



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

20 July 2016

SHIRE OF MINGENEW



Contents

1.0	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	3
2.0	ATTENDANCE.....	3
3.0	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	3
4.0	PUBLIC QUESTION TIME / PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS.	3
5.0	APPLICATIONS FOR LEAVE OF ABSENCE.....	3
5.1	REQUEST FOR LEAVE OF ABSENCE	3
6.0	DECLARATIONS OF INTEREST	4
7.0	CONFIRMATION OF PREVIOUS MEETING MINUTES	4
7.1	ORDINARY MEETING HELD 15 JUNE 2016.....	4
8.0	ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION	4
9.0	OFFICERS REPORTS	4
9.1	CHIEF EXECUTIVE OFFICER	5
9.1.1	WALGA ANNUAL GENERAL MEETING	5
9.1.2	STAFF UTILITIES.....	8
9.2	FINANCE.....	12
9.2.1	FINANCIAL STATEMENTS FOR PERIOD ENDING 30 JUNE 2016.....	12
9.2.2	ACCOUNTS FOR PAYMENT – MONTH ENDING 30 JUNE 2016.....	15
9.3	ADMINISTRATION	16
9.4	TOWN PLANNING.....	17
9.4.1	YANDANOOKA MOBILE PHONE TOWER.....	17
9.4.2	MINGENEW TOWN MOBILE PHONE TOWER	25
10.0	ELECTED MEMBERS/MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	33
11.0	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING.....	33
11.1	ELECTED MEMBERS.....	33
11.2	STAFF.....	33
12.0	CONFIDENTIAL ITEMS	33
13.0	TIME AND DATE OF NEXT MEETING	33
14.0	CLOSURE	33

SHIRE OF MINGENEW

MINUTES FOR ORDINARY MEETING OF COUNCIL HELD IN COUNCIL 20th July 2016 COMMENCING AT 4.30pm

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The President, Cr Bagley, declared the meeting open at 4.30pm and welcomed all in attendance.

2.0 ATTENDANCE

MA Bagley	President	Rural Ward
GJ Cosgrove	Councillor	Rural Ward
HM Newton	Councillor	Town Ward
LM Eardley	Councillor	Town Ward
KL Criddle	Councillor	Rural Ward
CR Lucken	Councillor	Town Ward

STAFF

MG Whitely	Chief Executive Officer
NS Jane	Deputy Chief Executive Officer

APOLOGIES

Nil

LEAVE OF ABSENCE

MP Pearce	Councillor	Town Ward
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3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

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

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

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

5.1 REQUEST FOR LEAVE OF ABSENCE

Cr Cosgrove requested Leave of Absence from the Ordinary Meeting of Council scheduled for 17 August 2016.

COUNCIL DECISION – ITEM 5.1

Moved Cr Eardley

Seconded Cr Lucken

That Cr Cosgrove be granted leave of absence for the ordinary council meeting to be held on 17 August 2016.

CARRIED: 5/0

6.0 DECLARATIONS OF INTEREST

Martin Whitely, CEO item 9.1.2
Nita Jane, DCEO item 9.1.2

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

7.1 ORDINARY MEETING HELD 15 JUNE 2016.

COUNCIL DECISION – ITEM 7.1

Moved Cr Eardley

Seconded Cr Cosgrove

That the minutes of the ordinary meeting of the Shire of Mingenew held in the Council Chambers on 15th June 2016 be confirmed.

CARRIED: 6/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil

9.0 OFFICERS REPORTS

9.1 CHIEF EXECUTIVE OFFICER

9.1.1 WALGA ANNUAL GENERAL MEETING

Location/Address: Shire of Mingenew
Name of Applicant: WALGA
Disclosure of Interest: Nil
File Reference: ADM0059
Date: 13 July 2016
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council provide the voting delegates with direction as to the 11 Notices of Motions tabled in the Agenda for the 2016 WALGA Annual General Meeting.

Attachment

Agenda for the WALGA 2016 Annual General Meeting.

Background

The WALGA Annual General Meeting is held each year prior to the commencement of the Local Government Convention. Each year local governments are invited to make submissions to be tabled at the meeting and the Agenda for this year's AGM is tabled for Council consideration.

Comment

In total there are 11 notices of motion tabled in the Agenda for the 2016 WALGA Annual General Meeting and these motions can be located on pages 16-40 in the attachment.

