



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

Wednesday 17 May 2017

SHIRE OF MINGENEW

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SHIRE OF MINGENEW

AGENDA FOR ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON 17 May 2017 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 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

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

STAFF

MG Whitely	Chief Executive Officer
D Ojha	Finance Manager

APOLOGIES

Nil

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

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

4.31pm – The Presiding Person opened public question time and explained that a minimum time of 15 minutes was allowed from the public.

4.32pm – Mr Peter Smith of Canine Control entered the meeting

Mr Peter Smith addressed Council on his achievements as the ranger at the Shire of Mingenew over a period of 11 years. Mr Smith voiced his disappointment that his contract had not been renewed by Council however thanked council and the community for their support during his tenure.

The President thanked Mr Peter Smith for his service to Mingenew over the last 11 years.

4.47pm – Mr Peter Smith left the meeting

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

6.0 DECLARATIONS OF INTEREST

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

7.1.1 ORDINARY MEETING HELD 19 APRIL 2017

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil

9.0 OFFICERS REPORTS

DRAFT

9.1 CHIEF EXECUTIVE OFFICER

9.1.1 DONGARA HEALTH CARE DEVELOPMENT

Location/Address: Shire of Irwin
Name of Applicant: WA Country Health Services
Disclosure of Interest: Nil
File Reference: ADM0131
Date: 9 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends the appointment of 2 delegates to the Dongara Health Care Redevelopment Project User Group.

Attachment

Nil

Background

In late March 2017 the Shire received a letter from WA Country Health inviting the Shires of Irwin and Mingenew to have a representative on the Dongara Health Care Redevelopment Project User Group ("User Group"). The User Group will consist of 8 members being;

- 2 members from the Midwest WA Country Health Services
- 2 members from the District Health Advisory Committee
- 2 members from local government being 1 from the Shire of Irwin and 1 from the Shire of Mingenew
- 2 members from the community being 1 from Irwin and 1 from Mingenew

The matter was discussed at the April 2017 Ordinary Meeting where Council resolved to call for expressions of interest for a community representative for the Dongara Health Care Redevelopment Project User Group and present the item back to Council when the expressions of interest have closed.

Comment

Expressions of interest for the community representative was displayed on the Shire's public notice board on 21 April 2017 and advertised in the Mingenew Matters the following week. Expressions of Interest closed on 8 May 2017 and no submissions were received.

I attended the Dongara Health Care Redevelopment Project User Group on Tuesday 9 May 2017 and there were 6 people at the meeting, with only the one representative from Irwin and Mingenew. From the meeting on Tuesday the impression I was given is that the focus of the group will be to (1) look at the logistics of the layout of the existing Dongara Health Centre and (2) oversee the tender process and project management.

Given that the User Group consists of staff from the Dongara Health Centre my thoughts are that these people are best placed to provide input into the design of the building from an operation point of view. I do see some value in the Shire of Mingenew being involved in this process and more so with the tender process and project management as we will be able to provide some valuable input in these areas. I don't necessarily see that not having a community representative as part of the User Group will disadvantage Mingenew in any way, however I am in no way opposed to a community representative being involved. Given that no expressions of interest were received for the community representative position my thoughts are that the Chief Executive Officer attend the meetings and if any of the Councillors are interested in attending the User Group then they be nominated for the community representative position.

Consultation

Community consultation for the community representative was carried out.

Statutory Environment

Nil

Policy Implications

Policy No. 1003

ELECTION TO COMMITTEES

Nomination of Councillor/s to Positions in Council/Committees - Prior to any nomination being made the person being nominated be advised of the proposal, and appointment to the position will be subject to the approval of the nominee.

Financial Implications

Nil

Strategic Implications

Community Strategic Plan

Outcome 4.2.2 – To be strong advocates representing the Shire's interests

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.1

That Council nominate 2 delegates for the Dongara Health Care Redevelopment Project User Group

COUNCIL DECISION – ITEM 9.1.1

Moved Cr Eardley

Seconded Cr Newton

That Council nominate the Chief Executive Officer as the Delegate and President Bagley as the proxy for the Dongara Health Care Redevelopment Project User Group.

CARRIED 7/0

9.1.2 REVIEW OF DELEGATIONS REGISTER

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0342
Date: 2 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends the review and adoption of the Delegations Register.

Attachment

Register of Delegations

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 sections 5.18 and 5.46. These delegations include those from Council to the Chief Executive Officer and Committees, and the Chief Executive Officer to other staff. Council last reviewed the Delegations Register in February 2017.

Comment

The recommended changes to the Register of Delegations have been highlighted in yellow. A summary of the proposed changes are shown below;

- All references to Works Manager changed to Works Supervisor
- All references to Finance Officer deleted
- All reference to Customer Service Officer deleted
- All dates changed to reflect the date of review and to show when each delegation has been amended
- Delegation No. 2 – Reduced purchase order authorisation for Level 2 from \$60,000 to \$10,000
- Delegation No.2 – Addition of Governance Officer as a Level 2 person
- Delegation No. 7 – Addition of Council Policy 5007 – Reimbursement of Utility Charges as resolved at the August 2016 Ordinary Council Meeting
- Delegation No. 27 – Addition of Council Policy 7007 as resolved at the February 2017 Ordinary Council Meeting
- Delegation No. 39 – Reference to Public Health Act 1911 changed to Public Health Act 2016 as resolved at the February 2017 Ordinary Council Meeting
- Delegation No. 40 – Reference to Public Health Act 1911 changed to Public Health Act 2016 as resolved at the February 2017 Ordinary Council Meeting

Consultation

Nil

Statutory Environment

Local Government (Functions & General) Regulations 1996

Local Government Act 1995 states;

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.

Policy Implications

Shire of Mingenew Register of Delegations and all policy associated with this document.

Financial Implications

Nil

Strategic Implications

Community Strategic Plan

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

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

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.2

That Council;

1. Review and Adopt the amended Delegations Register as presented, and
2. The Chief Executive Officer to provide in writing powers and duties allocated to other persons as per section 5.44 (2) of the Local Government Act 1995

COUNCIL DECISION – ITEM 9.1.2

Moved Cr Lucken

Seconded Cr Cosgrove

That Council;

1. Review and Adopt the amended Delegations Register as presented, and
2. The Chief Executive Officer to provide in writing powers and duties allocated to other persons as per section 5.44 (2) of the Local Government Act 1995

CARRIED 7/0

9.1.3 REVIEW OF PURCHASING POLICY

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0133
Date: 8 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends proposed changes to the Shire's Purchasing Policy.

