



**AGENDA FOR THE  
ORDINARY COUNCIL MEETING  
TO BE HELD ON**

**Wednesday 20 September 2017**

# Shire of Mingenew

## Ordinary Council Meeting Notice Paper

15 September 2017

Madam President and Councillors,

An ordinary meeting of Council is called for Monday, 20 September 2017, in the Council Chambers, Victoria Street, Mingenew, commencing at 4.30 pm.

**Martin Whitely**  
**Chief Executive Officer**

15 September 2017

**MINGENEW SHIRE COUNCIL**

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**CHIEF EXECUTIVE OFFICER**  
**15 SEPTEMBER 2017**

**SHIRE OF MINGENEW**  
WRITTEN DECLARATION OF INTEREST IN MATTER BEFORE COUNCIL

Chief Executive Officer  
Shire of Mingenew  
PO Box 120  
MINGENEW WA 6522

Dear Sir/Madam,

**Re: Written Declaration of Interest in Matter before Council**

I, (1) \_\_\_\_\_ wish to declare an interest in the following item to be considered by Council at its meeting to be held on (2) \_\_\_\_\_

Agenda Item (3) \_\_\_\_\_

The type of interest I wish to declare is (4)

- Financial pursuant to Section 5.60A of the Local Government Act 1995  
 Proximity pursuant to Section to 5.60B of the Local Government Act 1995  
 Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995  
 Impartiality pursuant to regulation 11 of the Local Government (Rule of Conduct) Regulations 2007

The nature of my interest is (5)

\_\_\_\_\_  
\_\_\_\_\_

The extent of my interest is (6)

\_\_\_\_\_  
\_\_\_\_\_

I understand that the above information will be recorded in the minutes of the meeting and recorded in the Financial Interest Register.

Yours faithfully,

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

1. Insert Name
2. Insert the date of the Council Meeting at which the item is to be considered.
3. Insert the Agenda Item Number and Title.
4. Tick box to indicate type of interest.
5. Describe the nature of your interest.
6. Describe the extent of your interest (if seeking to participate in the matter under S. 5.68 of the Act).

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## **SHIRE OF MINGENEW**

### **AGENDA FOR ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON 20 September 2017 COMMENCING AT 4.30pm**

- 1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
- 2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE**
- 3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
- 4.0 PUBLIC QUESTION TIME/PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**
- 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 14 AUGUST 2017**



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

**Monday 14 August 2017**

**Shire of Mingenew**

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## SHIRE OF MINGENEW

### AGENDA FOR ORDINARY MEETING OF COUNCIL HELD IN COUNCIL CHAMBERS ON 14 August 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
GJ Cosgrove	Councillor	Rural 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
B Bow	Governance Officer

**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 the public, the President proceeded with the meeting allowing a Period of 15 minutes for questions from the public up until 4:46pm

**5.0 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**6.0 DECLARATIONS OF INTEREST**

Item 9.2.3 – Cr Criddle declared a financial interest in the item, as such would vacate the meeting during Council consideration of the item.

**7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES**

7.1.1 ORDINARY MEETING HELD 19 JULY 2017

**COUNCIL DECISION – ITEM 7.1.1**

**Moved: Cr Cosgrove**

**Seconded: Cr Eardley**

**That the minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 19 July 2017 be confirmed.**

**CARRIED 5/0**

**8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

**9.0 OFFICERS REPORTS**

**9.1 CHIEF EXECUTIVE OFFICER**

Nil

DRAFT

## 9.2 FINANCE

### 9.2.1 ADOPTION OF 2017/18 BUDGET

<b>Location/Address:</b>	Shire of Mingenew
<b>Name of Applicant:</b>	Shire of Mingenew
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	ADM0130
<b>Date:</b>	9 August 2017
<b>Author:</b>	Durga Ojha, Manager of Finance
<b>Senior Officer:</b>	Martin Whitely, Chief Executive Officer

#### **Summary**

This report seeks Council adoption of the Shire of Mingenew 2017/18 Budget.

#### **Attachment**

2017/18 Budget  
2017/18 Fees & Charges  
2017/18 Capital Expenditure  
2017/18 Road Program  
10 Year Plant Replacement Program

#### **Background**

As part of the function of local government and its operations, each year the Council is required, under Section 6.2 of the Local Government Act 1995, to formally adopt its annual financial year budget to enable the administration to carry out the defined services and programmes and to raise revenue through rates and fees and charges.

Consistent with sections 6.2(4) of the Local Government Act 1995, the 2017/18 Budget for the Shire of Mingenew includes the following:

- Rates and Minimum Payments for 2017/18
- Capital Works
- Fees and Charges
- Concessions
- Allowances
- Borrowings
- Reserves
- Budget Estimates for Adoption

#### **Comment**

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

#### **Rating & Minimum Payments**

The raising of revenue via annual rates is an important source of funds for all Councils throughout Australia. The Local Government Act 1995 (the Act) empowers WA Councils to impose general rates and minimum payments.

### **Rate Modelling (2017/18):**

The proposed rates model is based on the following:

- Annual UV revaluation applied
- Annual Mining revaluation applied
- 2.5% average rate increase
- Minimum Payments – UV - \$1,025
- Minimum Payments – GRV - \$682
- 50% concessions applied to Yandanooka Townsite
- No differential rates

### **Fees and Charges**

The majority of the proposed fees and charges have been increased by the same amount as rates being 2.5%. Where possible, the actual cost of providing the service has been assessed, with provision for increases based on inflation and cost escalation where necessary.

Household and commercial waste removal charges have been increased to allow for a higher level of cost recovery of these services- \$369 per 240l bin per week.

Statutory fees and charges associated with town planning, health and building have been increased or remain unchanged as per relevant legislation that determines those fees and charges.

### **Concessions**

A 50% concession will be available to persons owning rateable properties within the Shire that are rateable on the basis of Gross Rental Value (GRV) and are in the Yandanooka Townsite. The purpose of the concession is to recognise the reduced level of service provided to these ratepayers as compared to that provided to those in the Mingenew Townsite.

### **Allowances**

Allowances proposed for the President and Councillors for 2017/18 have been indexed as per the resolution passed by Council, Item 9.2.2 in May 2015, being Perth March CPI.

### **Borrowings**

There are no new borrowings proposed in the 2017/18 budget. However, Council decided to refinance the existing loan at the Ordinary Council meeting in May 2017 resulting in a loan refinancing cost of \$85,507. These expenses are included in the current loan repayment schedule.

### **Reserve Accounts**

There are no new reserves proposed in the financial year 2017/18.

### **Brought Forward Value**

There is an estimated surplus of \$1,722,222 shown in the Budget as the brought forward amount from 30 June 2017. This figure is unaudited and may change with any adjustments to the opening position to be addressed during the year end and audit process.

### **Capital Works and Funding**

Capital Works of \$3,625,184 are proposed in the 2017/18 financial year and these projects are itemised in the supplementary budget information.

A total of \$1,177,100 is budgeted for the Capital Road Programme.

Funding sources allocated to the 2017/18 Road Programme include;

- \$515,333 – Main Roads Regional Road Group
- \$41,594 – Main Roads Direct Grant
- \$167,449– Grants Commission Local Road Component

### **Elected Members Fees & Allowances**

Elected Members Fees & Allowances for the 2017/18 financial year have been increased by the March 2017 Perth CPI.

President Allowance	\$7,222
Deputy President Allowance	\$1,812
Annual Meeting Fee – President	\$6,222
Annual Meeting Fee – Deputy President	\$4,131
Annual Meeting Fee – Councillors	\$3,616

### **Consultation**

While no specific community consultation has occurred during the compilation of the draft 2017/18 Budget, community consultation was previously undertaken during the development of the Community Strategic Plan and the development of the Corporate Business Plan.

There has been internal consultation with staff and elected members throughout the preparation of the budget and the budget meetings involving elected members.

### **Statutory Environment**

Section 6.2 of the Local Government Act 1995 requires that not later than 31 August in each financial year, or such extended time as the Minister allows, each local government is to prepare and adopt, (Absolute Majority required) in the form and manner prescribed, a budget for its municipal fund for the financial year ending on the next following 30 June.

In addition, Section 6.2 of the Local Government Act 1995 requires that in preparing its annual budget the Council is to have regard to the contents of its Plan for the Future, prepared in accordance with section 5.56. Under the Integrated Planning Framework for Local Government, that is the Community Strategic Plan in conjunction with the Corporate Business Plan.

The 2017/18 Budget as presented is considered to meet statutory requirements.

### **Policy Implications**

The 2017/18 Budget is prepared on the principles outlined within the Corporate Business Plan and other related documents.

### **Financial Implications**

As detailed within the report, and as per the attached 2017/18 Budget documentation.

### **Strategic Implications**

The 2017/18 Budget will address Council's capacity to deliver on projects identified in the Community Strategic Plan, Corporate Business Plan, Long Term Financial Plan and other associated plans.

### **Voting Requirements**

Absolute Majority required for parts of the recommendation, while only a Simple Majority for other parts of the recommendation is required.

**OFFICER RECOMMENDATION – ITEM 9.2.1**

**PART A – MUNICIPAL FUND BUDGET FOR 2017/18 FINANCIAL YEAR**

Pursuant to the provisions of section 6.2 of the Local Government Act 1995 and Part 3 of the Local Government (Financial Management) Regulations 1996, the Council adopt the Municipal Fund Budget as contained in Attachment 9.2.1 of this Agenda for the Shire of Mingenew for the 2017/18 financial year which includes the following:

- Statement of Comprehensive Income by Nature and Type showing a net result of (\$389,285)
- Statement of Comprehensive Income by Program showing a net result of (\$389,285)
- Statement of Cash Flows on showing cash and cash equivalents at the end of 2017/18 financial year of \$555,844
- Rate Setting Statement showing an amount required to be raised from rates of \$1,781,044
- Transfers to/from Reserve Accounts as detailed in Note 6
- Estimated Surplus/(Deficit) carried forward at 30 June 2018 of \$32,937
- Notes to and Forming Part of the Budget on pages 6 to 35

**ABSOLUTE MAJORITY REQUIRED**

**PART B – GENERAL AND MINIMUM RATES AND INSTALMENT PAYMENT ARRANGEMENTS**

1. For the purpose of yielding the deficiency disclosed by the Municipal Fund Budget adopted at Part A above, Council pursuant to sections 6.32, 6.33, 6.34 and 6.35 of the Local Government Act 1995 impose the following general rates and minimum payments on Gross Rental and Unimproved Values, as supplied by Landgate (as amended) as at 1 July 2017.

1.1 General Rates

- Mingenew & Yandanooka (GRV) 14.540 cents in the dollar
- Rural & Mining (UV) 1.3350 cents in the dollar

1.2 Minimum Payments

- Mingenew & Yandanooka (GRV) \$682
- Rural & Mining (UV) \$1025

2. Pursuant to section 6.45 of the Local Government Act 1995 and regulation 64(2) of the Local Government (Financial Management) Regulations 1996, Council provides the option for ratepayers to pay their rates as a single payment or by 2 or 4 equal instalments; and, in accordance with Section 6.50 of the Act nominates the following due dates for the payment in full or by instalments:

- Full payment and 1st instalment due date 29 September 2017
- 2nd half instalment due date 30 November 2017
- 2nd quarterly instalment due date 30 November 2017
- 3rd quarterly instalment due date 31 January 2018
- 4th quarterly instalment due date 1 April 2018

3. Pursuant to section 6.45 of the Local Government Act 1995 and regulation 67 of the Local Government (Financial Management) Regulations 1996, Council adopts an instalment administration charge where the owner has elected to pay rates (and service charges) through an instalment option of \$15 for each instalment after the initial instalment is paid.

4. Pursuant to section 6.45 of the Local Government Act 1995 and regulation 68 of the Local Government (Financial Management) Regulations 1996, Council adopts an interest rate of 5.5% where the owner has elected to pay rates and service charges through an instalment option.