The 11 motions requiring consideration are the following;

- 4.1 Amendments to the WALGA Constitution
- 4.2 Natural Disaster Recovery Support Funding
- 4.3 Non Operational Rail Corridors
- 4.4 Planning Review Systems
- 4.5 Abolitions of DAPS
- 4.6 Introduction of Container Deposit Scheme
- 4.7 Declared Pest Plant C3 Review by DAFWA
- 4.8 Renewable Energy
- 4.9 Reducing Regulatory Burden on Local Government
- 4.10 Most Accessible City in Australia Awards
- 4.11 Discussion Paper Excessive Force

Council are requested to consider the above motions and provide guidance to the voting delegates at the WALGA Annual General Meeting. The 2 voting delegates are President Bagley and Deputy President Newton while the 2 proxies are Cr Criddle and the CEO.

Consultation

Nil

Statutory Environment

Local Government Act 1995

Biosecurity and Agriculture Management Act 2007

Policy Implications

Nil

Financial Implications

There are no financial implications.

Strategic Implications

Shire of Mingenew Community Strategic Plan

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

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.1

That Council provides direction to the voting delegates for the following motions tabled in the Agenda for the 2016 WALGA Annual General Meeting;

4.1	Amendments to the WALGA Constitution	For / Against
4.2	Natural Disaster Recovery Support Funding	For / Against
4.3	Non Operational Rail Corridors	For / Against
4.4	Planning Review Systems	For / Against
4.5	Abolitions of DAPS	For / Against
4.6	Introduction of Container Deposit Scheme	For / Against
4.7	Declared Pest Plant C3 Review by DAFWA	For / Against
4.8	Renewable Energy	For / Against
4.9	Reducing Regulatory Burden on Local Government	For / Against
4.10	Most Accessible City in Australia Awards	For / Against
4.11	Discussion Paper Excessive Force	For / Against

COUNCIL DECISION – ITEM 9.1.1

Moved Cr Newton

Seconded Cr Lucken

That the following motions tabled in the Agenda for the 2016 WALGA Annual General Meeting be voted on as follows:

4.1	Amendments to the WALGA Constitution	For
4.2	Natural Disaster Recovery Support Funding	Against
4.3	Non Operational Rail Corridors	For
4.4	Planning Review Systems	For
4.5	Abolitions of DAPS	For
4.6	Introduction of Container Deposit Scheme	For
4.7	Declared Pest Plant C3 Review by DAFWA	For
4.8	Renewable Energy	Against
4.9	Reducing Regulatory Burden on Local Government	For
4.10	Most Accessible City in Australia Awards	Against
4.11	Discussion Paper Excessive Force	Against

CARRIED 6/0

9.1.2 STAFF UTILITIES

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Financial Interest

File Reference: ADM0077
Date: 13 July 2016
Author: Martin Whitely, Chief Executive Officer

Disclosure of Financial Interest Item 9.1.2 – Martin Whitely, CEO & Nita Jane, DCEO

Prior to any consideration of Item 9.1.2, President Bagley advised the meeting that she had received written disclosures of interest from Martin Whitely, CEO and Nita Jane, DCEO relating to this matter. Both Officers disclosed a financial interest as recipients of staff utility allowances.

Mr Whitely and Mrs Jane left the meeting at 4.53pm.

COUNCIL DECISION – MEETING CLOSED TO PUBLIC
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Moved Cr Cosgrove

Seconded Cr Eardley

That the meeting be closed to members of the public in accordance with section 5.23(2)(a) of the Act to allow council to discuss a matter that concerns employees.

CARRIED 6/0

Summary

This report requests that Council consider the course of action for staff utility allowances that have exceeded the employee's prescribed limit.

Attachment

Nil

Background

Council's Policy for water usage by staff employee's occupying Council properties is that the first \$750 of water usage is absorbed by Council. The \$750 allowance does not relate to annual water rates, these costs are paid by Council.

In addition to Council's policies on water usage, senior management have additional allowances agreed to in their contracts relating to Council contributions for utilities.

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 July 2016

Comment

It is common practise for Council to provide an allocation for employees occupying Council owned properties as it encourages employees to maintain the gardens without having to incur water charges in doing so. It is also common practise for senior management to have additional allowances provided for in their employment contract. However it is not always clear as to what the process is when employees exceed their utility allowance.

Currently there are 8 Council staff occupying Council owned properties and 1 Council staff member occupying a non Council owned property that are entitled to an allocation of water consumption and/or other utility allowances. The costs allocated for these staff in the 2015/16 financial year are tabled below;