Attachment

Draft Purchasing Policy - with proposed changes highlighted in yellow.

Background

The Shire's Purchasing Policy was last reviewed and amended at the December 2015 Ordinary Council Meeting after the State Government passed legislation to increase the tender threshold from \$100,000 to \$150,000 and legislative amendments dealing with the tendering process for good and services within Local Government were made to the Local Government (Functions & General) Regulations 1996.

Comment

A review of the current Purchasing Policy was completed in May 2017 and attached for Council consideration are the changes which are highlighted in yellow.

The review recommends changes to part 4.3 of the Purchasing Policy which deals with purchasing thresholds and the changes are summarised as follows;

- First threshold criteria reduced from \$9,999 to \$4,999
- Expenditure under \$5,000 does not require official quotations however must follow a series of value for money principles
- Third criteria reduced from \$49,999 to \$39,999
- Three Quotations are now required for amounts greater than \$40,000
- Reference to the amended thresholds changed within the document

The only other amendment is at the bottom page 6 under "Public Tender" information where the wording has been simplified to read "Tenders are to be opened in accordance with Regulation 16 of the Local Government (Functions & General) Regulations 1996."

The proposed changes will result in less administration burdens for staff purchasing items of a lower value and place greater emphasis on the need to obtain additional quotations when purchasing items of a greater value.

Consultation

Nil

Statutory Environment

Local Government Act 1995
Local Government (Functions & General) Regulations
State Records Act 2000 (WA)

Policy Implications

Shire's Purchasing Policy

Financial Implications

Reducing the threshold not to obtain quotations under \$5,000 will result in less administration burdens on staff and result in greater operating efficiencies.

Strategic Implications

Community Strategic Plan

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

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

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.3

That Council review and adopt the Purchasing Policy as presented.

COUNCIL DECISION – ITEM 9.1.3

Moved Cr Cosgrove

Seconded Cr Lucken

That Council review and adopt the Purchasing Policy as presented.

CARRIED 7/0

9.1.4 MINGENEW IRWIN GROUP TIDY TOWNS NOMINATION

Location/Address: Shire of Mingenew
Name of Applicant: Mingenew Irwin Group
Disclosure of Interest: Nil
File Reference: ADM0204
Date: 10 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council endorse a request from the Mingenew Irwin Group to make a submission for the Tidy Towns Sustainable Community Awards 2017.

Attachment

Draft Application Form

Background

The Shire has received a request from the Mingenew Irwin Group ("MIG") to submit an application for the Tidy Towns Sustainable Community Awards 2017. The application will be for the garden project that MIG completed outside of the MIG Bankwest Centre and applications close 1 June 2017.

Comment

Initially I had some concerns when I was informed that MIG was looking to make a submission to be included in the Tidy Towns 2017 as I felt this should be a decision of Council, however in looking at the request from MIG the application they are proposing to submit falls into one of the Tidy Towns categories, being the Sustainable Community Awards rather than the overall banner of Tidy Towns.

MIG have commenced the application, which is attached and would like Council endorsement before proceeding with making a formal application. I have no objections with MIG making a submission for their garden project under the Tidy Towns Sustainable Community Awards 2017.

Consultation

Ella Budrikis, Community Development Officer

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Community Strategic Plan

Outcome 2.1.1 – Support and promote environmental management practises

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.4
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That Council endorse the request from the Mingenew Irwin Group to make a submission for the Tidy Towns Sustainable Community Awards 2017

COUNCIL DECISION – ITEM 9.1.4

Moved Cr Pearce

Seconded Cr Lucken

That Council endorse the request from the Mingenew Irwin Group to make a submission for the Tidy Towns Sustainable Community Awards 2017

CARRIED 7/0

DRAFT

9.1.5 LOCAL GOVERNMENT LEGISLATIVE BURDENS

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0147
Date: 8 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council consider a motion be put forward to the Northern Country Zone of the Western Australian Local Government Association (WALGA) to address the issue of legislative and compliance burdens placed on Western Australian local government authorities.

Attachment

List of Legislative Burden Issues

Background

At the Western Australian Local Government (WALGA) Northern Country Zone (“NCZ”) meeting held on 20 February 2017 concern was expressed on the continual legislative burdens being placed on local government authorities. The burden was seen as being a combination of the plethora of additional legislative impost being introduced, the existing superfluous legislation already in place and the interpretation of the legislation by the executive arm of government on how the requirements of the Act and Regulations should be implemented.

As a result of the discussion at the NCZ meeting the CEOs were requested to develop a list of legislative burdens to be presented back to the Zone for consideration on further action.

The CEOs (and other Senior Staff) met on 9 March 2017 to compile a list of agreed legislative burden issues. Garry Keeffe, CEO Shire of Northampton has taken the lead on the issue and has compiled the CEO’s consensus list, which is provided in the **Attachment** for Council information and determination. Not all the items presented to the CEOs meeting were retained, however the majority of items presented were included on the consensus list.

The Shire of Chapman Valley presented their case at the NCZ Meeting on Monday 24 April 2017 and support has been requested from all other local governments within the zone.

Comment

The CEOs felt that the best approach to take in regards to the legislative burden issues (bearing in mind we are only dealing with the *Local Government Act and Regulations* at this time) was to recommend the NCZ take these concerns to each individual WALGA Zone in the first instance to:

- Seek any additional items they consider being a burden to be added to the list; and to approach the WALGA State Council from the bottom up, rather than going directly from the NCZ to WALGA and having WALGA take control of the item, making it a top-down approach.
- Co-opt the services of someone with local government experience undertake an analysis of what the legislation says and what the Department of Local Government is interpreting how the legislation should be implemented.

There is a fear amongst some CEOs that the issue may be glossed over at a WALGA State Council level unless there is not pre-determined support from the Zones in the first instance, hence the strategy to work this through the Zones in the first instance before going to the WALGA State Council.