5. Pursuant to section 6.51(1) and subject to section 6.51(4) of the Local Government Act 1995 and regulation 70 of the Local Government (Financial Management) Regulations 1996, Council adopts an interest rate of 11% for rates (and service charges) and costs of proceedings to recover such charges that remains unpaid after becoming due and payable.

6. Pursuant to section 6.47 of the Local Government Act 1995, Council grants a 50% concession on rates assessments issued to all properties rateable on the basis of Gross Rental Valuation in the Yandanooka Townsite with the object of recognising the reduced level of service provided to properties in Yandanooka Townsite as compared to Mingenew Townsite.

### **ABSOLUTE MAJORITY REQUIRED**

### **PART C – GENERAL FEES AND CHARGES FOR 2017/18**

Pursuant to section 6.16 of the Local Government Act 1995, Council adopts the Fees and Charges as presented forming part of the 2017/18 Budget included as a separate Attachment to this Agenda.

### **ABSOLUTE MAJORITY REQUIRED**

### **PART D – OTHER STATUTORY FEES FOR 2017/18**

1. Pursuant to section 67 of the Waste Avoidance and Resources Recovery Act 2007, Council adopt the following charges for the removal and deposit of domestic and commercial waste:

#### 3.1 Residential Premises

- 240 Litre bin per weekly collection \$369 per annum

#### 3.2 Commercial Premises

- 240 Litre bin per weekly collection \$369 per annum

### **SIMPLE MAJORITY**

### **PART E – MATERIAL VARIANCE REPORTING FOR 2017/18**

In accordance with regulation 34(5) of the Local Government (Financial Management) Regulations 1996, and AASB 1031 Materiality, the level to be used in statements of financial activity in 2017/18 for reporting material variances shall be 10% or \$10,000, whichever is the greater.

### **SIMPLE MAJORITY**

<b>COUNCIL DECISION – ITEM 9.2.1</b>
--------------------------------------

### **PART A – MUNICIPAL FUND BUDGET FOR 2017/18 FINANCIAL YEAR**

Moved: Cr Eardley

Seconded: Cr Cosgrove

Pursuant to the provisions of section 6.2 of the Local Government Act 1995 and Part 3 of the Local Government (Financial Management) Regulations 1996, the Council adopt the Municipal Fund Budget as contained in Attachment 9.2.1 of this Agenda for the Shire of Mingenew for the 2017/18 financial year which includes the following:

- Statement of Comprehensive Income by Nature and Type showing a net result of (\$389,285)
- Statement of Comprehensive Income by Program showing a net result of (\$389,285)
- Statement of Cash Flows on showing cash and cash equivalents at the end of 2017/18 financial year of \$555,844
- Rate Setting Statement showing an amount required to be raised from rates of \$1,781,044
- Transfers to/from Reserve Accounts as detailed in Note 6
- Estimated Surplus/(Deficit) carried forward at 30 June 2018 of \$32,937
- Notes to and Forming Part of the Budget on pages 6 to 35

CARRIED 5/0

## PART B – GENERAL AND MINIMUM RATES AND INSTALMENT PAYMENT ARRANGEMENTS

Moved: Cr Lucken

Seconded: Cr Criddle

1. For the purpose of yielding the deficiency disclosed by the Municipal Fund Budget adopted at Part A above, Council pursuant to sections 6.32, 6.33, 6.34 and 6.35 of the Local Government Act 1995 impose the following general rates and minimum payments on Gross Rental and Unimproved Values, as supplied by Landgate (as amended) as at 1 July 2017.

### 1.1 General Rates

- Mingenew & Yandanooka (GRV) 14.540 cents in the dollar
- Rural & Mining (UV) 1.3350 cents in the dollar

### 1.2 Minimum Payments

- Mingenew & Yandanooka (GRV) \$682
- Rural & Mining (UV) \$1025

2. Pursuant to section 6.45 of the Local Government Act 1995 and regulation 64(2) of the Local Government (Financial Management) Regulations 1996, Council provides the option for ratepayers to pay their rates as a single payment or by 2 or 4 equal instalments; and, in accordance with Section 6.50 of the Act nominates the following due dates for the payment in full or by instalments:

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4. Pursuant to section 6.45 of the Local Government Act 1995 and regulation 68 of the Local Government (Financial Management) Regulations 1996, Council adopts an interest rate of 5.5% where the owner has elected to pay rates and service charges through an instalment option.

5. Pursuant to section 6.51(1) and subject to section 6.51(4) of the Local Government Act 1995 and regulation 70 of the Local Government (Financial Management) Regulations 1996, Council adopts an interest rate of 11% for rates (and service charges) and costs of proceedings to recover such charges that remains unpaid after becoming due and payable.

6. Pursuant to section 6.47 of the Local Government Act 1995, Council grants a 50% concession on rates assessments issued to all properties rateable on the basis of Gross Rental Valuation in the Yandanooka Townsite with the object of recognising the reduced level of service provided to properties in Yandanooka Townsite as compared to Mingenew Townsite.

CARRIED 5/0

#### PART C – GENERAL FEES AND CHARGES FOR 2017/18

Moved: Cr Cosgrove

Seconded: Cr Criddle

Pursuant to section 6.16 of the Local Government Act 1995, Council adopts the Fees and Charges as presented forming part of the 2017/18 Budget included as a separate Attachment to this Agenda.

CARRIED 5/0

#### PART D – OTHER STATUTORY FEES FOR 2017/18

Moved: Cr Cosgrove

Seconded: Cr Lucken

1. Pursuant to section 67 of the Waste Avoidance and Resources Recovery Act 2007, Council adopt the following charges for the removal and deposit of domestic and commercial waste:

##### 3.1 Residential Premises

- 240 Litre bin per weekly collection \$369 per annum

##### 3.2 Commercial Premises

- 240 Litre bin per weekly collection \$369 per annum

CARRIED 5/0

#### PART E – MATERIAL VARIANCE REPORTING FOR 2017/18

Moved: Cr Lucken

Seconded: Cr Eardley

In accordance with regulation 34(5) of the Local Government (Financial Management) Regulations 1996, and AASB 1031 Materiality, the level to be used in statements of financial activity in 2017/18 for reporting material variances shall be 10% or \$10,000, whichever is the greater.

CARRIED 5/0

**9.2.2 FINANCIAL STATEMENTS FOR PERIOD ENDING 31 JULY 2017**

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** ADM0304  
**Date:** 9 August 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 31 July 2017 is presented to Council for adoption.

**Attachment**

Finance Report for period ending 31 July 2017

**Background**

The Monthly Financial Report to 31 July 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**

<b>SUMMARY OF FUNDS – SHIRE OF MINGENEW</b>	
Municipal Fund	\$602,743
Restricted Funds (3 Month Term Deposit @ 2.45%)	\$750,000
Restricted Funds	\$18,651
Trust Fund	\$98,106
Reserve fund (6 Month Term Deposit) @2.55%	\$396,475

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered. The following remains outstanding as at 31 July 2017:

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 14 August 2017

	<b>Current</b>	<b>30+ Days</b>	<b>60+ Days</b>	<b>90+ Days</b>	<b>TOTAL</b>
Amount	1,651	0	190	59,761	61,602

Rates Outstanding at 31 July 2017 were:

	<b>Current</b>	<b>TOTAL</b>
Rates	67,470	67,470
Rubbish	5,600	5,600
ESL	377	377
<b>TOTAL</b>	<b>73,447</b>	<b>73,447</b>

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2017/18 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 sub regulation (1)(d); and
  - (c) such other supporting information as is considered relevant by the local government.

- (3) The information in a statement of financial activity may be shown —
  - (a) according to nature and type classification; or
  - (b) by program; or
  - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
  - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
  - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

**Policy Implications**

Nil

**Financial Implications**

Financial implications are outlined in comments.

**Strategic Implications**

Nil

**Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION – ITEM 9.2.2**

That the Monthly Statement of Financial Activity for the period 1 July 2017 to 31 July 2017 be received.

**COUNCIL DECISION – ITEM 9.2.2**

Moved: Cr Lucken

Seconded: Cr Cosgrove

That the Monthly Statement of Financial Activity for the period 1 July 2017 to 31 July 2017 be received.

**CARRIED 5/0**

### 9.2.3 ACCOUNTS FOR PAYMENT – MONTH ENDING 31 JULY 2017

#### Disclosure of Financial Interest Item 9.2.3- Cr Criddle

Prior to any consideration of Item 9.2.3, the Presiding Person advised the meeting that she had received a written disclosure of interest from Cr Criddle relating to this matter. Cr Criddle had disclosed a financial interest under the financial provisions of the Act as payment/s were received by his family owned business.

4.40pm- Cr Criddle left the meeting and did not participate in discussion or vote on the matter.

<b>Location/Address:</b>	Shire of Mingenew
<b>Name of Applicant:</b>	Shire of Mingenew
<b>File Reference:</b>	ADM0042
<b>Disclosure of Interest:</b>	Nil
<b>Date:</b>	9 August 2017
<b>Author:</b>	Durga Ojha, Manager of Finance
<b>Senior Officer:</b>	Martin Whitely, Chief Executive Officer

#### Summary

This report recommends that Council confirm the payment of creditors for the month of July 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).

List of Payments  
Licensing & Credit Card Payments

#### 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 9.2.3**

That Council confirm the accounts as presented for July 2017 from the Municipal & Trust Fund totalling \$461,299.62 represented by Electronic Funds Transfers of EFT 10914, 10917 to 10985 and 10989. Direct Deduction DD8181.1.1, 2, 3, 4, 5 & 6 DD8182.1, 2, 3, 4&5, Municipal Cheque numbers 8514 to 8519.

**COUNCIL DECISION – ITEM 9.2.3**

Moved: Cr Eardley

Seconded: Cr Lucken

That Council confirm the accounts as presented for July 2017 from the Municipal & Trust Fund totalling \$461,299.62 represented by Electronic Funds Transfers of EFT 10914, 10917 to 10985 and 10989. Direct Deduction DD8181.1.1, 2, 3, 4, 5 & 6 DD8182.1, 2, 3, 4&5, Municipal Cheque numbers 8514 to 8519.

CARRIED 4/0

4:45pm – Cr Criddle returned to the meeting

President Bagley read aloud for the benefit of Cr Criddle the Council decision for Agenda Item 9.2.3

## 9.3 ADMINISTRATION

Nil

## 9.4 TOWN PLANNING

### 9.4.1 SHIRE OF MINGENEW LOCAL PLANNING SCHEME REVIEW

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** ADM0175  
**Date:** 11 August 2017  
**Author:** Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley  
**Senior Officer:** Martin Whitely, Chief Executive Officer

#### Summary

The Department of Planning have announced that the Shire of Mingenew's funding application under the Royalties for Regions Local Government Assistance Program for the review of its Local Planning Scheme ('the Scheme') has been successful. This report recommends that Council resolve to formally commence the preparation of a new Scheme.

#### Attachment

- 9.4.1(a) - Resolution to Prepare or Adopt a Local Planning Scheme Notice
- 9.4.2(b) - Local Planning Scheme Preparation Flowchart
- 9.4.2(c) - Stakeholder Engagement Strategy

#### Background

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

#### Comment

Council is required to initiate the Scheme Review process through a resolution made under the *Planning and Development Act 2005* ('the Act') and a copy of the relevant form has been provided as **Attachment 9.4.1(a)**.

A chart illustrating the Scheme Review process has been provided as **Attachment 9.4.1(b)**. Council will be provided with drafts of the Scheme as it is prepared, and will also formally be required to review the new Scheme at two future Council meetings, when it considers the draft Scheme for advertising, and to consider again the Scheme (and any received submissions) following the conclusion of the advertising period.

#### Consultation

The minimum consultation process required for the review, and subsequent advertising, of a Local Planning Scheme is set by the Act and Regulations.

A Stakeholder Engagement Strategy is provided as **separate Attachment 9.4.1(c)** for Council's consideration, that proposes a process by which the Mingenew Scheme Review might be conducted.

**Statutory Environment**

Section 88 of the Act requires Local Governments to review their planning scheme every five years. Schemes are prepared and adopted under Part 5 of the Act and in compliance with the Regulations.