Description	Martin Whitely	Nita Jane	Warren Borrett	Ella Suckling	Paulette Lucken	Noel Page	David King	Brady Brennan	Rocky Brennan
Water Usage	\$2,041	\$0	\$5,760	\$497	\$317	\$1,049	\$207	\$480	\$1,075
Electricity Charges	\$3,306	\$0	\$4,109	\$0	\$0	\$0	\$0	\$0	\$0
Home Telephone & Internet Charges	\$1,250	\$0	\$510	\$0	\$0	\$0	\$0	\$0	\$0
Sub-total	\$6,597	\$0	\$10,379	\$497	\$317	\$1,049	\$207	\$480	\$1,075
Water Usage (Council Policy 5004)	(\$750)	(\$0)	(\$750)	(\$750)	(\$750)	(\$750)	(\$750)	(\$750)	(\$750)
Utilities Allowance (Employee Contract)	(\$6,500)	(\$1,200)	(\$4,250)	(\$0)	(\$0)	(\$0)	(\$0)	(\$0)	(\$0)
Sub-total	(\$7,250)	(\$1,200)	(\$5,000)	(\$750)	(\$750)	(\$750)	(\$750)	(\$750)	(\$750)
Variance	\$653	\$1,200	(\$5,379)	\$253	\$433	(\$299)	\$543	\$270	(\$325)

During the 2015/16 financial year there were 3 employees that exceeded their utility allowance(s). In the past it appears there has been a lack of clarity as to the process to be applied when Council employees have exceeded the allowances provided for in Council Policies 5003 – 5006.

I see that Council have several options in dealing with the over expenditure for utility allowances;

1. Any over expenditure incurred is absorbed by Council, or
2. All over expenditure incurred is reimbursed by the employee, or
3. A % of over expenditure is absorbed by Council and the balance reimbursed by the employee

In the past I am aware of occasions where Council have agreed to absorb expenditure incurred above the allocated allowances for senior management. Similarly I am also aware of occasions where there may have been extenuating circumstances such as a water leak that led to excessive water charges where the reimbursement of costs has not been enforced.

I am unaware of any instances in the 2015/16 financial year where there have been any extenuating circumstances leading to excessive water charges.

My only other comment is that in any other circumstance where unbudgeted expenditure has been incurred then it needs to be endorsed by Council by way of an Absolute Majority.

Consultation

Cr Michelle Bagley, President

Statutory Environment

Nil

Policy Implications

5003 TELEPHONES IN COUNCIL AND STAFF HOUSES

Payment of telephone expenses in staff residences will form part of contract negotiations with individual staff members.

5004 WATER CHARGES IN STAFF HOUSES (COUNCIL OWNED)

That Council will pay all water accounts for staff residences up to an agreed amount as part of its operating maintenance. The current approved amount is \$750 per year unless otherwise negotiated in the employment contract.

5005 WATER CHARGES FOR STAFF (OCCUPYING NON-COUNCIL PROPERTY)

That Council pay water rate charges for staff whilst occupying non Council property.

5006 WATER CHARGES FOR NON-STAFF PERSONS OCCUPYING COUNCIL PROPERTY

Council meets the cost of the annual water and sewerage rates as part of its operating maintenance programme.

Financial Implications

There will be a financial impact to Council if over expenditure on water and other housing utilities are absorbed by Council.

Strategic Implications

Shire of Mingenew Community Strategic Plan

Outcome 4.5.2 – Maintain, review and ensure relevance of Council policies and local laws

Voting Requirements

Absolute Majority.

OFFICER RECOMMENDATION – ITEM 9.1.2

That Council provide direction on the dealing with the over expenditure on utility charges for staff employees during the 2015/16 financial year.

COUNCIL DECISION – ITEM 9.1.2

Moved Cr Cosgrove

Seconded Cr Eardley

That the CEO be directed to amend the Policy to require recovery of over expenditure and that he negotiate with the staff to enter a payment plan to recover the amount for 2015/16.

CARRIED 6/0

COUNCIL DECISION

Moved Cr Newton

Seconded Cr Lucken

That the meeting be again open to the public.

CARRIED 6/0

5.02pm – Martin Whitely, CEO and Nita Jane, DCEO, returned to the meeting

President Bagley read aloud the council decision that had been taken during the time the meeting was closed to the public for the benefit of the two staff members who had returned to the meeting.

9.2 FINANCE

9.2.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 30 JUNE 2016

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	ADM0304
Date:	14 July 2016
Author:	Nita Jane, Deputy CEO
Senior Officer:	Martin Whitely, Chief Executive Officer

Summary

This report recommends that the Monthly Statement of Financial Activity report for the period ending 30 June 2016 is presented to Council for adoption.

Attachment

Finance Report for period ending 30 June 2016.

Background

The Monthly Financial Report to 30 June 2016 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

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

Comment

SUMMARY OF FUNDS – SHIRE OF MINGENEW	
Municipal Account	121,869
Business Cash Maximiser (Municipal Funds)	707,832
Trust Account	122,655
Reserve Maximiser Account	308,620

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 July 2016

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered. The following remains outstanding as at 30 June 2016:

	Current	30+ Days	60+ Days	90+ Days	TOTAL
Amount	40	1,690	0	221	1,951

Rates Outstanding at 30 June 2016 were:

	Current	Arrears	TOTAL
Rates	8,771	25,153	33,924
Rubbish	2,070	0	2,070
TOTAL	10,841	25,153	35,994

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2015/ 2016 financial year.