There is also concern amongst the CEOs over the way the Department of Local Government & Communities (DLGC) interpret the Local Government Act and Regulations. Such interpretations invariably surface as DLGC Guidelines or Best Practice Procedures, which are passed down the local government authorities to implement. A classic example of this is the recent DLGC Guidelines on how to review the Integrated Planning and Reporting documents currently in place across the industry which places a significant burden on already stretched resources in our Shires.

Consultation

As previously mentioned, the NCZ has briefly discussed the issue, requesting the NCZ CEOs work on a list a strategy to promote the mater of legislative burdens.

The NCZ CEOs and other Senior Staff have discussed their concerns and developed the list legislative burdens associated with the Local Government Act & Regulations only (at this stage).

The intention is for all NCZ member local government authorities to discuss the matter and bring their positions to the next NCZ meeting for consideration.

Statutory Environment

Local Government Act, 1995 & associated Regulations.

There appears to be an appetite from the recently elected Labour State Government to undertake a review of the *Local Government Act, 1995 & Associated Regulations*. However; the informal feedback coming from the DLGC is any such review should be minimalistic. The DLGC suggested approach to a review is not supported by a majority of NCZ CEOs with our feeling being a wholesale review needs to be undertaken to address the legislative burdens already in place under the legislation.

Policy Implications

No existing Policies/Procedures effected.

Financial Implications

The financial Implications associated with superfluous overburdening legislation has not been formally measured or analysed. However; in a presentation given in the early 2000's by Shane Silcox, CEO City of Melville, indicated the costs of legislative compliance in local government is approximately \$12m per annum. Below is an extract from the Shane's presentation:

"In Western Australia the growth in legislation from the 1960s as documented in the Business Regulation Action Plan by the Business Council of Australia has been some 185% to a staggering 20,000 pages of primary legislation in 2000. That is from approximately 7,000 pages of primary legislation in 1960's, 11,000 pages in 1970's, 14,000 pages in the 1980's, 18,000 pages in the 1990's and 20,000 pages in the 2000's.

Unfortunately, many regulations conceived to fix one problem often lead to unintended consequences, sometimes requiring more legislation...and the cycle goes on!

And the cost of this exponential growth, or exuberance, is estimated at 8% of GDP. In fact the cost of regulation for small and medium-sized Australian businesses in 1998, suggests the OECD, is estimated at more than \$17 billion. Additionally, the Federal government alone spent some \$4.5 billion on the administrative costs of Commonwealth regulatory bodies.

Studies in the USA have identified that the cost of compliance is about 1.5% of revenues...in Western Australia the combined Local Government revenues is some \$829m hence the cost of compliance in this state alone is over \$12m.

Overall it is unfortunate that compliance has dominated debate since the 1990's with our society becoming more litigious in the process. Australian taxpayers, consumers and ratepayers ultimately pay the price of this exuberance both from a compliance and risk management perspective."

It would fair to state the issue has worsened significantly since the early 2000's and I am sure the legislation cost across the local government sector would closer to \$20m per annum. However, as you would imagine, ascertaining the actual costs burden would be a major exercise and one I am sure this Shire alone (or even the NCZ member LGAs) could not afford to the time or resources to undertake.

Long Term Financial Plan (LTFP):

The Shire's LTFP must take into account the operational costs of the organisation, which then must take into account the costs to ensure compliance with legislative requirements and the implementation of legislation as it is being determined by the DLGC (i.e. *Best Practice*).

I am sure that anyone that has been involved in the industry for an extended period of time can state, without fear, the administrative burdens placed on the organisations has been significant over this period of time. These administrative burdens are invariably directly associated with the legislative (and DLGC interpretation) burdens place on local governments during this period. It would also be fair to state the Financial Assistance Grants which are designed to funds made available to local government to provide services to constituents, has not kept pace with the legislative imposition place on local government.

Strategic Implications

Community Strategic Plan

Outcome 4.2.2 – To be strong advocated representing the Shire's interests

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

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

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.5

Council advises the Northern Country Zone of the Western Australian Local Government Association (WALGA) the following in regards to the issue of legislative and compliance burdens placed on Western Australian local government authorities:

- 1. It supports the list of legislative issue, which need to be reviewed as presented by the NCZ Chief Executive Officers and Senior Staff;**
- 2. Recommends the Northern Country Zone local government authorities co-opt the service of an appropriately qualified and experienced individual or organisation to analyse the legislative requirements of the Local Government Act and associated Regulations in comparison to the interpretation of this legislation by the executive arm of State Government;**
- 3. Recommends the Northern Country Zone approach all WALGA Zones seeking any additional items to be added to (or expanded upon) the current list of legislative issue, which need to be reviewed as presented by the Northern Country Zone Chief Executive Officers and Senior Staff;**
- 4. Recommend an approach not be made to the WALGA State Council on this matter until feedback has been obtained from all WALGA Zones to ensure this matter is presented to the State Council with prior Zone support and/or input.**

COUNCIL DECISION – ITEM 9.1.5

Moved Cr Cosgrove

Seconded Cr Eardley

Council advises the Northern Country Zone of the Western Australian Local Government Association (WALGA) the following in regards to the issue of legislative and compliance burdens placed on Western Australian local government authorities:

- 1. It supports the list of legislative issue, which need to be reviewed as presented by the NCZ Chief Executive Officers and Senior Staff;**
- 2. Recommends the Northern Country Zone local government authorities co-opt the service of an appropriately qualified and experienced individual or organisation to analyse the legislative requirements of the Local Government Act and associated Regulations in comparison to the interpretation of this legislation by the executive arm of State Government;**
- 3. Recommends the Northern Country Zone approach all WALGA Zones seeking any additional items to be added to (or expanded upon) the current list of legislative issue, which need to be reviewed as presented by the Northern Country Zone Chief Executive Officers and Senior Staff;**
- 4. Recommend an approach not be made to the WALGA State Council on this matter until feedback has been obtained from all WALGA Zones to ensure this matter is presented to the State Council with prior Zone support and/or input.**

CARRIED 7/0

9.1.6 REFINANCING OF LOANS

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0139
Date: 10 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council consider refinancing the current loans into the one loan facility.