To formally begin the process of preparing a new Scheme it is necessary for Council to pass a resolution worded in accordance with the requirements of the Regulations. The WAPC will require a copy of Council's resolution and a supporting explanation outlining the intent and reasons.

**Policy Implications**

Nil.

**Financial Implications**

The cost of preparation of the new Scheme is being funded through a grant received by the Shire from the Royalties for Regions Local Government Assistance Program.

**Strategic Implications**

The Scheme review will provide opportunity to ensure that the outcomes identified within the Shire of Mingenew Strategic Community Plan are incorporated into its statutory planning and zoning document.

**Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION – ITEM 9.4.1**

That Council resolve to prepare Shire of Mingenew Local Planning Scheme No.4 in accordance with Part 5 of the *Planning and Development Act 2005* and part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* encompassing all land contained within the Shire boundaries. The proposed Local Planning Scheme No.4 is to replace the Shire of Mingenew Local Planning Scheme No.3.

**COUNCIL DECISION – ITEM 9.4.1**

Moved: Cr Cosgrove

Seconded: Cr Eardley

That Council resolve to prepare Shire of Mingenew Local Planning Scheme No.4 in accordance with Part 5 of the *Planning and Development Act 2005* and part 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* encompassing all land contained within the Shire boundaries. The proposed Local Planning Scheme No.4 is to replace the Shire of Mingenew Local Planning Scheme No.3.

**CARRIED 5/0**



**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 20 September 2017 commencing at 4.30pm.

**14.0 CLOSURE**

The President thanked all for attending and declared the meeting closed at 4.50pm

**These minutes were confirmed at an Ordinary Council meeting on 20 September 2017**

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

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

**8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

**9.0 OFFICERS REPORTS**

## **9.1 CHIEF EXECUTIVE OFFICER**

### **9.1.1 REVIEW OF DELEGATIONS REGISTER**

<b>Location/Address:</b>	Shire of Mingenew
<b>Name of Applicant:</b>	Shire of Mingenew
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	ADM0342
<b>Date:</b>	14 September 2017
<b>Author:</b>	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 May 2017.

#### **Comment**

The purpose of the Review of the Delegations Register is to;

1. Show the addition of the Governance Officer to have the authority to authorise payments, and
2. Include the role of the newly appointed Ranger & Emergency Services Officer, and
3. Update the new logo, and
4. Make a minor grammatical change

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

- Removal of old logo and addition of new logo
- Addition of "Governance Officer" as an authorised person for Delegation No. 1 "Payments from Trust and Municipal Funds".
- Wording amendment for Delegation No. 1 – Payments from Trust and Municipal Funds".
- Addition of Delegation No. 1 "Payments from Trust and Municipal Funds" in the Summary of Delegation to Officers for the Governance Officer
- Removal of all delegations to "Ranger" and "Community Emergency Services Manager" and replaced with "Ranger & Emergency Services Officer".
- All dates changed to reflect the date of review and to show when each delegation has been amended

#### **Consultation**

Durga Ojha, Finance Manager  
Belinda Bow, Governance Officer

#### **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

<b>OFFICER RECOMMENDATION – ITEM 9.1.1</b>
--

**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**



# **Register Of Delegations**

**September 2017**

Reviewed by Shire of Mingenew – May 2017  
Reviewed by Shire of Mingenew – February 2017  
Reviewed by Shire of Mingenew – October 2016  
Reviewed by Shire of Mingenew – December 2015  
Reviewed by Shire of Mingenew – June 2015

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## **INTRODUCTION**

### **1. General**

The Local Government Act 1995 allows for a local government to delegate to the Chief Executive Officer (sections 5.42 and 5.43) the exercise of any of its powers or the discharge of any of its duties under the Act. The Act allows for the Chief Executive Officer to delegate any of his powers to another employee, this must be done in writing. The Act allows for the Chief Executive Officer to place conditions on any delegations if he desires. The powers cannot, however, be further sub-delegated.

The purpose of this document is to detail which authorities have been delegated by Council to the Chief Executive Officer, and which the Chief Executive Officer has further delegated to respective staff. The manual details the related document(s) where the power to delegate is derived from, which includes legislation and policies of the Council. This enables easier cross referencing.

### **2. Limits on Delegations to the CEO**

The following are decisions that can not be delegated to the Chief Executive Officer:

- Any power or duty that requires a decision of an absolute majority or 75% majority of the local government;
- Accepting a tender which exceeds an amount determined by the local government;
- Appointing an auditor
- Acquiring or disposing of any property valued at an amount determined by the local government;
- Any of the local government's powers under Section 5.98, 5.99 and 5.100 of the Act;
- Borrowing money on behalf of the local government;
- Hearing or determining an objection of a kind referred to in Section 9.5;
- Any power or duty that requires the approval of the Minister or Governor; or
- Such other duties or powers that may be prescribed by the Act.

### **3. Register of, and Records Relevant to, Delegations**

A register of delegations, being this manual, relevant to the Chief Executive Officer and other employees is to be kept and reviewed at least once every financial year. If a person is exercising a power or duty that they have been delegated, the Act requires them to keep necessary records to the exercise of the power or discharge of the duty. The written record is to contain:

- How the person exercised the power or discharges the duty;
- When the person exercised the power or discharged the duty; and
- The persons or classes or persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

All employees with delegated authority will be issued with a register where a record of each occasion the persons exercises their delegated authority is recorded. The onus is on the person exercising delegated authority to ensure that a record is made.

### **4. Transfer of Authority Due to Absence**

Where an Officer not named has been appointed by Council or by an Officer authorised to make the appointment to act in a position to which the named Officer is appointed, the authority shall transfer to the Officer acting as appointed, for the duration of Council authorisation.

**FINANCE****01 PAYMENTS FROM TRUST AND MUNICIPAL FUNDS**

**Function to be performed:** To make payments from the Municipal Fund Bank Accounts and the Trust Fund Bank Accounts for payment of creditors and payroll.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority, under Section 5.44 of the Local Government Act, 1995, has delegated this power/duty to the following Officers.*

Payments made by Cheque require two authorisations being from the following:

- Chief Executive Officer and Finance Manager
- Chief Executive Officer and Governance Officer
- Chief Executive Officer and a Councillor
- Finance Manager and a Councillor.
- Governance Officer and a Councillor

Electronic Transfer or Direct Deposits require ~~one authorisation~~ two authorised persons (subject to National Australia Bank's online banking security protocols) being:

- Chief Executive Officer
- Finance Manager
- Governance Officer

**Conditions:** Compliance with Regulations 12 and 13 of the Local Government (Financial Management) Regulations 1996 and Council policies.

Each payment from the Municipal Fund Bank Accounts and the Trust Fund Bank Accounts is to be noted on a list compiled each month showing:

- 1) The payee's name
- 2) The amount of the payment
- 3) The date of the payment
- 4) Sufficient information to identify the transaction

**Record of Use:** The list referred to above is to be presented to the Council at the next ordinary meeting of the Council following the preparation of the list and is to be recorded in the minutes of the meeting at which it is presented.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.



**Reference:** s5.42 & s5.44 – Local Government Act 1995  
Local Government (Financial Management) Regs 1996

**Council Policy:** N/A

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017

**Date Reviewed and Amended:** 20 September 2017

**02 PURCHASE ORDER AUTHORISATION**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to sign Purchase Orders for items contained within the current budget.

This delegation includes authorisation for the CEO to accept a tender for purchase up to an amount of \$150,000 (Local Government Act 1995 section 5.43 (b)).

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority, under Section 5.44 of the Local Government Act, 1995, has delegated this power/duty to the following Officers:*

Level 1 - Chief Executive Officer  
 Level 2 – Finance Manager  
 Level 2 – Works Supervisor  
 Level 2 – Governance Officer  
 Level 3 - Community Development Officer  
 Level 4 – Nil

**Conditions:** Limits on amounts:

- a) Level 1 - \$150,000 excluding the purchase of freehold land and real estate.
- b) Level 2 - up to \$10,000 excluding the purchase of freehold land and real estate.
- c) Level 3 - Within area of responsibility up to a maximum of \$500 excluding Capital items.
- d) Level 4 - Within area of responsibility up to a maximum of \$200 excluding Capital items.

**Record of Use:**

- Duplicate of Purchase Order to be handed to Finance Manager
- Triplicate stored in original Purchase Order Book. Completed Order Books to be returned to Governance Officer for archiving.
- Register to be kept of Purchase Order Books issued and returned.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** S5.42 Local Government Act 1995

**Council Policy:** Policy 3007 – Purchasing Policy

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
15 February 2017  
20 September 2017

**Date Reviewed and Amended:** 17 May 2017

**03 INVESTMENTS**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to

1. Invest money held in the Municipal or Trust Funds that is not required for the time being for any purpose in accordance with Part III of the Trustees Act 1962 or in an investment approved by the Minister.
2. To establish and document internal control procedures to be followed to ensure control over the investments.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority, under Section 5.44 of the Local Government Act, 1995, has delegated this power and power to the Finance Manager for renewals and reinvestments in the same type of investments already approved by the Chief Executive Officer.*

**Conditions:**

- 1) The establishing of documental internal control procedures to be followed to ensure control over the investments.
- 2) Compliance with Clause 19(2) Local Government (Financial Management) Regulations 1996
- 3) Council Policy 3002 - Investments.

**Record of Use:** Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** S5.42, S5.44 & S6.14 Local Government 1995  
Financial Management Regulations 1996  
Trustees Act 1962  
Council Policy 3002 - Investments

**Council Policy:** 3002 - Investments

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 15 February 2017

**04 POWER TO WAIVE OR WRITE OFF DEBTS**

**Function to be performed:** 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.

**Delegated to:** Chief Executive Officer

**On delegated to**

*The Chief Executive Officer in exercising authority, under Section 5.44 of the Local Government Act, 1995, has delegated this power/duty to the Finance Manager with written approval from the Chief Executive Officer.*

**Conditions:** Report to Council at the next Concept Forum Meeting.

**Record of Use:**

- Concept Forum Notes.
- Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** S5.42 & 5.44 Local Government Act 1995

**Council Policy:** 3006 – Debt Collection

**Date Adopted:** 18 June 2014

**Date Reviewed:**

- 18 June 2014
- 17 June 2015
- 16 December 2015
- 19 October 2016
- 17 May 2017
- 20 September 2017

**Date Reviewed and Amended:** 15 February 2017

**05 RATE BOOK****Function to be performed:**

Council delegates its authority and power to the Chief Executive Officer for the performance of the following functions of Council:-

1. The discharge of the obligations specified in Section 6.39(1) of the Local Government Act 1995.
2. The service of Notices of Valuation and Rates referred to in Section 6.41(1) of the Local Government Act 1995.
3. The time allowed for the payment of the rate before it becomes in arrears 6.50(2) of the Local Government Act 1995.
4. The powers conferred in Section 6.40 of the Local Government Act 1995.
5. The exercise of discretion in regard to granting of any extension of time for service of objections to the Rate Book 6.76(4) of the Local Government Act 1995.
6. The recovery of rates by complaint or action pursuant to the provisions of 6.56 and 6.64 of the Local Government Act 1995.
7. Entering into an agreement in accordance with 6.49 of the Local Government Act 1995.
8. Requiring a lessee to pay rent to the Council in satisfaction of rates and service charges due and payable in accordance with 6.60(2) of the Local Government Act 1995.

**Delegated to:**

Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority, under Section 5.42/5.44 of the Local Government Act, 1995, has delegated this power/duty to the Finance Manager.*

**Conditions:**

Nil.

**Record of Use:**

Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:**

S5.42 & S5.42 Local Government Act 1995

**Council Policy:** 3006.1 – Debt Collection - Rates

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
17 May 2017  
20 September 2017

**Date Reviewed and Amended:** 15 February 2017

**06 MINOR DONATIONS – MONETARY**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to approve minor donations of \$100 or less.

**Delegated to:** Chief Executive Officer

**On delegated to:** N/A.

**Conditions:**

- Subject to Council Policy 3004 – Donations.
- Report to Council at the next Concept Forum Meeting.
- All donations to be by cheque or bank transfer only.