Consultation

Chief Executive Officer
Senior Finance Officer

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 subregulation (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 subregulation (2), are to be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Policy Implications

Nil

Financial Implications

Financial implications are outlined in comments.

Strategic Implications

Nil

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.2.1
--

That the Monthly Statement of Financial Activity for the period 1 July 2015 to 30 June 2016 be received.

COUNCIL DECISION – ITEM 9.2.1

Moved Cr Eardley

Seconded Cr Newton

That the Monthly Statement of Financial Activity for the period 1 July 2015 to 30 June 2016 be received.

CARRIED 6/0

9.2.2 ACCOUNTS FOR PAYMENT – MONTH ENDING 30 JUNE 2016

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Disclosure of Interest: Nil
Date: 14 July 2016
Author: Julie Borrett, Senior Finance Officer
Senior Officer: Nita Jane, Deputy CEO

Summary

This report recommends that Council confirm the payment of creditors for the month of June 2016 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

Attachment

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

Background

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

Comment

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

Consultation

Nil

Statutory Environment

Local Government Act 1996, Section 6.4

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

Policy Implications

Payments have been made under delegation.

Financial Implications

Funds available to meet expenditure.

Strategic Implications

Nil

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.2.2

That Council confirm the accounts as presented for June 2016 from the Municipal Fund totalling \$267,803.46 represented by Electronic Funds Transfers of EFT9899 to EFT9982, Direct Deduction DD7635.1, 2 and 3, DD7652.1 2 and 3, DD7670.1,2 and 3 and Cheque numbers 8070 to 8073.

COUNCIL DECISION – ITEM 9.2.2

Moved Cr Cosgrove

Seconded Cr Newton

That Council confirm the accounts as presented for May 2016 from the Municipal Fund totalling \$334,603.27 represented by Electronic Funds Transfers of EFT 9820 to EFT9898, Direct Deduction DD7608.1, 2 and 3, DD7623.1 2 and 3 and Cheque numbers 8063 to 8069.

CARRIED 6/0

9.3 ADMINISTRATION

NIL.

9.4 TOWN PLANNING

9.4.1 YANDANOOKA MOBILE PHONE TOWER

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	ADM0075
Date:	1 July 2016
Author:	Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer:	Martin Whitely, Chief Executive Officer

Summary

This report recommends approval for the installation of a mobile phone tower at Lot 102 Yandanooka-Melara Road, Yandanooka.