Attachment

WA Treasury Loan Repayment Schedules

Background

Currently the Shire has 10 different loan facilities. These loan facilities range in rates of interest being paid, ranging from 3.21% to 6.73% and the length of term with the most current loan due to be paid out on 5 September 2018 and the last of the loans due to be paid out on 21 April 2029. A breakdown of the 10 loans is included in the attachment.

Comment

I have made some enquiries to WA Treasury with regards to refinancing our existing loans into one loan and fixing this loan for a period of 5, 7 and 10 years. Tabled below are the principal and interest repayments for the various options.

Year	Existing Loans	Fixed for 5 Years	Fixed for 7 Years	Fixed for 10 Years
2016/17	\$18,537			
2017/18	\$171,646	\$171,761	\$126,866	\$94,021
2018/19	\$163,044	\$171,761	\$126,866	\$94,021
2019/20	\$135,906	\$171,761	\$126,866	\$94,021
2020/21	\$86,962	\$171,761	\$126,866	\$94,021
2021/22	\$78,897	\$171,761	\$126,866	\$94,021
2022/23	\$45,151		\$126,865	\$94,021
2023/24	\$40,759		\$126,865	\$94,021
2024/25	\$36,361			\$94,021
2025/26	\$36,361			\$94,021
2026/27	\$36,361			\$94,020
2027/28	\$21,233			
2028/29	\$21,233			
TOTAL	\$892,451	\$858,805	\$888,060	\$940,208

Unfortunately as a result of the existing loans all being fixed at interest rates higher than the current market, there are penalty rates which would need to be paid when refinancing the loans into any of the 3 options tabled below. The total cost of refinancing the existing loans would be \$73,021 and this penalty amount has been included in the figures provided above.

As you can see there are only small cost savings in looking to refinance over 5 years (\$33,646) and 7 years (\$4,391), while the 10 year option will actually incur an addition \$47,757 in costs if this option was chosen. While there are not significant cost savings with the 7 year loan option, the repayments in the first 3 years will result in positive cash flows for the Shire and the loans will be repaid in full in the 2023/24 financial year which is 5 years earlier than the current loan arrangements.

The Indicative Loan Repayments Schedules are based on Semi Annual Compounding Annuities. There is an option to have Quarterly or Monthly Compounding Annuities, which based on the 7 year fixed loan term would result in additional interest savings of \$2,768.54 and \$4,617.73 respectively. Although the savings are relatively insignificant over the period of the loan, they are still savings and the added benefit of paying more regular payments is that the payment of the 0.7% loan guarantee is also reduced as this component is calculated semi-annually on the balance of the loan so the more payments that are being paid then the less the loan guarantee payment will be.

It is my recommendation that Council look at refinancing the current loans into 1 loan fixed for a period of 7 years at 2.78% per annum, or similar depending on the frequency of payments chosen.

Traditionally, the months of May and June in each year have been the busiest time for processing local government loan applications so WA Treasury have advised local governments that should they wish to raise new loans, or in our situation refinance existing loans that the requests be made prior to the end of the financial year.

Since the term of the loan is being affected and Council would be refinancing the penalty payments, the refinancing of the loan would be considered as a major variation under the Local Government (Financial Management) Regulations 1996 therefore public notice of the proposed loan refinancing is required.

Consultation

Tamara Marsh, WA Treasury

Statutory Environment

Local Government Act 1995

6.20. Power to borrow

- (1) Subject to this Act, a local government may —
 - (a) borrow or re-borrow money; or
 - (b) obtain credit; or
 - (c) arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit,

to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.

- (2) Where, in any financial year, a local government proposes to exercise a power under subsection (1) (**power to borrow**) and details of that proposal have not been included in the annual budget for that financial year —
 - (a) unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and
 - (b) the resolution to exercise that power is to be by absolute majority.
- (3) Where a local government has exercised a power to borrow and —
 - (a) it does not wish to proceed with the performance of the function or the exercise of the power for which the power to borrow was exercised; or
 - (b) after having completed the performance of the function or the exercise of the power for which the power to borrow was exercised, any part of the money borrowed, credit obtained or financial accommodation arranged has not been expended or utilized,

the local government may resolve* to expend the money or utilize the credit or financial accommodation for another purpose if one month's local public notice is given of the proposed change of purpose.

* *Absolute majority required.*

- (4) A local government is not required to give local public notice under subsection (3) —
 - (a) where the change of purpose has been disclosed in the annual budget of the local government for the relevant financial year; or
 - (b) in such other circumstances as are prescribed.
- (5) A change of purpose referred to in subsection (3) is to be disclosed in the annual financial report for the year in which the change occurs.

6.21. Restrictions on borrowing

- (1) Where, under section 6.20(1), a regional local government borrows money, obtains credit or arranges for financial accommodation to be extended to the regional local government that money, credit or financial accommodation is to be secured only —
 - (a) by the regional local government giving security over the financial contributions of the participants to the regional local government's funds as set out or provided for in the establishment agreement for the regional local government; or
 - (b) by the regional local government giving security over Government grants which were not given to the regional local government for a specific purpose; or
 - (c) by a participant giving security over its general funds to the extent agreed by the participant.
- (1a) Despite subsection (1)(a) and (c), security cannot be given over —
 - (a) the financial contributions of a particular participant to the regional local government's funds; or
 - (b) the general funds of a particular participant,if the participant is not a party to the activity or transaction for which the money is to be borrowed by, the credit is to be obtained for, or the financial accommodation is to be extended to, the regional local government.
- (2) Where, under section 6.20(1), a local government borrows money, obtains credit or arranges for financial accommodation to be extended to the local government that money, credit or financial accommodation is only to be secured by giving security over the general funds of the local government.
- (3) The Treasurer or a person authorised in that behalf by the Treasurer may give a direction in writing to a local government with respect to the exercise of its power under section 6.20(1) either generally or in relation to a particular proposed borrowing and the local government is to give effect to any such direction.
- (4) In this section and in section 6.23 —

general funds means the revenue or income from —

 - (a) general rates; and
 - (b) Government grants which were not given to the local government for a specific purpose; and
 - (c) such other sources as are prescribed.