**Record of Use:**

- Concept Forum Notes.
- Record to be kept on appropriate file and payment voucher.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** S5.42 Local Government Act 1995.

**Council Policy:** 3004 - Donations

**Date Adopted:** 18 June 2014

**Date Reviewed:**

- 18 June 2014
- 17 June 2015
- 16 December 2015
- 19 October 2016
- 15 February 2017
- 17 May 2017
- 20 September 2017

**Date Reviewed and Amended:** 18 June 2014



**42 DEBT RECOVERY ACTION**

**Function to be performed:** To collect all monies owing to the Shire of Mingenew in a timely and cost effective manner.

**Delegated to:** Chief Executive Officer

**On delegated to:** N/A.

**Conditions:** Compliance with the Local Government Act 1995, s5.46(3)

**Record of Use:** In line with requirements of the Local Government Act 1995, s.5.46(3)

**Reference:** S5.42, s5.44 & s5.45 - Local Government Act 1995.  
Local Government (Financial Management) Regs 1996

**Council Policy:** 3006 - Debt Collection

**Date Adopted:** 15 October 2014

**Date Reviewed:** 17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017

**Date Reviewed and Amended:** 15 October 2014

**STAFF****07 STAFF HOUSING**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to make all arrangements in regard to occupancy and maintenance of all staff accommodation provided by Council in accordance with Council Policy.

For the purpose of S5.43 (d) of the Local Government Act 1995 the amount determined by the local Government for the purpose of this delegation is a maximum of \$300 per week rental exclusive of utilities and subject always to council policy.

**Delegated to:** Chief Executive Officer

**On delegated to:** N/A

**Conditions:**

- 1) In exercising this delegation, the Chief Executive Officer shall have regard to Council Policy Manual, Section 5000 – Housing.
- 2) This delegation not to be on delegated

**Record of Use:** In accordance with Shire of Mingenew's Rental Agreement – Agreements to be kept on Personnel files.

**Reference:** S5.42 Local Government Act 1995.

**Council Policy:**

- 5001 – Allocation of Staff Housing
- 5002 – Residential Rentals / Leases
- 5003 – Telephones in Council and Staff Houses
- 5004 – Water Charges in Staff Housing (Council Owned)
- 5005 – Water Charges for Staff (Occupying Non - Council Property)
- 5006 – Water Charges for Non - Staff Persons Occupying Council Property
- 5007 – Reimbursement of Utility Charges

**Date Adopted:** 18 June 2014

**Date Reviewed:**

- 18 June 2014
- 17 June 2015
- 16 December 2015
- 19 October 2016
- 15 February 2017
- 20 September 2017

**Date Reviewed and Amended:** 17 May 2017

**08 CONFERENCES, SEMINARS AND TRAINING COURSES**

<b>Function to be performed:</b>	Section 5.41 (g) of the Local Government Act 1995 provides that it is a CEO's function to "be responsible for the employment, management, supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees)."  Council acknowledges that this function includes the authority and power to approve the attendance of Council staff at conferences, seminars and training courses. Attendance is to enhance the professional or occupational development of the officer, provide benefits to the individual or the Council and be relevant to the duties and responsibilities of the officer.
<b>Delegated to:</b>	Chief Executive Officer.
<b>On delegated to:</b>	N/A.
<b>Conditions:</b>	1) In exercising this function, the Chief Executive Officer shall have regard to Council Policy 4006 – Professional Development. 2) This function is not to be on delegated
<b>Record of Use:</b>	Conference, Seminar or Training outcome documentation to be kept on Personnel Files
<b>Reference:</b>	S5.42 Local Government 1995.
<b>Council Policy:</b>	4006 – Professional Development 4006.1 – Payment of Expenses
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 20 September 2017
<b>Date Reviewed and Amended:</b>	18 June 2014

**ADMINISTRATION****09 LIQUOR – SALE AND CONSUMPTION (COUNCIL PROPERTY)**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to approve applications for the sale of liquor from property under the care, control and management of Council and to approve applications to consume liquor on property under the care, control and management of Council.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority, under Section 5.44 of the Local Government Act, 1995, has delegated this power to the Finance Manager*

**Conditions:** In exercising this delegation, the Chief Executive Officer shall have regard to the provisions of the appropriate State Legislation regarding consumption and sale of liquor and shall, when appropriate, consult with local Police.

**Record of Use:** Applications and approvals to be kept in Filing System.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** S5.42 Local Government 1995

**Council Policy:** 6002 – Hall & Recreation Centre Hire

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 15 February 2017

**10 CONTRACT VARIATIONS**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to approve minor variations to contracts entered into by Council.

**Delegated to:** Chief Executive Officer

**On delegated to:** N/A.

**Conditions:**

- Monetary variations to contracts are not to exceed the amount set aside in the budget adopted by Council.
- Report to Council at the next Concept Forum Meeting

**Record of Use:**

- Record to be kept on appropriate file and Contract Register.
- Concept Forum Notes.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** S5.42 & S5.44 Local Government 1995

**Council Policy:** N/A.

**Date Adopted:** 18 June 2014

**Date Reviewed:**

- 18 June 2014
- 17 June 2015
- 16 December 2015
- 19 October 2016
- 15 February 2017
- 17 May 2017
- 20 September 2017

**Date Reviewed and Amended:** 18 June 2014

**11 LEGAL ADVICE**

**Function to be performed:** Council acknowledges that section 5.41(d) provides that it is a CEO's function to "manage the day to day operations of the local government". This function includes seeking legal advice when required or deemed necessary or appropriate. The CEO therefore has the authority and power to obtain from an appropriate solicitor or lawyer, such legal advice and opinions as is deemed necessary in the exercise of the proper and prudent management of the Municipality.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority, under Section 5.41 of the Local Government Act, 1995, has delegated this power to the Finance Manager subject to a limit of \$2,000 expenditure (Exc GST) on each particular issue and after consultation with the CEO.*

**Conditions:** Subject to provisions being made in the adopted Budget and Council Resolutions.

**Record of Use:** Retention of Confidential File copy of relevant correspondence in safe or where confidentiality is not an issue, filing of all relevant documents in the Council filing system.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** S5.41, 5.42 & S5.44 Local Government Act 1995

**Council Policy:** N/A

**Date Adopted:** 18 June 2014

**Date Reviewed:**  
18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 15 February 2017

**12 ENFORCEMENTS AND LEGAL PROCEEDINGS**

<b>Function to be performed:</b>	<ol style="list-style-type: none"> <li>1) To appoint persons or classes of person to be authorised for the purposes of performing particular functions in regard to the enforcement of laws.</li> <li>2) To issue to each person authorised to enforce laws a certificate stating that the person is so authorized and the person is to produce the certificate whenever required to do so by a person who has been or is about to be affected by any exercise of authority by the authorized person.</li> <li>3) To extend the time period within which infringement notices may be paid (S9.19 of the Act)</li> <li>4) Use discretion to withdraw any infringement notice issued by an Authorised Office under the Act, following consideration of any submissions of special circumstances relating to it received from the Authorised Office, the notice recipient or other persons (S9.20 of the Act)</li> </ol>
<b>Delegated to:</b>	Chief Executive Officer
<b>On delegated to:</b>	N/A.
<b>Conditions:</b>	Compliance with: Local Government Act 1995, S9.23 Dog Act 1976 Bush Fire Act 1954 Health Act 1911 Miscellaneous Provisions Act 1960
<b>Record of Use:</b>	Retention of File copy of relevant correspondence.  Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	<ul style="list-style-type: none"> <li>- S5.42, S5.44, S9.10, S9.19, S9.20 and S9.23 Local Government Act 1995</li> <li>- Section 44.9 Miscellaneous Provisions Act 1960</li> </ul>
<b>Council Policy:</b>	N/A.
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 20 September 2017
<b>Date Reviewed and Amended:</b>	18 June 2014

**13 EXPENDITURE PRIOR TO ADOPTION OF BUDGET**

**Function to be performed:** The Chief Executive Officer is delegated authority to authorise operating expenditure and appropriate capital expenditure that is:

- is of a routine nature and/or;
- was a budgeted expense in the previous financial year and is likely to be carried forward.

from the Municipal Fund prior to the adoption of the annual budget.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power to the Finance Manager and Works Supervisor subject in both cases to a limit of \$5,000 on any one supply/purchase and excluding capital items.*

**Conditions:** Nil.

**Record of Use:** Retention of documentation involved

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** S5.42 Local Government Act 1995

**Council Policy:** N/A

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
15 February 2017  
20 September 2017

**Date Reviewed and Amended:** 17 May 2017



**14 CERTAIN THINGS TO BE DONE IN RESPECT OF LAND**

<b>Function to be performed:</b>	Council delegates its authority and power to the Chief Executive Officer to issue notices pursuant to Section 3.25 of the Local Government Act 1995.
<b>Delegated to:</b>	Chief Executive Officer
<b>On delegated to:</b>	N/A.
<b>Conditions:</b>	<ol style="list-style-type: none"><li>1. Subject to the express provisions contained in the applicable Act, Council's Resolutions and Policies.</li><li>2. Applicant being advised of objections and/or appeal rights.</li></ol>
<b>Record of Use:</b>	Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	S3.25 Local Government Act 1995
<b>Council Policy:</b>	N/A.
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 <b>20 September 2017</b>
<b>Date Reviewed and Amended:</b>	18 June 2014

**15 IMPOUNDING GOODS – AUTHORISED EMPLOYEE**

**Function to be performed:** The Chief Executive Officer is delegated authority to:

1. Authorise an employee in accordance with Section 3.39 to remove and impound any goods that are involved in a contravention that can lead to impounding;
2. Take appropriate action in respect to impounded non perishable goods in accordance with Section 3.42;
3. Give notice in accordance with Section 3.44 to collect goods;
4. Refuse to allow goods to be collected until all costs have been paid in accordance with Section 3.46;
5. Take action to recover expenses in accordance with Section 3.48

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power to the Environmental Health Officer and Ranger & Emergency Services Officer.*

**Conditions:** Subject to the express provisions contained in the Local Government Act 1995 and Local Government (Functions and General) Regulations 1996, Pt 6.

**Record of Use:** Report to Council.

**Reference:** Local Government 1995 Act (As Amended) – S5.42  
Local Government 1995 Act – Sections 3.39, 3.42, 3.44, 3.46 and 3.48

**Council Policy:** N/A

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 18 June 2014

**16 SALE OF IMPOUNDED/SEIZED/CONFISCATED VEHICLES, ANIMALS OR GOODS**

<b>Function to be performed:</b>	Council delegates its authority and power to the Chief Executive Officer to dispose of any vehicles, animals or goods that have been impounded/seized/confiscated under the provisions of Section 3.47 and 3.58 of the Local Government Act 1995.
<b>Delegated to:</b>	Chief Executive Officer
<b>On delegated to:</b>	N/A
<b>Conditions:</b>	<ol style="list-style-type: none"> <li>1. The Chief Executive Officer may dispose of the above only after calling public tenders in accordance with Part 4 of the Local Government (Functions and General) Regulations.</li> <li>2. The Chief Executive Officer is authorised pursuant to Section 5.43(B) of the Local Government Act 1995 to accept any tender up to the value of \$5,000.</li> <li>3. Tenders for amounts exceeding \$5,000 shall be referred to the Council for consideration.</li> </ol>
<b>Record of Use:</b>	Report to Council at the next Concept Forum Meeting.
<b>Reference:</b>	Local Government Act 1995 – S3.47, S3.58, S5.42 & S5.43. Local Government (Functions and General) Regulations, Pt 4.
<b>Council Policy:</b>	N/A
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 20 September 2017
<b>Date Reviewed and Amended:</b>	18 June 2014

**17 PROCEEDINGS UNDER DOG ACT**

**Function to be performed:** In accordance with Section 44 of the Dog Act 1976, the Chief Executive Officer is delegated authority to institute and carry on proceedings in the name of the Shire of Mingenew in respect to offences alleged to have been committed within the district of the Shire of Mingenew against the Dog Act.