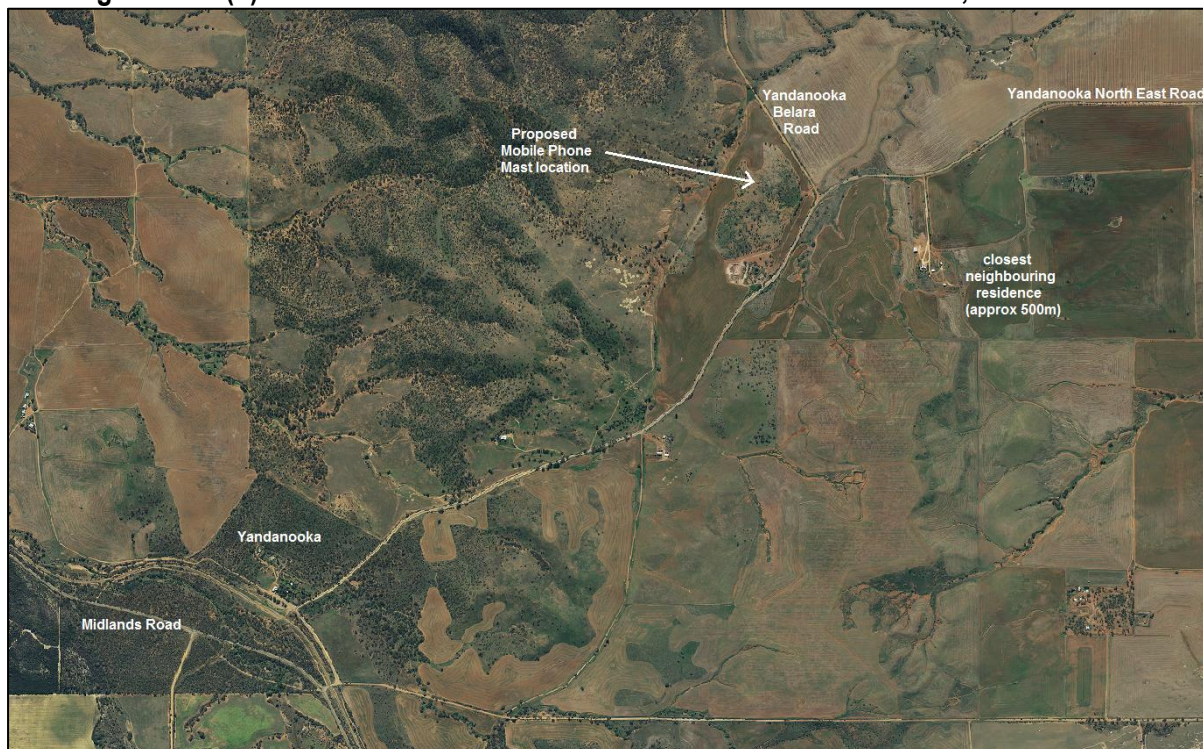
Attachment

Copy of submitted development application.

Background

Lot 102 is a 104.31ha property, owned by Gail & Vicki Chivers, located on the northern side of Yandanooka North-East Road. The property is largely cleared and used for cropping purposes, and contains an existing Telstra facility located near the Yandanooka North East Road and Yandanooka Melara Road intersection.

Figure 9.4.1(a) – Location Plan for Lot 102 Yandanooka Melara Road, Yandanooka



The proposed telecommunications facility would be sited within a 10m x 10m (100m²) security fenced compound and would consist of the following:

- 60m high triangular galvanised mast tethered by guy wires;

- 3 guy wire anchor points each 40m from the base of the mast, and each contained within a stock fence;
- 6 panel antennas mounted on the mast (taking the total height of the facility to 61.7265m above ground level);
- 2.5m x 3m (7.5m²) x 2.978m high colorbond ('mist green') equipment shelter at the base of the mast, with a 0.96m GPS antenna on the roof;
- underground power and fibre optic connection to services at existing Telstra facility on Yandanooka Melara Road; &
- 3m wide access track linking the mast site to the existing Telstra facility on Yandanooka Melara Road.

The submitted development application, that elaborates upon this proposal and includes site and elevation plans, has been provided as **Attachment 9.4.1**.

Comment

The application for a mobile phone tower at Yandanooka is a component of the \$340 million Mobile Black Spot Programme that has been jointly funded by Federal, State and Local Government and includes Telstra building 429 new 3G/4G base stations over the next 3 years.

Figure 9.4.1(b) – View of proposed site looking north from Yandanooka North East Road



Lot 102 Yandanooka Melara Road is zoned 'Rural/Mining' under the Shire of Mingenew Local Planning Scheme No.3 ('the Scheme').

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

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

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

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

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

Council may determine in accordance with Section 4.4.2(a) that a mobile phone tower is consistent with the objectives of the 'Rural/Mining' zone which are listed in the Scheme as follows:

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

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

The application may be considered to meet the objective in the Shire's 'Rural/Mining' zone of protecting economic productivity, by enabling improved access to mobile phone networks and the internet to conduct business, and provide greater ability to reach assistance in an emergency situation.

It is noted that the mobile phone tower would have some visual impact on the surrounding area being a 61.7265m structure sited on a hill at a 260m contour elevation, however, to be effective the mast needs to be in a prominent location.

Section 5.7 of the Scheme does address the issue of visual amenity by limiting the height of development under which Shire staff may approve an application under delegated authority to 10m in height, after which an application must be referred to Council for its consideration.

"5.7.1 No site shall be developed or building or structure constructed to contain more than two storeys or exceed 10m in height from the natural mean ground level of the site. Council may use its discretion and vary these requirements if it can be assured that any height variation proposed will not affect the privacy enjoyed by

neighbouring developments and is sympathetic with the scale and character of the surrounding built environment.”

“5.7.3.1 Free standing structures such as promotional towers and radio/TV masts proposed to exceed the height limit shall be individually assessed by the Council, after due consideration of the effect such a structure may have on established views and amenity generally.”

In its consideration of the application it is suggested that the application has some merit on the following grounds:

- there is practical need for the development to exceed 10m in height;
- although the development will be visible from the closest neighbouring residence, there are other examples of radio, phone and television masts sited in prominent locations in broader rural areas that serve a community need;
- the tower would be located 500m from the nearest residence and there is limited ability under the current zoning and scheme provisions for future residences to be sited any closer to the facility;
- the cost to the community of limited mobile phone reception can include personal, business and emergency communication; &
- the proposed facility would not require clearing of remnant vegetation and is removed from environmental features such as watercourses.

Consultation

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

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

The nearest third party residence to the proposed mast site is approximately 500m to the south-east upon Lot 103 Yandanooka North East Road which is owned by Rodney Quartermaine.

Statutory Environment

The Commonwealth *Telecommunications Act 1997* exempts telecommunications equipment from environmental and planning legislation except where the facility does not meet the definition of a 'low impact' facility, in this case requiring the lodgement of a planning application and assessment by Council of this matter.