Local Government (Financial Management) Regulations 1996

20. When local public notice not required for exercise of power to borrow (Act s. 6.20(2)(a))

(1) A local government is not required to give local public notice of a proposal to exercise a power to borrow when the power is to be exercised to re-finance a loan or to continue other financial accommodation (whether with the same or another bank or financial institution) except where the re-financing or continuation is a major variation.

(2) In this regulation —

major variation means a variation in the terms of a loan or other financial accommodation which is —

- (a) a capitalisation of interest accruals; or
- (b) an increase in the term of the loan or other financial accommodation;

re-finance in relation to a loan or other financial accommodation (the **existing loan**), means to borrow an amount (the **new loan**) which is, at the date of the new loan —

- (a) equal to the principal amount owing on the existing loan; or
- (b) not more than \$5 000 more or less than the principal amount owing on the existing loan,

for the principal purpose of paying out the existing loan or preserving the credit originally provided by the existing loan.

21. When local public notice not required for change of use of borrowed money (Act s. 6.20(4)(b))

A local government is not required to give local public notice of a proposed change of use of money borrowed where the amount to be used for a purpose other than the purpose for which it was borrowed —

- (a) does not exceed \$5 000 in a financial year; or
- (b) where the money proposed to be borrowed by the local government is to be used to meet expenditure authorised by the mayor or president

Policy Implications

Nil

Financial Implications

The recommendation to refinance the current loans into one facility fixed for 7 years will have negligible saving over the period of the new loan, however it will free up some cash flow in the first three years of the loan.

Strategic Implications

Community Strategic Plan

Outcome 4.2.3 – Provide long term strategic leadership

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION – ITEM 9.1.6

That Council;

- 1. Roll the existing loans 133, 134, 136, 137, 138, 139, 141, 142, 144 and 145 with the West Australian Treasury Corporation into one consolidated loan amount, and**
- 2. The existing loans are refinanced with the West Australian Treasury Corporation, and**
- 3. The loan is fixed for a period of 7 years, and**

4. Chief Executive Officer be authorised to negotiate the rate of the interest calculated on the loan and the frequency of the payments (Currently 2.78% per annum calculated on a semi-annual compounding basis) , and
5. The loan refinancing is completed as soon as is practically possible, and
6. The Shire gives local public notice of the proposed loan refinancing in accordance with Section 6.20 of the Local Government Act 1995

MOTION

Moved Cr Pearce

Seconded Cr Lucken

That Council;

1. Roll the existing loans 133, 134, 136, 137, 138, 139, 141, 142, 144 and 145 with the West Australian Treasury Corporation into one consolidated loan amount, and
2. The existing loans are refinanced with the West Australian Treasury Corporation, and
3. The loan is fixed for a period of 7 years, and
4. Chief Executive Officer be authorised to negotiate the rate of the interest calculated on the loan and the frequency of the payments, and
5. The loan refinancing is completed as soon as is practically possible, and
6. The Shire gives local public notice of the proposed loan refinancing in accordance with Section 6.20 of the Local Government Act 1995

CARRIED 7/0

AMENDMENT

Moved Cr Cosgrove

Seconded Cr Lucken

That part 3 of the motion be amended to fix the loan for “5 years” instead of 7 years.

CARRIED 6/1

The Presiding Person put the amended motion;

That Council

1. Roll the existing loans 133, 134, 136, 137, 138, 139, 141, 142, 144 and 145 with the West Australian Treasury Corporation into one consolidated loan amount, and
2. The existing loans are refinanced with the West Australian Treasury Corporation, and
3. The loan is fixed for a period of 5 years, and
4. Chief Executive Officer be authorised to negotiate the rate of the interest calculated on the loan and the frequency of the payments, and
5. The loan refinancing is completed as soon as is practically possible, and
6. The Shire gives local public notice of the proposed loan refinancing in accordance with Section 6.20 of the Local Government Act 1995

CARRIED 6/1

9.1.7 MINGENEW MIDWEST EXPO

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0047
Date: 11 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council consider a request from the Mingenew Midwest Expo ("Expo") to paint a mural on the Recreation Centre forecourt wall.

Attachment

Submission from Mingenew Midwest Expo

Background

The Mingenew Midwest Expo will be celebrating its 35th year in 2017 and to commemorate this milestone are looking to undertake a community arts project which will culminate with a mural being painted on the southern side forecourt wall at the Recreation Centre.

The project will involve a community engagement process leading into the Expo in June/July which will host events such as school workshops and an interactive community roadshow. Community groups and visitors to Expo are encouraged to participate in the painting of the mural which will be a permanent display at the Recreation Centre.

An artist from Perth will be engaged to complete the project and the project will be fully funded by Plum Grove subject to approval from the Shire to use the wall for the mural.

Comment

While the work is expected to be untraditional it proposed to be innovative, rather than abstract with a clear sense of story. The end mural is expected to be colourful and tell the story of Mingenew, our farming community and our future.

The proposed area for the mural to be located is in the undercover area of the Recreation Centre forecourt. The location has been selected since the area is undercover and is expected to be a high traffic throughout the event which is aimed at encouraging people to participate in the painting of the mural.

The proposed area appears to be a suitable area as the current aesthetics of the wall in the under cover area are plain at best, however the concern may be that the proposed mural could be perceived as being invasive as the proposed site area is approximately 2.4m high and 6m wide.

The mural will be a permanent painting so If Council agree with the location then consideration needs to be given to the suitability of the mural given that it will be a feature at the chosen location for many years to come.

Council could consider to place certain conditions of the mural to be painted to ensure that the final product is deemed suitable, however placing conditions on the type of mural to be painted may inhibit the ambitions of the artist being engaged.

Consultation

Hellene McTaggart, Mingenew Mid West Expo

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

There are no financial impacts on the Shire for the proposed project however need to consider the future cost of needing to repaint the mural at some stage in the future.

Strategic Implications

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 9.1.7

That Council;

- 1. Agree to the proposal from the Mingenew Mid West Expo to allow a mural to be painted on the southern side of the undercover area of the Recreation Centre forecourt area, and**
- 2. That the size of the mural will be to a maximum height of the wall area and is not to exceed 6m in width**

Cr Newton had previously declared an Impartiality Interest in Agenda Item 9.1.7 as she was the Chairperson of the Mingenew Midwest Expo and informed Council that she would not be voting on the matter but was not requested to leave the meeting.