This delegation also enables the Chief Executive Officer to issue infringement notices pursuant to the provisions of Section 29 of the Dog Act 1976.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority, under Section 5.44 of the Local Government Act, 1995, has delegated this power/duty to the **Ranger & Emergency Services Officer**.*

*This delegation not to be on delegated.*

**Conditions:** Nil.

**Record of Use:** Report to Council at the next Concept Forum Meeting.

**Reference:** Dog Act 1976 – S.44 & S.29

**Council Policy:** N/A

**Date Adopted:** 18 June 2014

**Date Reviewed:**  
 18 June 2014  
 17 June 2015  
 16 December 2015  
 19 October 2016  
 15 February 2017  
 17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 18 June 2014

**18 OPENING FENCES AND GATES**

<b>Function to be performed:</b>	Council delegates its authority and power to the Chief Executive Officer to approve the opening of fences and the erection of gates on road surveys on both boundary and internal fencing of properties.
<b>Delegated to:</b>	Chief Executive Officer
<b>On delegated to:</b>	N/A
<b>Conditions:</b>	<ul style="list-style-type: none"><li>- In any circumstances considered controversial, the applications are to be referred to Council.</li><li>- All requirements of Section 3.36 to be applied</li></ul>
<b>Record of Use:</b>	Retention of file copy of relevant correspondence.  Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	<ul style="list-style-type: none"><li>- Local Government Act 1995, S3.36</li><li>- Provisions of the Local Government Act 1995, Schedule 3.2</li></ul>
<b>Council Policy:</b>	N/A
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 <b>20 September 2017</b>
<b>Date Reviewed and Amended:</b>	18 June 2014

**19 OFFENCES – BUSH FIRES ACT**

**Function to be performed:** The Chief Executive Officer is delegated authority to consider allegations of offences alleged to have been committed against the Bush Fires Acts within the district of the Shire of Mingenew and if the Chief Executive Officer thinks fit, to institute and carry out proceedings in the name of Mingenew Shire Council against any person alleged to have committed any of those offences. This delegation extends to the issue of infringement notices in accordance with the provisions of Section 59A of the Bush Fires Act 1954.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority, under Section 5.44 of the Local Government Act, 1995, has delegated this power/duty to the **Ranger & Emergency Services Officer**.*

**Conditions:** Report to Council at the next Concept Forum Meeting.

**Record of Use:** Retention of file copy of relevant correspondence and / or infringement notice.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Bush Fires Act 1954 – S.59(3)

**Council Policy:** N/A

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 18 June 2014

**20 BURNING – VARIATION TO RESTRICTED AND PROHIBITED BURNING**

<b>Function to be performed:</b>	That pursuant to Section 17 (10) and 18 (5) of the Bush Fires Act, the Shire President and Chief Executive Officer, in consultation with the Chief Bush Fire Control Officer and Deputy Chief Bush Fire Control Officers are delegated authority jointly, the Council's powers and duties under the Bush Fires Act 1954 in respect to varying the prohibited burning times and the restricted burning times.
<b>Delegated to:</b>	Chief Executive Officer and Shire President
<b>On delegated to:</b>	N/A.
<b>Conditions:</b>	Nil
<b>Record of Use:</b>	Retention of file copy of relevant correspondence.  Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	Bush Fires Act 1954 – S.17(10) & S.18(5)
<b>Council Policy:</b>	N/A
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 <b>20 September 2017</b>
<b>Date Reviewed and Amended:</b>	18 June 2014

**ENGINEERING****21 TRAFFIC REGULATORY SIGNS**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to install appropriate traffic regulatory signs at such places as the Chief Executive Officer considers necessary.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power to the Works Supervisor.*

**Conditions:**

- Approval of Main Roads and other Statutory bodies to be gained where relevant.
- All signs to be in accordance with relevant legislation, guidelines and standards.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Local Government Act 1995 (As Amended) – S5.42

**Council Policy:** Nil

**Date Adopted:** 18 June 2014

**Date Reviewed:**

- 18 June 2014
- 17 June 2015
- 16 December 2015
- 19 October 2016
- 15 February 2017
- 17 May 2017
- 20 September 2017

**Date Reviewed and Amended:** 18 June 2014



**22 EVENTS ON ROADS – CLOSING OF THOROUGHFARE**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to determine applications for the temporary closure of roads for the purpose of conducting events in accordance with the Road Traffic (Events on Roads) Regulations 1991.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power to the Works Supervisor.*

**Conditions:** The Officer shall have regard to Section 3.50 of the Local Government Act 1995.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Local Government Act 1995 – S3.50 & S5.42  
Road Traffic (Events on Roads) Regulations 1991

**Council Policy:** Nil

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
20 September 2017

**Date Reviewed and Amended:** 18 June 2014

**23 CERTAIN THINGS TO BE DONE BY OWNERS OR OCCUPIERS OF LAND**

<b>Function to be performed:</b>	Council delegates its authority and power to the Chief Executive Officer, to take what action is deemed necessary in achieving the purpose for which a notice was given pursuant to Section 3.25 and 3.26 of the Local Government Act from persons who failed to comply with the said notice and for the recovery of costs.
<b>Delegated to:</b>	Chief Executive Officer
<b>On delegated to:</b>	N/A
<b>Conditions:</b>	Nil.
<b>Record of Use:</b>	Retention of file copy of relevant correspondence.  Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	Local Government Act 1995 S5.42 & S3.25 Local Government Act 1995, Schedule 3.1 - Division 1 Local Government Act 1995, Schedule 3.1 - Division 2
<b>Council Policy:</b>	Nil
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 20 September 2017
<b>Date Reviewed and Amended:</b>	18 June 2014

**24 NOTIFICATION TO AFFECTED OWNERS ABOUT PROPOSALS**

<b>Function to be performed:</b>	Council delegates its authority and power to the Chief Executive Officer to ensure the requirements of Section 3.51 of the Local Government Act 1995, are observed relating to affected land owners of land works being notified of proposals and allowed a reasonable time to make submissions in order that such may be considered.
<b>Delegated to:</b>	Chief Executive Officer
<b>On delegated to:</b>	N/A
<b>Conditions:</b> Regulations 1996.	Compliance the Local Government (Functions and General)
<b>Record of Use:</b>	Retention of file copy of relevant correspondence.  Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	Local Government Act 1995, S5.42 & S3.51(3) Local Government (Functions & General) Regulations 1996
<b>Council Policy:</b>	N/A
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 <b>20 September 2017</b>
<b>Date Reviewed and Amended:</b>	18 June 2014

**25 ENSURING PUBLIC ACCESS MAINTAINED**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to ensure that when works are carried out associated with the fixing or altering the level of or alignment of a public thoroughfare to ensure that access by vehicle to land adjoining the thoroughfare can be reasonably provided.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power and duty to the Works Supervisor.*

**Conditions:** Compliance the Local Government (Functions and General) Regulations 1996 and all other relevant legislation.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Local Government Act 1995 – S5.42, S3.49, S3.50 & S3.51  
Local Government (Functions & General) Regulations 1996

**Council Policy:** N/A

**Date Adopted:** 18 June 2014

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17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
20 September 2017

**Date Reviewed and Amended:** 18 June 2014

**26 POWERS OF ENTRY ONTO LAND**

<b>Function to be performed:</b>	Council delegates its authority and power to the Chief Executive Officer to undertake the functions and duties required under Part 3 - Subdivision 3 - (Power of Entry) of the Local Government Act 1995 in respect of Section 3.39 - Appointment of Authorised Persons for the purpose of removing and impounding goods that are involved in the contravention which can lead to impounding. Section 3.40 - Removal of Vehicle and impounding of goods by an authorised person. Section 3.42 - Action required in respect to impounding of non-perishable goods. Section 3.44 - The Issue of Notices regarding collection of goods if not confiscated. Section 3.46 - Withholding of goods pending payment of costs. Section 3.47 - The Disposal of confiscated goods. Section 3.48 - Recovery of Costs incurred in the impounding exercise.
<b>Delegated to:</b>	Chief Executive Officer
<b>On delegated to:</b>	N/A
<b>Conditions:</b>	Compliance with the Local Government (Functions and General) Regulations 1996.
<b>Record of Use:</b>	Retention of file copy of relevant correspondence.  Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	Local Government Act 1995 (As Amended) – S5.42, S3.39, S3.40, S3.44, S3.46 & S3.47 Local Government (Function & General) Regulations 1996
<b>Council Policy:</b>	N/A
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 <b>20 September 2017</b>
<b>Date Reviewed and Amended:</b>	18 June 2014

**27 ROAD CLOSURES - TEMPORARY**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to temporarily close a street or a portion of a street for a period not exceeding 60 days to vehicles in cases of emergency in connection with Council works or by reason of heavy rain, if a street is likely to be damaged by the passage of traffic of any particular class.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power and duty to the Works Supervisor.*

**Conditions:** Compliance with the Local Government (Functions and General) Regulations 1996.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Local Government Act 1995 – S5.42, S3.50 & S3.51  
Local Government (Function & General) Regulations 1996  
Road Traffic Act 1974

**Council Policy:** 7007 – Road Closure Policy

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 18 June 2014

**28 DISPOSAL OF SURPLUS EQUIPMENT, MATERIALS, TOOLS ETC**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to sell, by calling for expressions of interest, holding of a surplus goods sale at Council's depot, or any other fair means, items of surplus equipment, materials, tools etc which are no longer required, or are deemed outmoded or are no longer serviceable.

**Delegated to:** Chief Executive Officer

**On delegated to:** N/A

**Conditions:** This delegation applies only to items with a written down value of less than \$5,000. Any sale organised by the Chief Executive Officer under this delegated authority shall be advertised by placing notices on appropriate notice boards within the Mingenew Township.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Local Government (Miscellaneous Provisions) Act 1960

**Council Policy:** N/A

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
20 September 2017

**Date Reviewed and Amended:** 18 June 2014

**29 ROAD TRAINS AND EXTRA MASS PERMITS**

**Function to be performed:** The Chief Executive Officer is delegated authority to determine any application recommending approval or refusal, with or without conditions, for referral to MainRoads WA to use road trains and for extra mass permits on any local road within the district. The Chief Executive Officer shall have regard to any Council policy on the issue that may be established from time to time.

**Delegated to:** Chief Executive Officer

**On delegated to**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power to the Works Supervisor.*

**Conditions:** Nil.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Local Government Act 1995 - S5.42

**Council Policy:** Nil

**Date Adopted:** 18 June 2014

**Date Reviewed:**  
18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 18 June 2014



**TOWN PLANNING & BUILDING****30 BUILDING NOTICES**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to issue notices pursuant to the provisions of the Building Act 2011 and Building Regulations 2012.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power to the Building Surveyor and Planning Officer.*

- Conditions:**
1. Subject to the express provisions contained in the Act, Council's Policies and Resolutions.
  2. Applicant being advised of objection and/or appeal rights.

