosed if and when the property is offered for sale. The owners of 5 Bride Street have been consulted on this matter and are aware of the encroachment.

2175/39

7 Bride Street, MINGENEW 6522

Title Details		Plan Details
General Details		Associated Documents   Ownership History
Certificate of Title	2175/39	
Title Type	Certificate of title for regular Freehold Land	
Parcel Identifier	<a href="#">Lot 5 On Plan 573</a>	
Address Details	7 Bride Street, MINGENEW 6522	
Dealing Status	Complete	
Purchasers Caveat	N/A	
Other Interests	N/A	
Document Type	Transfer	
Document Number	<a href="#">J538156</a>	
Date of Execution	31/10/2005	
Consideration	\$2,000	
Proprietor(s)	<a href="#">WASLEY, MICHAEL JAMES</a>	

### **Consultation**

- AMPAC Rates Management
- Price Sierakowski Solicitors
- WALGA
- Owners of 5 Bride Street, Mingenew

### **Statutory Environment**

Local Government (Financial Management) Regulations 1996

s6.64 of the Local Government Act 1995 states:

(1) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and -

(a) from time to time lease the land;

(b) sell the land;

(c) cause the land to be transferred to the Crown; or

(d) cause the land to be transferred to itself.

(2) On taking possession of any land under this section, the local government is to give the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.

(3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land and may withdraw caveats so lodged by it.

### **Policy Implications**

Shire of Mingenew – Policy Manual – Debt Recovery

### **Financial Implications**

The potential outcome of the sale of the land could range between \$5,000 to \$20,000 (subject to whether a reserve is imposed) which would generate proceeds (after selling costs including advertising, auctioneer/sales agent & settlement fees of approximately \$3,000 - \$5,000) of between \$0.00 - \$15,000 which would be applied to decrease the level of outstanding debt of \$13,564.36.

### **Strategic Implications**

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN  
Nil.

14.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING  
Nil.

15.0 CONFIDENTIAL ITEMS

15.1 CONFIDENTIAL: APPOINTMENT OF TEMPORARY OR ACTING CHIEF EXECUTIVE OFFICER  
*Meeting to be closed in accordance with s5.23(2)(a) of the Local Government Act 1995*

PROCEDURAL MOTION AND COUNCIL DECISION - ITEM 15.0 – RESOLUTION# 18150622

MOVED: Cr HR McTaggart

SECONDED: Cr JD Bagley

That Council closes the meeting to members of the public at 5.34pm, in accordance with s.5.23(2)(a) of the Local Government Act 1995, to discuss Item 15.1 Confidential: Appointment of Temporary or Acting Chief Executive Officer, as a matter affecting employees.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

*The Finance and Administration Manager and Governance and Community Manager left the meeting at 5:34pm.*

OFFICER RECOMMENDATION – ITEM 15.1

That Council:

1. Endorses \_\_\_\_\_ as a suitably qualified and experienced person to serve in the role of Temporary CEO of the Shire of Mingenew; and
2. Appoints:
  - a. Jeremy Clapham as interim Temporary CEO from 18 June 2022 to 24 June 2022; and
  - b. Erin Greaves as interim Temporary CEO from 25 June 2022 to 3 July 2022; and
  - c. \_\_\_\_\_ as Temporary CEO from 4 July 2022 until the commencement of the new permanent CEO, or 4 November 2022, whichever occurs first.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 15.1 – RESOLUTION# 19150622

MOVED: Cr JR Holmes

SECONDED: Cr CV Farr

That Council:

1. Endorses Maurice Battilana as a suitably qualified and experienced person to serve in the role of Temporary CEO of the Shire of Mingenew; and
2. Appoints:
  - a. Jeremy Clapham as interim Temporary CEO from 18 June 2022 to 24 June 2022; and
  - b. Erin Greaves as interim Temporary CEO from 25 June 2022 to 3 July 2022; and
  - c. Maurice Battilana as Temporary CEO from 4 July 2022 until the commencement of the new permanent CEO, or 4 November 2022, whichever occurs first.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

**PROCEDURAL MOTION AND COUNCIL DECISION - ITEM 15.0 – RESOLUTION# 20150622**

**MOVED:** Cr HR McTaggart

**SECONDED:** Cr CV Farr

That Council reopens the meeting to members of the public at 5.46pm.

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

*The Finance and Administration Manager and Governance Community Manager returned to the meeting at 5:46pm.*

**16.0 TIME AND DATE OF NEXT MEETING**

Next Ordinary Council Meeting to be held on Wednesday 17 August 2022 commencing at 5.00pm.

**17.0 CLOSURE**

The meeting was closed at 5.47pm.

These minutes were confirmed at an Ordinary Council meeting on 17 August 2022.

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

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