The Chief Executive Officer had also previously declared an Impartiality Interest in Agenda Item 9.1.7 as he was a board member of the Mingenew Midwest Expo.

COUNCIL DECISION – ITEM 9.1.7

Moved Cr Lucken

Seconded Cr Criddle

That Council;

- 1. Agree to the proposal from the Mingenew Mid West Expo to allow a mural to be painted on the southern side of the undercover area of the Recreation Centre forecourt area, and**
- 2. That the size of the mural will be to a maximum height of the wall area and is not to exceed 6m in width**

CARRIED 6/0

9.2 FINANCE

9.2.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 30 APRIL 2017

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0304
Date: 10 May 2017
Author: Durga Ojha, Manager of Finance
Senior Officer: Martin Whitely, Chief Executive Officer

Summary

This report recommends that the Monthly Statement of Financial Activity report for the period ending 30 April 2017 is presented to Council for adoption.

Attachment

Finance Report for period ending 30 April 2017

Background

The Monthly Financial Report to 30 April 2017 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	\$1,637,243
Business Cash Maximiser (Municipal Funds)	0
Trust Account	\$116,236
Reserve Maximiser Account	\$331,301

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 17 May 2017

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 April 2017:

	Current	30+ Days	60+ Days	90+ Days	TOTAL
Amount	33,651	63,000	643	391	97,685

Rates Outstanding at 30 April 2017 were:

	Current	Arrears	TOTAL
Rates	83,234	1,443	84,677
Rubbish	6,267	372	6,639
ESL	1,781	72	1,853
Payment Plan Fees	140	0	140
TOTAL	91,422	1,887	93,309

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2016/17 financial year.

Consultation

Chief Executive 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 2016 to 30 April 2017 be received.

COUNCIL DECISION – ITEM 9.2.1

Moved Cr Criddle

Seconded Cr Cosgrove

That the Monthly Statement of Financial Activity for the period 1 July 2016 to 30 April 2017 be received.

CARRIED 7/0

9.2.2 ACCOUNTS FOR PAYMENT – MONTH ENDING 30 APRIL 2017

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Disclosure of Interest: Nil
Date: 10 May 2017
Author: Durga Ojha, Manager of Finance
Senior Officer: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council confirm the payment of creditors for the month of April 2017 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 April 2017 from the Municipal & Trust Fund totalling \$103,279.10 represented by Electronic Funds Transfers of EFT 10733 to EFT10742 and 10745 to 10766 and EFT10778 to EFT 10780. EFT10743 & EFT10767 to EFT10777 has been cancelled, Direct Deduction DD8029.1.1, 2,3, 4 ,5, DD8036.1, 2, DD8052.1,2 and DD8053.1,2,3,4 & 5, Municipal Cheque numbers 8502 to 8507.

COUNCIL DECISION – ITEM 9.2.2

Moved Cr Eardley

Seconded Cr Lucken

That Council confirm the accounts as presented for April 2017 from the Municipal & Trust Fund totalling \$103,279.10 represented by Electronic Funds Transfers of EFT 10733 to EFT10742 and 10745 to 10766 and EFT10778 to EFT 10780. EFT10743 & EFT10767 to EFT10777 has been cancelled, Direct Deduction DD8029.1.1, 2,3, 4 ,5, DD8036.1, 2, DD8052.1,2 and DD8053.1,2,3,4 & 5, Municipal Cheque numbers 8502 to 8507.

CARRIED 7/0

9.3 ADMINISTRATION

9.3.1 WRITE OFF DEBT – PRIVATE WORKS: RR & MI BICKFORD

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: A400
Date: 8 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council authorise the CEO to write off an invoice previously raised for private works carried out for RR & MI Bickford.

Attachment

Letters from RR & MI Bickford
Letters to RR & MI Bickford
Photos of the site works completed
Invoice 8021

Background

The Shire of Mingenew was approached by the Bickford's to complete site works for their proposed dwelling at Lot 4 Phillip Street, Mingenew. Initial consultation was between the then Works Manager Warren Borrett and the Bickford's regarding the scope of works for the site works to be completed.

After soon commencing the site works the Bickford's raised concerns with the CEO that the works being completed were not as previously agreed. As there was no documentation to the original works agreed upon the CEO requested that the Works Manager consult with the Bickford's to ascertain the scope of works to be completed and agreed upon and a letter outlining the works to be completed by the Shire was duly signed by both parties on 2 March 2017.

The site works were completed by the Shire immediately after the signing of the letter and a further letter was received by the Bickford's on 10 March 2017 advising that they were not satisfied with the works completed.

After not hearing from the complainant after receiving the letter I wrote to the Bickford's on 5 April 2017 seeking further clarification as to why they were not satisfied with the works completed and met with them shortly afterwards in person on 11 April 2017 to discuss the matter.

Comment

The difficulty arising in this situation appears that the expectations from the Bickford's and the Shire as to the level of the scope of site works is substantially different. When meeting with the Bickford's on 11 April 2017 I asked what measures could be taken by the Shire to resolve the matter. The Bickford's indicated that they were not in favour on the Shire completing additional site works to rectify any concerns they may have. I asked the Bickford's if they would be satisfied if the Shire was to write the debt off on the basis that the matter would then be resolved and that no further correspondence would be entered into following this agreement and they were keen for this arrangement to be implemented.

The site works completed by the Shire were done with internal plant and staff, so there are little of no material costs incurred with the completion of the site works. While writing off the debt will have a financial impact on the 2016/17 financial year it will have little impact on the cash flow position of the organisation. As I only have delegated authority to write off debts under \$100 I am requesting that Council support this decision to waive the private works fees for Invoice 8021.

It is my recommendation that the invoice be written so as to keep the matter amicable.

Consultation

Rodney & Muriel Bickford

Statutory Environment

Local Government Act 1995

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 or a 75% majority of the local government;
- (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.

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
 - (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,

which is owed to the local government.