**Record of Use:** File copies of notices issued.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Building Act 2011  
Building Regulations 2012

**Council Policy:** Policy Manual – Section 9000 – Building Approvals

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 19 October 2016

**31 BUILDING LICENCES**

<b>Function to be performed:</b>	Council delegates its authority and power to the “Building Surveyor” in accordance with S374 (1b) of the Local Government (Miscellaneous Provisions) Act 1960 in respect of:- <ol style="list-style-type: none"><li>1. Approval or refusal of plans and specifications relating to applications for building licences and the authority to issue or refuse building licences, including the authority to impose conditions as appropriate.</li><li>2. The authority to extend, for a period not exceeding twelve months, time for an applicant who has been issued a licence, to complete construction.</li><li>3. The authority to approve or refuse amended plans and/or specifications including the authority to impose conditions as appropriate.</li></ol>
<b>Delegated to:</b>	Building Surveyor
<b>On delegated to:</b>	N/A
<b>Conditions:</b>	<ol style="list-style-type: none"><li>1. Subject to the provisions of the Building Act 2011 and Building Regulations 2012 and subject to the relevant building codes, Local Laws, Council’s Policies and specific Resolutions of Council.</li><li>2. Prior to issuing a building licence in respect of an outbuilding which exceeds 75m<sup>2</sup> in area or 3m in height, the application shall be submitted to Council for consideration.</li><li>3. Applicant being advised of objection and/or appeal rights.</li></ol>
<b>Record of Use:</b>	Licences and correspondence issued.  Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	Building Act 2011 and Building Regulations 2012
<b>Council Policy:</b>	Policy Manual – Section 9000 – Building Approvals

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 19 August 2015

**32 DEMOLITION LICENCES**

**Function to be performed:** The Chief Executive Officer is delegated authority to approve the issue of a demolition licence Building Act 2011 to take down a building or a part of a building and such licence may be subject to such conditions as the Chief Executive Officer considers necessary for the safe and proper execution of the work.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power and duty to the Building Surveyor.*

**Conditions:** Nil.

**Record of Use:** Licences and correspondence issued.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Building Act 2011  
Building Regulations 2012

**Council Policy:** Nil

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
20 September 2017

**Date Reviewed and Amended:** 19 August 2015

**33 BUILDING – EXTENSIONS OF TIME TO COMPLETE**

<b>Function to be performed:</b>	Council delegates its authority and power to the Building Surveyor in accordance with the Building Act 2011 to approve of an extension of time where it was not possible to complete the building within the period specified in the Building Licence.
<b>Delegated to:</b>	Building Surveyor
<b>On delegated to:</b>	N/A.
<b>Conditions:</b>	Subject to the payment of an additional Building Licence fee calculated in the following manner:-
	The fee payable is to be in proportion to the extent of the building to be completed for example: <ul style="list-style-type: none"> <li>- if 25% of the building is completed, then 75% of the fee is charged</li> <li>- if 50% of the building is completed, then 50% of the fee is charged</li> <li>- if 75% of the building is completed, then 25% of the fee is charged</li> </ul>
<b>Record of Use:</b>	Licences and correspondence issued.  Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	Building Act 2011 Building Regulations 2012
<b>Council Policy:</b>	
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 20 September 2017
<b>Date Reviewed and Amended:</b>	19 August 2015

**34 WORKS – UNLAWFUL**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to issue stop work where a breach of building requirements is considered by the Chief Executive Officer to be of a magnitude sufficient to warrant issue of a notice.

The Chief Executive Officer is to withdraw stop work notices where the breach for which the notice has been issued is corrected to the satisfaction of the Chief Executive Officer.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power and duty to the Building Surveyor.*

- Conditions:**
1. Before exercising the authority contained in these delegations, the Chief Executive Officer shall liaise with Council's Building Surveyor.
  2. Subject to the express provisions contained in the Local Government Act 1995, Council's Resolutions and Policies.
  3. Applicant being advised of objections and/or appeal rights.

**Record of Use:** Notices and correspondence issued.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Building Act 2011  
Building Regulations 2012

**Council Policy:** Nil

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
20 September 2017

**Date Reviewed and Amended:** 19 August 2015

**35 BUILDINGS - DANGEROUS**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to carry out the following functions :-

1. Shore up or otherwise secure the building as well as providing a hoarding or fence around the building to protect the public from danger.
2. Serve written notice upon the owner or the occupier of the building requiring that the building be taken down, secured or repaired.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power and duty to the Building Surveyor.*

- Conditions:**
1. Before exercising the authority contained in this delegation the Chief Executive Officer shall liaise with Council's Building Surveyor.
  2. Subject to the express provisions contained in the Local Government Act 1995 and Council's Policies and Resolutions.
  3. Applicant being advised of objections and/or appeal rights.

**Record of Use:** Certificates, notices and correspondence issued.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Building Act 2011  
Building Regulations 2012

**Council Policy:** Nil

**Date Adopted:** 18 June 2014

**Date Reviewed:** 17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 19 August 2015

**36 CERTIFICATES OF CLASSIFICATION**

**Function to be performed:** The Chief Executive Officer is delegated authority to issue Certificates of Classification of Buildings in accordance with the Building Act 2011.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power and duty to the Building Surveyor.*

**Conditions:** Nil.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Building Act 2011

**Council Policy:** Nil

**Date Adopted:** 18 June 2014

**Date Reviewed:**  
18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 19 August 2015



**37 DANGEROUS EXCAVATION IN OR NEAR PUBLIC THOROUGHFARES**

<b>Function to be performed:</b>	The Chief Executive Officer is delegated authority to take all appropriate action in accordance with Local Government (Uniform Local Provisions) Regulation No. 11 to remove, or have removed, any dangerous excavation in a public thoroughfare or land adjoining a public thoroughfare
<b>Delegated to:</b>	Chief Executive Officer
<b>On delegated to:</b>	N/A.
<b>Conditions:</b>	Nil.
<b>Record of Use:</b>	Retention of file copy of relevant correspondence.  Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	Local Government Act 1995 – S5.42
<b>Council Policy:</b>	N/A
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 <b>20 September 2017</b>
<b>Date Reviewed and Amended:</b>	18 June 2014

**38 DEVELOPMENT APPLICATIONS - ADVERTISING**

**Function to be performed:** The Chief Executive Officer is delegated authority to advertise development applications for public comment where the Chief Executive Officer considers such applications should have public comment prior to consideration by Council and to make available from Council's files information regarding the development application so as the public are in a position to make a proper assessment.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power and duty to the Planning Officer.*

**Conditions:** Nil.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Local Government Act 1995 – S3.36  
Town Planning Scheme No3

**Council Policy:** Nil

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
20 September 2017

**Date Reviewed and Amended:** 18 June 2014

**HEALTH****39 HEALTH ACT – NOTICES AND ORDERS**

**Function to be performed:** Council delegates its authority and power to the Chief Executive Officer to exercise and discharge all of the following powers and functions under the Health Act 2016 (as amended):-

1. The forming of opinions and making of declarations.
2. The grant and issue of licences, permits, certificates and approvals.
3. The issue of notices, orders and requisitions and the carrying out and putting into effect of notices, orders and requisitions.
4. The ordering and authorisation of legal proceedings for breaches of the Act and all Regulations, Local Laws and Orders made thereunder.

**Delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power and duty to the Environmental Health Officer.*

**On delegated to:** No on delegation permitted.

**Conditions:**

1. Subject to the provisions of the Health Act, Local Laws and Council Policies.
2. Applicant being advised of objections and/or appeal rights.
4. Detailed report to Council monthly.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Health Act 2016

**Council Policy:** Nil.

**Date Adopted:** 18 June 2014

**Date Reviewed:** 18 June 2014  
17 June 2015  
16 December 2015  
19 October 2016  
15 February 2017  
17 May 2017  
**20 September 2017**

**Date Reviewed and Amended:** 18 June 2014

**40 TREATMENT OF SEWERAGE AND DISPOSAL OF LIQUID WASTE**

**Function to be performed:** Pursuant to the provisions of the Health Act 1911 Chief Executive Officer is hereby appointed and authorised to exercise and discharge powers and functions conferred on local government for the purpose of Regulations 4 of the Health (Treatment of Sewage & Disposal of Liquid Waste) Regulations 1974.

**Delegated to:** Chief Executive Officer

**On delegated to:**

*The Chief Executive Officer in exercising authority under section 5.44 of the Local Government Act 1995, has delegated this power and duty to the Environmental Health Officer.*

**Conditions:** Nil.

**Record of Use:** Retention of file copy of relevant correspondence.

Records to be kept under the provisions of **General Disposal Authority for Local Government Records** Legislation.

**Reference:** Health Act 2016

**Council Policy:** N/A.

**Date Adopted:** 18 June 2014

**Date Reviewed:**  
 18 June 2014  
 17 June 2015  
 16 December 2015  
 19 October 2016  
 15 February 2017  
 17 May 2017  
 20 September 2017

**Date Reviewed and Amended:** 18 June 2014

## 41 AUTHORISED PERSONS

<b>Function to be performed:</b>	Council appoints the Chief Executive Officer and the Environmental Health Officer under Section 17(1) of the Caravan Parks & Camping Grounds Act 1995 to be an authorised person for the purpose of the Act.
	Council appoints the Chief Executive Officer and the Environmental Health Officer to issue infringement notices and appoints the Chief Executive Officer to withdraw notices under Section 23(1) of the Caravan Parks and Camping Grounds Act 1995
<b>Delegated to:</b>	Chief Executive Officer and Environmental Health Officer
<b>On delegated to:</b>	N/A.
<b>Conditions:</b>	Nil.
<b>Record of Use:</b>	Notices and correspondence issued.
	Records to be kept under the provisions of <b><u>General Disposal Authority for Local Government Records</u></b> Legislation.
<b>Reference:</b>	Caravan Parks and Camping Regulations 1997
<b>Council Policy:</b>	N/A.
<b>Date Adopted:</b>	18 June 2014
<b>Date Reviewed:</b>	18 June 2014 17 June 2015 16 December 2015 19 October 2016 15 February 2017 17 May 2017 20 September 2017
<b>Date Reviewed and Amended:</b>	18 June 2014

Delegation 41 - End of Register

## SUMMARY OF DELEGATIONS

### Chief Executive Officer

Section	No.	Delegation Title
Finance	01	Payments from Trust and Municipal Funds
Finance	02	Purchase Order Authorisation
Finance	03	Investments
Finance	04	Power to Waive or Write Off Debts
Finance	05	Rate Book
Finance	06	Minor Donations
Finance	42	Debt Recovery Action
Staff	07	Staff Housing
Staff	08	Conferences, Seminars and Training Courses
Administration	09	Liquor – Sale and Consumption (Council Property)
Administration	10	Contract Variations
Administration	11	Legal Advice
Administration	12	Enforcements and Legal Proceedings
Administration	13	Expenditure Prior to Adoption of Budget
Administration	14	Certain things to be done in Respect of Land
Administration	15	Impounding Goods – Authorised Employee
Administration	16	Sale of Impounded/Seized/Confiscated Vehicles, Animals or Goods
Administration	17	Proceedings under Dog Act
Administration	18	Opening Fences and Gates
Administration	19	Offences – Bush Fires Act
Administration	20	Burning – Variation to Restricted and Prohibited Burning
Engineering	21	Traffic Regulatory Signs
Engineering	22	Events on Roads – Closing of Thoroughfare
Engineering	23	Certain things to be done by Owners or Occupiers of Land
Engineering	24	Notification to Affected Owners About Proposals
Engineering	25	Ensure Public Access Maintained
Engineering	26	Powers of Entry onto Land
Engineering	27	Road Closures – Temporary
Engineering	28	Disposal of Surplus Equipment, Materials, Tools etc
Engineering	29	Road Trains and Extra Mass Permits
Town Planning & Building	30	Building Notices
Town Planning & Building	32	Demolition Licences
Town Planning & Building	34	Works – Unlawful
Town Planning & Building	35	Buildings – Dangerous
Town Planning & Building	36	Certificates of Classification
Town Planning & Building	37	Dangerous Excavation in or near Public Thoroughfares
Town Planning & Building	38	Development Applications – Advertising
Health	39	Health Act – Notices & Orders
Health	40	Treatment of Sewerage and Disposal of Liquid Waste
Health	41	Authorised Persons

**Works Supervisor**

Section	No.	Delegation Title
Finance	02	Purchase Order Authorisation
Administration	13	Expenditure Prior to Adoption of Budget
Engineering	21	Traffic Regulatory Signs
Engineering	22	Events on Roads – Closing of Thoroughfare
Engineering	25	Ensure Public Access Maintained
Engineering	27	Road Closures – Temporary
Engineering	29	Road Trains and Extra Mass Permits

**Finance Manager**

Section	No.	Delegation Title
Finance	01	Payments from Trust and Municipal Funds
Finance	02	Purchase Order Authorisation
Finance	03	Investments
Finance	04	Power to Waive or Write Off Debts
Finance	05	Rate Book
Administration	09	Liquor – Sale and Consumption (Council Property)
Administration	11	Legal Advice
Administration	13	Expenditure Prior to Adoption of Budget

**Community Development Officer**

Section	No.	Delegation Title
Finance	02	Purchase Order Authorisation

**Governance Officer**

Section	No.	Delegation Title
Finance	01	Payments from Trust and Municipal Funds
Finance	02	Purchase Order Authorisation

**Environmental Health Officer**

Section	No.	Delegation Title
Administration	15	Impounding Goods – Authorised Employee
Health	39	Health Act – Notices & Orders
Health	40	Treatment of Sewerage and Disposal of Liquid Waste
Health	41	Authorised Persons



**Ranger & Emergency Services Officer**

<b>Section</b>	<b>No.</b>	<b>Delegation Title</b>
Administration	15	Impounding Goods – Authorised Employee
Administration	17	Proceedings under Dog Act
Administration	19	Offences – Bush Fires Act

**Building Surveyor**

<b>Section</b>	<b>No.</b>	<b>Delegation Title</b>
Town Planning & Building	30	Building Notices
Town Planning & Building	31	Building Licences
Town Planning & Building	32	Demolition Licences
Town Planning & Building	33	Building – Extensions of Time to Complete
Town Planning & Building	34	Works – Unlawful
Town Planning & Building	35	Buildings – Dangerous
Town Planning & Building	36	Certificates of Classification

**Planning Officer**

<b>Section</b>	<b>No.</b>	<b>Delegation Title</b>
Town Planning & Building	30	Building Notices
Town Planning & Building	38	Development Applications – Advertising

## 9.2 FINANCE

### 9.2.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 31 AUGUST 2017

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** ADM0304  
**Date:** 14 September 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 31 August 2017 is presented to Council for adoption.