In addition to the requirements of the *Telecommunications Act 1997* and the *Planning and Development Act 2005* the applicant is also bound by the *Telecommunications Code of Practice 1997*, and the Australian Communications and Media Authority's *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003*.

Policy Implications

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

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 July 2016

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

Section 5.1 of the policy recognises that in many instances the primary impact of a mobile phone tower is a visual one and provides the following guidance:

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

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

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

- i) Assessment of the visual impact of development proposals for telecommunications infrastructure should be made on a case by case basis;*
- ii) Telecommunications infrastructure should be sited and designed to minimise visual impact and whenever possible:
 - a) be located where it will not be prominently visible from significant viewing locations such as scenic routes, lookouts and recreation sites;*
 - b) be located to avoid detracting from a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land;*
 - c) not be located on sites where environmental, cultural heritage, social and visual landscape values maybe compromised and*
 - d) display design features, including scale, materials, external colours and finishes that are sympathetic to the surrounding landscape;**
- iii) In addition to the existing exemptions under the Telecommunication Act, local governments should consider exempting telecommunications infrastructure from the requirement for development approval where:
 - a) The infrastructure has a maximum height of 30 metres from finished ground level;*
 - b) The proposal complies with the policy measures outlined in this policy; and*
 - c) The proponent has undertaken notification of the proposal in a similar manner to ‘low impact facilities’ as defined and set out in the Mobile Phone Base Station Deployment Industry Code (C564:2011);**
- iv) Telecommunications infrastructure should be located where it will facilitate continuous network coverage and/or improved telecommunications services to the community; and*

- v) *Telecommunications infrastructure should be collocated and whenever possible:*
- a) *Cables and lines should be located within an existing underground conduit or duct; and*
 - b) *Overhead lines and towers should be co-located with existing infrastructure and/or within existing infrastructure corridors and/or mounted on existing or proposed buildings.”*

The applicant is considered to have satisfactorily addressed the key assessment criteria of WAPC State Planning Policy 5.2 in Section 4.2 of their submitted documentation (provided as an attachment to this report).

Financial Implications

The applicant has made payment of the relevant \$576 planning application fee.
The application would not have a budgetary impact to Council.

Strategic Implications

The proposed mobile phone tower would assist in meeting the following outcomes identified within the Shire of Mingenew Strategic Community Plan (2012):

Outcome 1.5 – Ensure the provision of adequate services to support economic growth.

Outcome 1.5.3 – Improved telecommunications.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.4.1

That Council grant formal planning approval for Telecommunications Infrastructure upon Lot 102 Yandanooka Melara Road, Yandanooka subject to compliance with the following:

Conditions:

- 1 Development shall generally be in accordance with plans included within Attachment 9.4.1 to the Council Agenda report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.**
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.**
- 3 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product or otherwise.**
- 4 The applicant must obtain any/all necessary consent of the landowner relevant to the site and the access to the site.**

Notes:

- (a) All operations must be carried out in accordance with the separate requirements of the Australian Communications and Media Authority, and Australian Radiation Protection and Nuclear Safety Agency pertaining (but not limited) to electromagnetic energy.
- (b) The facility must be in compliance with any separate requirements of the Civil Aviation Safety Authority.
- (c) Should the applicant be aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

COUNCIL DECISION – ITEM 9.4.1

Moved Cr Cosgrove

Seconded Cr Lucken

That Council grant formal planning approval for Telecommunications Infrastructure upon Lot 102 Yandanooka Melara Road, Yandanooka subject to compliance with the following:

Conditions:

- 1 Development shall generally be in accordance with plans included within Attachment 9.4.1 to the Council Agenda report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product or otherwise.
- 4 The applicant must obtain any/all necessary consent of the landowner relevant to the site and the access to the site.

Notes:

- (a) All operations must be carried out in accordance with the separate requirements of the Australian Communications and Media Authority, and Australian Radiation Protection and Nuclear Safety Agency pertaining (but not limited) to electromagnetic energy.
- (b) The facility must be in compliance with any separate requirements of the Civil Aviation Safety Authority.

- (c) **Should the applicant be aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.**

CARRIED 6/0

9.4.2 MINGENEW TOWN MOBILE PHONE TOWER

Location/Address:	13 (Lot 1) Shenton Street, Mingenew
Name of Applicant:	Visionstream for Telstra
Disclosure of Interest:	Nil
File Reference:	ADM0075
Date:	11 July 2016
Author:	Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer:	Martin Whitely, Chief Executive Officer

Summary

This report recommends approval for the replacement of the existing 10m mobile phone mast at 13 (Lot 1) Shenton Street, Mingenew with a 25m mast, and supporting telecommunications infrastructure.