* *Absolute majority required.*

Policy Implications

Shire of Mingenew Register of Delegations

04 POWER TO WAIVE OR WRITE OFF DEBTS

Function to be performed for the purposes of section 6.12 (1) (b) & (c) of the Local Government Act 1995, the Chief Executive Officer is delegated the power to approve the waiver or write off of an amount of money not exceeding \$100.00 which, in the Chief Executive Officer's opinion, is unrecoverable subject to all such waivers and write offs being subsequently notified to Council.

Financial Implications

Writing off Invoice 8021 would result in a reduction of \$1,772.73 (GST Exclusive) in private works fees in the 2016/17 financial year.

Strategic Implications

Community Strategic Plan

Outcome 4.2.6 – Maintain a high standard of customer service with a can do attitude

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION – ITEM 9.3.1

That Council;

- 1. Agree to write off debtor invoice 8021 to the value of \$1,950 (GST Inclusive) charged to RR & MI Bickford for private works at Lot 4 Phillip Street, Mingenew, and**
- 2. That Invoice 8021 is written off on the basis that RR & MI Bickford agree to making no further claims to the Shire of Mingenew for works not completed to their satisfaction in preparing the site works at Lot 4 Phillip Street, Mingenew**

Cr Newton had previously declared a Proximity Interest in Agenda Item 9.3.1 as she owned land adjacent to RR & MI Bickford and informed Council that she would not be voting on the matter but was not requested to leave the meeting.

COUNCIL DECISION – ITEM 9.3.1

Moved Cr Cosgrove

Seconded Cr Criddle

That Council;

- 1. Agree to write off debtor invoice 8021 to the value of \$1,950 (GST Inclusive) charged to RR & MI Bickford for private works at Lot 4 Phillip Street, Mingenew, and**
- 2. That Invoice 8021 is written off on the basis that RR & MI Bickford agree to making no further claims to the Shire of Mingenew for works not completed to their satisfaction in preparing the site works at Lot 4 Phillip Street, Mingenew**

CARRIED 6/0

9.3.2 WRITE OFF DEBT – PRIVATE WORKS: RR & MI BICKFORD

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: A400
Date: 8 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council authorise the CEO to write off an invoice previously raised for private works carried out for RR & MI Bickford.

Attachment

Letter from RR & MI Bickford
Invoice 7982

Background

In January 2017 I was informed by staff that the Shire of Mingenew was approached by the Bickford's to slash their block at Lot 4 Phillip Street, Mingenew. These works were completed by the Shire the next day on 6 January 2017. In the letter from the Bickford's on 16 February 2017 they state that they were not satisfied with the amount of works completed when they received their invoice for the works completed. There is no documentation between the Shire and the Bickford's agreeing to the works to be completed.

Comment

The difficulty arising in this situation is that there is no documentation where the Bickford's have agreed to what slashing was expected. Again, it appears that the expectations from the Bickford's and the Shire as to the level of the scope of site works is substantially different.

The private works completed by the Shire were completed with internal plant and staff, so there were no material costs incurred with the completion of the site works. While writing off the debt will have a financial impact on the 2016/17 financial year it will have little impact on the cash flow position of the organisation.

It is my recommendation that the original invoice be written off and the Shire raise a new invoice being for 1 hour hire of the tractor & slasher. I believe it is reasonable to charge a minimum of 1 hour for any slashing works that the Shire would complete as private works.

As I only have delegated authority to write off debts under \$100 I am requesting that Council support this decision to waive the private works fees for Invoice 7982.

Consultation

Rodney & Muriel Bickford

Statutory Environment

Local Government Act 1995

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 or a 75% majority of the local government;
- (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.

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,

which is owed to the local government.

** Absolute majority required.*

Policy Implications

Shire of Mingenew Register of Delegations

04 POWER TO WAIVE OR WRITE OFF DEBTS

Function to be performed for the purposes of section 6.12 (1) (b) & (c) of the Local Government Act 1995, the Chief Executive Officer is delegated the power to approve the waiver or write off of an amount of money not exceeding \$100.00 which, in the Chief Executive Officer's opinion, is unrecoverable subject to all such waivers and write offs being subsequently notified to Council.

Financial Implications

Writing off Invoice 7982 and generating a new invoice as per the recommendation would result in a reduction of \$336.36 (GST Exclusive) in private works fees in the 2016/17 financial year.

Strategic Implications

Community Strategic Plan

Outcome 4.2.6 – Maintain a high standard of customer service with a can do attitude

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION – ITEM 9.3.2

That Council;

- 1. Agree to write off debtor invoice 7982 to the value of \$520 (GST Inclusive) charged to RR & MI Bickford for private works at Lot 4 Phillip Street, Mingenew, and**
- 2. That a new invoice be raised for an amount of \$150 (GST Inclusive) being a charge for a minimum of one hour hire of the tractor & slasher as per the 2016/17 Fees & Charges Schedule**

Cr Newton had previously declared a Proximity Interest in Agenda Item 9.3.1 as she owned land adjacent to RR & MI Bickford and informed Council that she would not be voting on the matter but was not requested to leave the meeting.

COUNCIL DECISION – ITEM 9.3.2

Moved Cr Pearce

Seconded Cr Cosgrove

That Council;

- 1. Agree to write off debtor invoice 7982 to the value of \$520 (GST Inclusive) charged to RR & MI Bickford for private works at Lot 4 Phillip Street, Mingenew, and**
- 2. That a new invoice be raised for an amount of \$150 (GST Inclusive) being a charge for a minimum of one hour hire of the tractor & slasher as per the 2016/17 Fees & Charges Schedule**

CARRIED 6/0

9.3.3 WRITE OFF DEBT – HIRE OF FACILITIES: MINGENEW IRWIN GROUP

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: DM68
Date: 8 May 2017
Author: Martin Whitely, Chief Executive Officer

Summary

This report recommends that Council waive hire charges for the Recreation Centre.

Attachment

Letter of Complaint
Invoice 8015

Background

In February 2017 the Mingenew Irwin Group (“MIG”) hired the Recreation Centre facilities for a Grain Research & Development (“GRD”) and MIG Crop Update. After the GRD event held in February 2017 a verbal complaint was made by MIG over the cleanliness of the facilities that were hired. On Wednesday 22 February 2017 a written complaint was filed by MIG after they came to collect the keys for the Recreation Centre & Turf Bar Facilities and commented that the facilities were still in the same state from the event earlier in the month.