#### Attachment

Finance Report for period ending 31 August 2017

#### Background

The Monthly Financial Report to 31 August 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

<b>SUMMARY OF FUNDS – SHIRE OF MINGENEW</b>	
Municipal Fund	\$800,996
Restricted Funds (3 Month Term Deposit @ 2.45%)	\$750,000
Restricted Funds	\$0
Trust Fund	\$98,783
Reserve fund (6 Month Term Deposit) @2.55%	\$396,475

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 September 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 31 August 2017:

	<b>Current</b>	<b>30+ Days</b>	<b>60+ Days</b>	<b>90+ Days</b>	<b>TOTAL</b>
Amount	42,699	287	0	56,838	98,838

Rates Outstanding at 31 August 2017 were:

	<b>Current</b>	<b>TOTAL</b>
Rates	1,798,785	1,798,785
Rubbish	70,850	70,850
ESL	26,482	26,482
<b>TOTAL</b>	<b>1,896,117</b>	<b>1,896,117</b>

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2017/18 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 sub regulation (1)(d); and
- (c) such other supporting information as is considered relevant by the local government.

MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 September 2017

- (3) The information in a statement of financial activity may be shown —
  - (a) according to nature and type classification; or
  - (b) by program; or
  - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
  - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
  - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

**Policy Implications**

Nil

**Financial Implications**

Financial implications are outlined in comments.

**Strategic Implications**

Nil

**Voting Requirements**

Simple Majority

<b>OFFICER RECOMMENDATION – ITEM 9.2.1</b>
--

**That the Monthly Statement of Financial Activity for the period 1 July 2017 to 31 August 2017 be received.**

# SHIRE OF MINGENEW

## MONTHLY FINANCIAL REPORT

For the Period Ended 31 August 2017

LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996

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## **Report Purpose**

This report is prepared to meet the requirements of *Local Government (Financial Management) Regulations 1996*, Regulation 34 .

## **Overview**

Summary reports and graphical progressive graphs are provided on page 3, 4 and 5.  
No matters of significance are noted.

## **Statement of Financial Activity by reporting program**

Is presented on page 6 and shows a surplus as at 31 August 2017 of \$3,200,581.

Note: The Statements and accompanying notes are prepared based on all transactions recorded at the time of preparation and may vary.

## **Preparation**

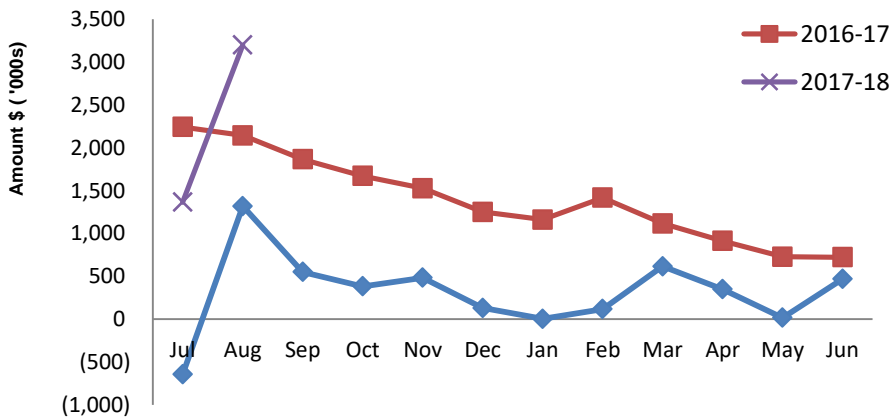
Prepared by: Durga Ojha  
Reviewed by: Martin Whitely  
Date prepared: 14-09-17

# Shire of Mingenew

## Monthly Summary Information

For the Period Ended 31 August 2017

**Liquidity Over the Year (Refer Note 3)**



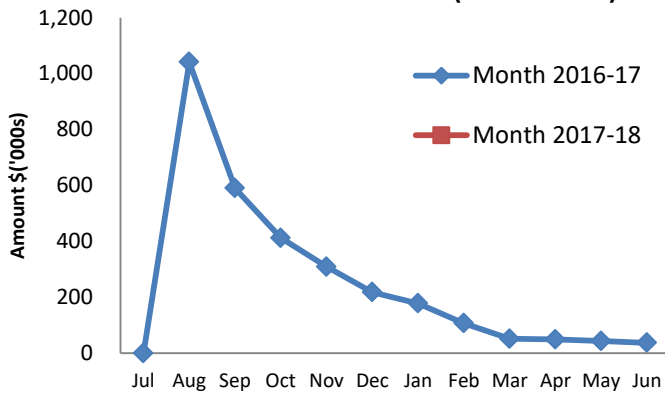
**Cash and Cash Equivalents as at period end**

Unrestricted	\$ 801,296
Restricted	\$ 964,973
	\$ 1,766,270

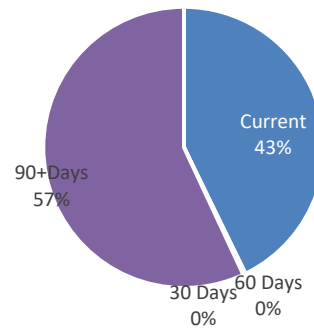
**Receivables**

Rates	\$ 1,873,331
Other	\$ 99,824
	\$ 1,973,155

**Rates Receivable (Refer Note 6)**



**Accounts Receivable Ageing (non-rates) (Refer Note 6)**



**Comments**

Rates were issued on 20 August 2017.  
 First instalment was due 29 September 2017.  
 Second Instalment was due 30 November 2017  
 Third instalment was due 31 January 2018  
 4th & Final instalment was due 1 April 2018

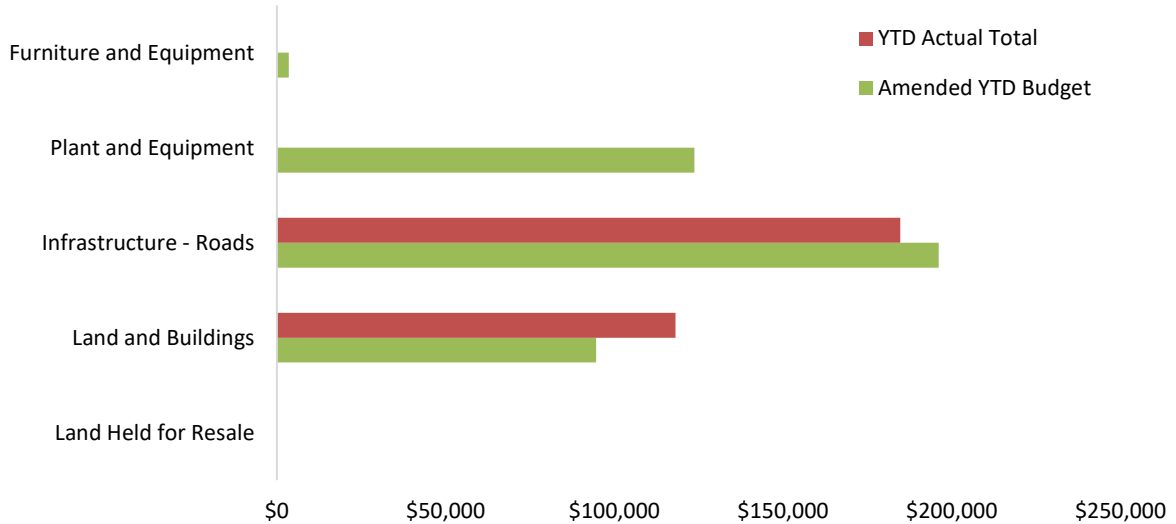
**SUMMARY OF BILLING**

Rates	1,816,567
Rubbish	71,291
ESL	27,450
	1,915,308

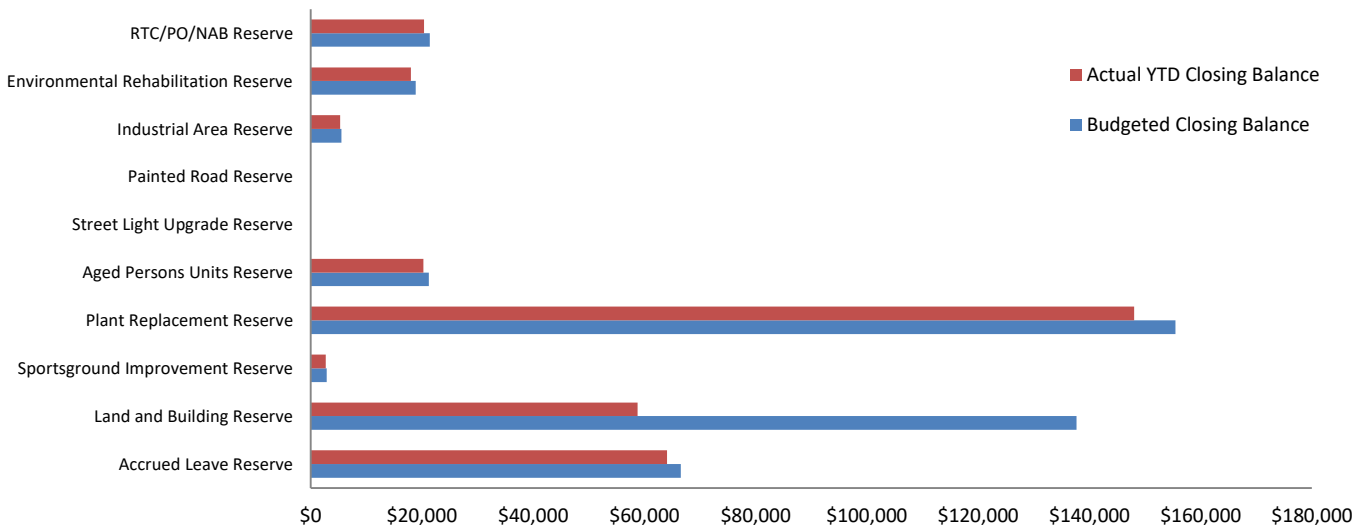
This information is to be read in conjunction with the accompanying Financial Statements and notes.

**Shire of Mingenew**  
**Monthly Summary Information**  
 For the Period Ended 31 August 2017

**Capital Expenditure Program YTD (Refer Note 13)**



**Year To Date Reserve Balance to End of Year Estimate (Refer Note 7)**



**Comments**

This information is to be read in conjunction with the accompanying Financial Statements and notes.