Attachment

Copy of submitted development application.

Background

Lot 1 is a 994m² property in the Mingenew townsite, owned by Telstra, located on the south-western corner of the Shenton Street and King Street intersection. The property contains a telephone exchange building, a small shed and a 10m telecommunications mast.

The applicant is seeking to install a higher pole to improve the coverage range and capacity for the mobile phone network.

Figure 9.4.2(a) – Location Plan for 13 (Lot 1) Shenton Street, Mingenew



The proposed extension to the existing telecommunications facility would consist of the following:

- 25m high grey monopole (replacing the existing 10m high steel pole);

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 July 2016

- 6 panel antennas and amplifiers mounted on the top of the pole (taking the total height of the facility to 27m above ground level);
- 3m x 2m (6m²), 3m high approx. equipment shed at the base of the pole.

The submitted development application, that elaborates upon this proposal and includes site and elevation plans, has been provided as **Attachment 9.4.2**.

Figure 9.4.2(b) – View of proposed site looking south-west from Shenton Street



Figure 9.4.2(c) – View of proposed site looking south from King Street



Comment

Lot 1 Shenton Street is zoned 'Residential 12.5' under the Shire of Mingenew Local Planning Scheme No.3 ('the Scheme').

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

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

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

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

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

Council may determine in accordance with Section 4.4.2(a) that a mobile phone tower is consistent with the objectives of the 'Residential' zone which are listed in the Scheme as follows:

"The use of land in the Residential Zone shall be consistent with the following objectives:

- the zone shall be predominantly residential in nature;*
- non-residential uses permitted under the provision of the Scheme shall be of service to, compatible in character and of a scale and operation which is not detrimental to the predominant residential use;*
- any non-residential use shall not detract from or adversely affect the residential amenity of the area."*

The application could be assessed under the definition of a 'Public Utility' which is listed as a 'Permitted' use within the 'Residential' zone, however, it is considered that the definition of 'Telecommunications Infrastructure' is more appropriate in this instance. 'Public Utility' is defined under Schedule 1 of the Scheme as follows:

"means any work or undertaking constructed or maintained by a public authority or the Council as may be required to provide water, sewerage, electricity, gas, drainage, communications or other similar services."

Section 5.7 of the Scheme addresses the issue of visual amenity by limiting the height of development under which Shire staff may approve an application under delegated authority to 10m in height, after which an application must be referred to Council for its consideration.

“5.7.1 No site shall be developed or building or structure constructed to contain more than two storeys or exceed 10m in height from the natural mean ground level of the site. Council may use its discretion and vary these requirements if it can be assured that any height variation proposed will not affect the privacy enjoyed by neighbouring developments and is sympathetic with the scale and character of the surrounding built environment.”

“5.7.3.1 Free standing structures such as promotional towers and radio/TV masts proposed to exceed the height limit shall be individually assessed by the Council, after due consideration of the effect such a structure may have on established views and amenity generally.”

In its consideration of the application it is suggested that the application has some merit on the following grounds:

- there is practical need for the development to exceed 10m in height;
- although the development will be highly visible from within the townsite, and particularly the neighbouring residences, it is not uncommon for radio, phone and television masts that serve a community need to be sited in urban areas/townsites;
- the design of the mobile phone tower is a monopole rather than a guyed mast or 4-sided pylon design and might therefore be considered to be the least prominent style of these forms of facility;
- the cost to the community of limited mobile phone reception can include personal, business and emergency communication; &
- the proposed mast would be co-located with an existing Telstra exchange building facility, and involve the replacement of an existing mast with another, albeit larger, mast.

Consultation

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

It is noted that the site is located within a residential area and has residences immediately abutting to the south and west. Council may therefore choose to advertise the application for public comment under Sections 4.4.2(b) and 9.4 of the Scheme should it wish to seek comment on the proposal and return the matter to a future meeting of Council for consideration of any received submissions, prior to making its determination.

The applicant has advised that they intend to conduct their own public notification process as follows:

- *Run a newspaper ad in the local paper (Geraldton Guardian);*
- *Sent letters to the two adjoining landowners;*
- *Uploaded the RFNSA consultation page; and*
- *Sent a letter to Mingenew Primary School.*

The notification period will run from 11/07/2016 to 22/07/2016. Also submissions have been directed to Visionstream, and I will provide you with a summary if we receive any submissions.”

Statutory Environment

The Commonwealth *Telecommunications Act 1997* exempts telecommunications equipment from environmental and planning legislation except where the facility does not meet the definition of a 'low impact' facility, in this case requiring the lodgement of a planning application and assessment by Council of this matter.

In addition to the requirements of the *Telecommunications Act 1997* and the *Planning and Development Act 2005* the applicant is also bound by the *Telecommunications Code of Practice 1997*, and the Australian Communications and Media Authority's *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003*.