Comment

As a result of the complaint made on 22 February 2017 MIG arranged to have the facility cleaned at their cost. They have since spoken with the CEO and commented that the state of the facilities was unacceptable. I forwarded the complaint to the cleaner and our records show that both facilities had been cleaned in the days leading up to both events.

I spoke with Laura Dorman on 8 March to apologise for any convenience and again with Sally McTaggart on 11 April 2017. I advised Sally that in light of the circumstances I would be happy to waive the hire costs for the GRD event held on 24 February 2017. As I only have delegated authority to write off debts under \$100 I am requesting that Council support this decision to waive the hire fees for MIG.

Clearly there appears to a difference in opinion as to whether the facilities had been cleaned, however given that MIG paid for their own cleaner prior to the event held on 24 February 2017 it is my recommendation that the invoice be written off to keep the matter amicable.

Consultation

Laura Dorman, Mingenew Irwin Group
Sally McTaggart, Mingenew Irwin Group

Statutory Environment

Local Government Act 1995

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 or a 75% majority of the local government;
- (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.

6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,

which is owed to the local government.

** Absolute majority required.*

Policy Implications

Shire of Mingenew Register of Delegations

04 POWER TO WAIVE OR WRITE OFF DEBTS

Function to be performed for the purposes of section 6.12 (1) (b) & (c) of the Local Government Act 1995, the Chief Executive Officer is delegated the power to approve the waiver or write off of an amount of money not exceeding \$100.00 which, in the Chief Executive Officer's opinion, is unrecoverable subject to all such waivers and write offs being subsequently notified to Council.

Financial Implications

Writing off Invoice 8015 will result in a reduction of \$454.55 (GST Exclusive) in hire fees for the 2016/17 financial year.

Strategic Implications

Community Strategic Plan

Outcome 4.2.6 – Maintain a high standard of customer service with a can do attitude

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION – ITEM 9.3.3

That Council agree to write off Invoice 8015 in its entirety.

Cr Newton had previously declared an Impartiality Interest in Agenda Item 9.3.1 as she was a board member of the Mingenew Irwin Group and informed Council that she would not be voting on the matter but was not requested to leave the meeting.

Cr Lucken had previously declared an Impartiality Interest in Agenda Item 9.3.1 as his wife was the cleaner at the Shire informed Council that he would not be voting on the matter but was not requested to leave the meeting.

COUNCIL DECISION – ITEM 9.3.3

Moved Cr Pearce

Seconded Cr Cosgrove

That Council agree to write off Invoice 8015 in its entirety.

LOST 3/2

The Presiding Person advised the meeting that the reason for the change would need to be recorded in the minutes.

Moved Cr Pearce

Seconded Cr Criddle

That the reason the officer recommendation was changed was because Council was of the opinion that the Turf Bar facilities were a difficult facility to keep clean since it is effectively a shed and that the facility should be hired on the understanding that the facility is hired as is.

CARRIED 5/0

9.4 TOWN PLANNING

9.4.1 MINGENEW TOWNSITE 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: 29 March 2017
Author: Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer: Martin Whitely, Chief Executive Officer

Summary

Council approved an application for a 25m high mobile phone mast at 13 (Lot 1) Shenton Street, Mingenew at its 20 July 2016 meeting. Council is now in receipt of an amended application seeking approval for a 35m high mast.

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.

Figure 9.4.1(a) – Location Plan for 13 (Lot 1) Shenton Street, Mingenew



The application approved by Council at its 20 July 2016 meeting consists of the following:

- 25m high grey monopole (replacing the existing 10m high steel pole);
- 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 revised application now submitted to Council for its consideration consist of the following:

- 35m high grey monopole (the proposed site for the mast has moved approximately 8m south-west of the previous proposed mast location due to design and structural constraints);
- 6 panel antennas and amplifiers mounted at a height of 25m on the pole;
- addition of a 0.9m radio dish atop the pole;
- 3m x 2m (6m²), 3m high approx. equipment shed at the base of the pole.

Figure 9.4.1(b) – View of proposed site looking south-west from Shenton Street



Figure 9.4.1(c) – View of proposed site looking south from King Street



The submitted development plans, that elaborate upon this proposal and includes a site plan and an elevation plan that illustrates the proposed pole height in comparison to the existing pole height, has been provided as **Attachment 9.4.1**.

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 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 '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 much 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.

In their original proposal the applicant advised that they intended 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:*
 - 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 the documentation submitted with the original application (that was provided as an attachment to the 20 July 2016 Council Agenda).

Financial Implications

The applicant made payment of the \$960 planning application fee with the original application. 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 the revised application for Telecommunications Infrastructure upon 13 (Lot 1) Shenton Street, Mingenew (inclusive of a 35m high mast) subject to compliance with the following:

Conditions:

- 1 Development shall generally be in accordance with plans included within Attachment 9.1.1 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 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 9.4.1

Moved Cr Lucken

Seconded Cr Eardley

That Council grant formal planning approval for the revised application for Telecommunications Infrastructure upon 13 (Lot 1) Shenton Street, Mingenew (inclusive of a 35m high mast) subject to compliance with the following:

Conditions:

- 1 Development shall generally be in accordance with plans included within Attachment 9.1.1 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 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.

LOST 7/0

The Presiding Person advised the meeting that the reason for the change would need to be recorded in the minutes.

Moved Cr Newton

Seconded Cr Pearce

That the reason the officer recommendation was not supported changed was because Council was of the opinion that;

1. A 35m tower located in the town site was not aesthetically pleasing and could be perceived as being invasive for adjacent landowners, and
2. A more appropriate site could be located to install the 35m tower

CARRIED 7/0

9.5 BUILDING

Nil

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

Nil

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

11.1 ELECTED MEMBERS

11.2 STAFF

12.0 CONFIDENTIAL ITEMS

Nil

13.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 21 June 2017 commencing at 4.30pm.

Cr Newton informed the meeting that she was tendering her resignation effective immediately. The President thanked Cr Newton for her service to the Community and Council as a Councillor for the last 6 years.

14.0 CLOSURE

The Presiding Person closed the meeting at 5:40pm.

DRAFT