Policy Implications

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

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

Section 5.1 of the policy recognises that in many instances the primary impact of a mobile phone tower is a visual one and provides the following guidance:

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

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

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

- i) Assessment of the visual impact of development proposals for telecommunications infrastructure should be made on a case by case basis;*
- ii) Telecommunications infrastructure should be sited and designed to minimise visual impact and whenever possible:*

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 July 2016

- a) *be located where it will not be prominently visible from significant viewing locations such as scenic routes, lookouts and recreation sites;*
- b) *be located to avoid detracting from a significant view of a heritage item or place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land;*
- c) *not be located on sites where environmental, cultural heritage, social and visual landscape values maybe compromised and*
- d) *display design features, including scale, materials, external colours and finishes that are sympathetic to the surrounding landscape;*
- iii) *In addition to the existing exemptions under the Telecommunication Act, local governments should consider exempting telecommunications infrastructure from the requirement for development approval where:*
 - a) *The infrastructure has a maximum height of 30 metres from finished ground level;*
 - b) *The proposal complies with the policy measures outlined in this policy; and*
 - c) *The proponent has undertaken notification of the proposal in a similar manner to 'low impact facilities' as defined and set out in the Mobile Phone Base Station Deployment Industry Code (C564:2011);*
- iv) *Telecommunications infrastructure should be located where it will facilitate continuous network coverage and/or improved telecommunications services to the community; and*
- v) *Telecommunications infrastructure should be collocated and whenever possible:*
 - a) *Cables and lines should be located within an existing underground conduit or duct; and*
 - b) *Overhead lines and towers should be co-located with existing infrastructure and/or within existing infrastructure corridors and/or mounted on existing or proposed buildings.”*

The applicant is considered to have satisfactorily addressed the key assessment criteria of WAPC State Planning Policy 5.2 in Table 1 and Section 6 of their submitted documentation (provided as an attachment to this report).

Financial Implications

The applicant has made payment of the relevant \$960 planning application fee.
The application would not have a budgetary impact to Council.

Strategic Implications

The proposed mobile phone tower would assist in meeting the following outcomes identified within the Shire of Mingenew Strategic Community Plan (2012):
Outcome 1.5 – Ensure the provision of adequate services to support economic growth.
Outcome 1.5.3 – Improved telecommunications.

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.2
--

That Council grant formal planning approval for Telecommunications Infrastructure upon 13 (Lot 1) Shenton Street, Mingenew subject to compliance with the following:

Conditions:

- 1 Development shall generally be in accordance with plans included within Attachment 9.4.2 to the Council Agenda report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.**
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.**
- 3 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product or otherwise.**
- 4 The applicant must submit and adhere to a Traffic Management Plan to the approval of the local government for the temporary closure of Shenton Street during the construction phase of the development.**

Notes:

- (a) All operations must be carried out in accordance with the separate requirements of the Australian Communications and Media Authority, and Australian Radiation Protection and Nuclear Safety Agency pertaining (but not limited) to electromagnetic energy.**
- (b) The facility must be in compliance with any separate requirements of the Civil Aviation Safety Authority.**
- (c) Should the applicant be aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.**

COUNCIL DECISION – ITEM 9.4.2

Moved Cr Cosgrove

Seconded Cr Newton

That Council grant formal planning approval for Telecommunications Infrastructure upon 13 (Lot 1) Shenton Street, Mingenew subject to compliance with the following:

Conditions:

- 1 Development shall generally be in accordance with plans included within Attachment 9.4.2 to the Council Agenda report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.**
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.**
- 3 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of smoke, dust, fumes, odour, noise, vibration, waste product or otherwise.**
- 4 The applicant must submit and adhere to a Traffic Management Plan to the approval of the local government for the temporary closure of Shenton Street during the construction phase of the development.**

Notes:

- (a) All operations must be carried out in accordance with the separate requirements of the Australian Communications and Media Authority, and Australian Radiation Protection and Nuclear Safety Agency pertaining (but not limited) to electromagnetic energy.**
- (b) The facility must be in compliance with any separate requirements of the Civil Aviation Safety Authority.**
- (c) Should the applicant be aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.**

CARRIED 6/0

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

Nil

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

11.1 ELECTED MEMBERS

11.2 STAFF

12.0 CONFIDENTIAL ITEMS

Nil

13.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 17th August 2016 commencing at 4.30pm and a Special Meeting to be held on Monday 1st August 2016 commencing at 5.00pm to consider the Draft Budget.

14.0 CLOSURE

The Shire President thanked all for attending and declared the meeting closed at 5.12 pm.

These minutes were confirmed at an Ordinary Council meeting on 17 August 2016.

Signed _____
Presiding Officer

Date: _____