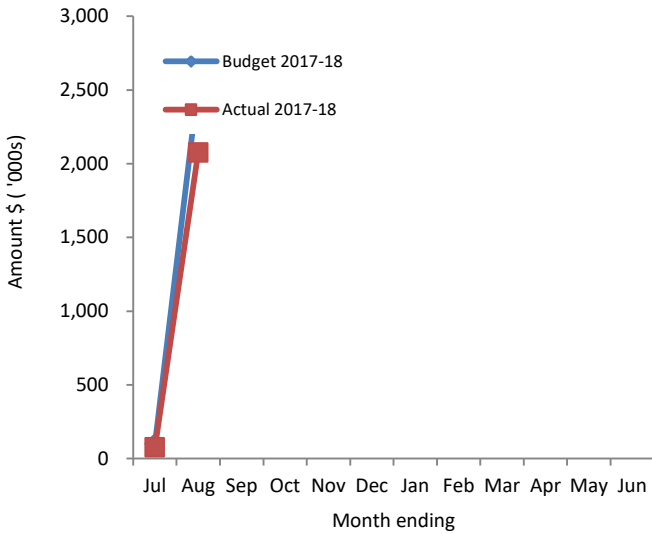
# Shire of Mingenew

## Monthly Summary Information

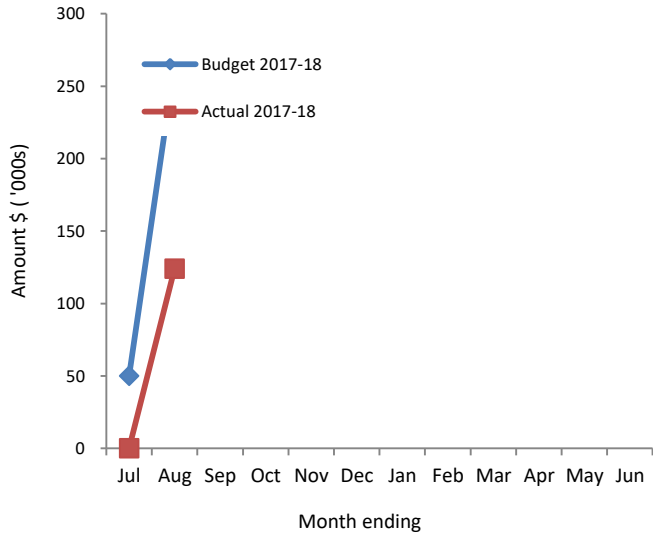
For the Period Ended 31 August 2017

### Revenues

**Budget Operating Revenues -v- Actual (Refer Note 2)**

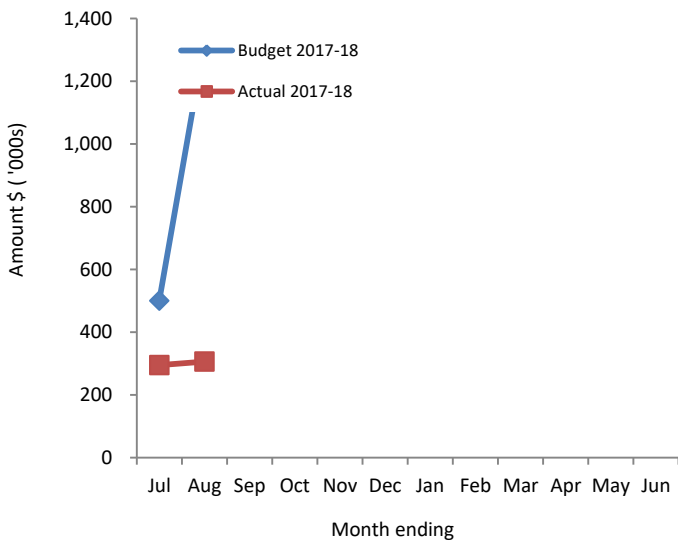


**Budget Capital Revenue -v- Actual (Refer Note 2)**

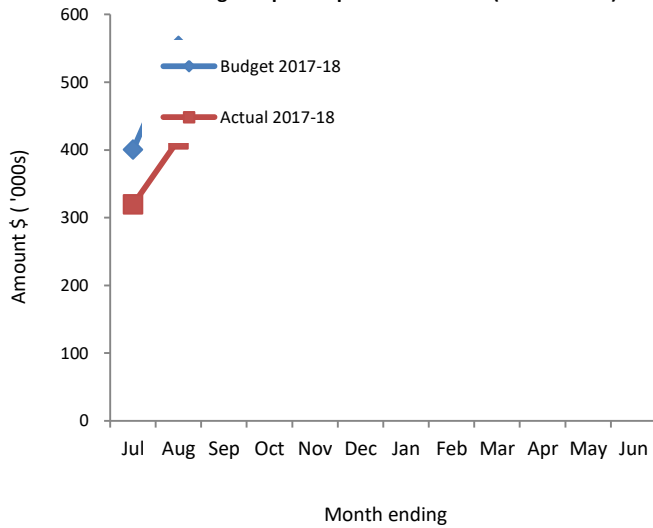


### Expenditure

**Budget Operating Expenses -v- YTD Actual (Refer Note 2)**



**Budget Capital Expenses -v- Actual (Refer Note 2)**



### Comments

This information is to be read in conjunction with the accompanying Financial Statements and notes.

**SHIRE OF MINGENEW**  
**STATEMENT OF FINANCIAL ACTIVITY**  
**(Statutory Reporting Program)**  
**For the Period Ended 31 August 2017**

	Note	2017/18 Original Budget (a)	2017/18 YTD Budget (a)	2017/18 YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	Var.
<b>Operating Revenues</b>							
General Purpose Funding		\$ 2,018,070	\$ 1,850,988	\$ 1,890,286	\$ 39,298	2.12%	
Governance		12,586	2,096	2,136	40	1.91%	
Law, Order and Public Safety		60,874	7,077	430	(6,647)	(93.92%)	
Health		371	60	0	(60)	(100.00%)	
Education and Welfare		3,755	622	0	(622)	(100.00%)	
Housing		104,924	17,480	11,336	(6,144)	(35.15%)	
Community Amenities		83,595	76,965	75,925	(1,040)	(1.35%)	
Recreation and Culture		38,665	6,440	75	(6,365)	(98.83%)	
Transport		3,372,042	562,004	78,686	(483,318)	(86.00%)	▼
Economic Services		11,355	1,884	2,413	529	28.06%	
Other Property and Services		157,475	26,240	15,101	(11,139)	(42.45%)	▼
<b>Total Operating Revenue</b>		<b>5,863,712</b>	<b>2,551,856</b>	<b>2,076,389</b>	<b>(514,766)</b>		
<b>Operating Expense</b>							
General Purpose Funding		(47,511)	(7,914)	(7,874)	40	0.51%	
Governance		(205,931)	(80,248)	(79,414)	834	1.04%	
Law, Order and Public Safety		(124,627)	(20,754)	(21,122)	(368)	(1.77%)	
Health		(111,511)	(18,570)	(4,997)	13,573	73.09%	▲
Education and Welfare		(76,019)	(12,656)	(8,390)	4,266	33.71%	▲
Housing		(163,757)	(27,262)	(23,812)	3,450	12.65%	▲
Community Amenities		(314,842)	(48,282)	(18,579)	29,703	61.52%	▲
Recreation and Culture		(895,693)	(149,250)	(161,816)	(12,566)	(8.42%)	
Transport		(5,227,876)	(871,262)	(300,552)	570,710	65.50%	▲
Economic Services		(400,524)	(66,724)	(40,761)	25,963	38.91%	▲
Other Property and Services		(114,012)	(18,970)	66,939	85,909	452.87%	▲
<b>Total Operating Expenditure</b>		<b>(7,682,303)</b>	<b>(1,321,892)</b>	<b>(600,377)</b>	<b>721,515</b>		
<b>Funding Balance Adjustments</b>							
Add back Depreciation		2,190,310	365,044	294,340	(70,704)	(19.37%)	▼
Adjust (Profit)/Loss on Asset Disposal	8	(40,000)	0	0	0		
Adjust Provisions and Accruals		0	0	0	0		
<b>Net Cash from Operations</b>		<b>331,719</b>	<b>1,595,008</b>	<b>1,770,352</b>	<b>136,046</b>		
<b>Capital Revenues</b>							
Grants, Subsidies and Contributions	11	1,429,305	176,332	124,500	(51,832)	(29.39%)	▼
Proceeds from Disposal of Assets	8	365,650	88,914	0	(88,914)	(100.00%)	▼
<b>Total Capital Revenues</b>		<b>1,794,955</b>	<b>265,246</b>	<b>124,500</b>	<b>(140,746)</b>		
<b>Capital Expenses</b>							
Land Held for Resale	13	(200,000)	(33,332)	0	33,332	100.00%	▲
Land and Buildings	13	(867,720)	(94,596)	(118,084)	(23,488)	(24.83%)	▼
Infrastructure - Roads	13	(1,177,100)	(196,166)	(184,736)	11,430	5.83%	
Infrastructure - Other		(617,000)	(102,346)	(112,855)			
Plant and Equipment	13	(742,364)	(123,722)	0	123,722	100.00%	▲
Furniture and Equipment	13	(21,000)	(3,498)	0	3,498	100.00%	▲
<b>Total Capital Expenditure</b>		<b>(3,625,184)</b>	<b>(553,660)</b>	<b>(415,675)</b>	<b>148,494</b>		
<b>Net Cash from Capital Activities</b>		<b>(1,830,229)</b>	<b>(288,414)</b>	<b>(291,175)</b>	<b>7,748</b>		
<b>Financing</b>							
Transfer from Reserves	7	0	0	0	0		
Proceed from new debenture	10	85,507	0	0	0		
Repayment of Debentures	10	(150,774)	0	0	0		
Transfer to Reserves	7	(125,510)	0	0	0		
<b>Net Cash from Financing Activities</b>		<b>(190,777)</b>	<b>0</b>	<b>0</b>	<b>0</b>		
<b>Net Operations, Capital and Financing</b>		<b>(1,689,287)</b>	<b>1,306,594</b>	<b>1,479,177</b>	<b>143,793</b>		
<b>Opening Funding Surplus(Deficit)</b>	3	<b>1,722,222</b>	<b>1,722,222</b>	<b>1,721,405</b>	<b>(817)</b>	<b>(0.05%)</b>	
<b>Closing Funding Surplus(Deficit)</b>	3	<b>32,937</b>	<b>3,028,816</b>	<b>3,200,581</b>	<b>142,976</b>		

Indicates a variance between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold. Refer to Note 2 for an explanation of the reasons for the variance.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

**SHIRE OF MINGENEW**  
**STATEMENT OF FINANCIAL ACTIVITY**  
**(By Nature or Type)**  
**For the Period Ended 31 August 2017**

	Note	2017/18 Original Budget (a)	2017/18 YTD Budget (a)	2017/18 YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)	
<b>Operating Revenues</b>							
Rates	9	\$ 1,816,567	\$ 1,817,408	\$ 1,816,568	\$ (840)	% (0.05%)	
Operating Grants, Subsidies and Contributions	11	3,023,945	500,915	74,143	(426,772)	(85.20%)	▼
Fees and Charges		257,210	105,883	92,506	(13,377)	(12.63%)	▼
Interest Earnings		65,440	10,896	3,897	(6,999)	(64.24%)	
Other Revenue		660,550	110,088	89,276	(20,812)	(18.91%)	▼
Profit on Disposal of Assets	8	40,000	6,666	0			
<b>Total Operating Revenue</b>		<b>5,863,712</b>	<b>2,551,856</b>	<b>2,076,389</b>	<b>(468,801)</b>		
<b>Operating Expense</b>							
Employee Costs		(1,456,983)	(242,728)	(79,479)	163,249	67.26%	▲
Materials and Contracts		(3,097,470)	(551,029)	(63,005)	488,024	88.57%	▲
Utility Charges		(136,355)	(22,708)	(14,594)	8,114	35.73%	▲
Depreciation on Non-Current Assets		(2,190,310)	(365,044)	(294,340)	70,704	19.37%	▲
Interest Expenses		(22,523)	(3,742)	(2,640)	1,102	29.44%	▲
Insurance Expenses		(91,762)	(28,111)	(65,275)	(37,164)	(132.20%)	▼
Other Expenditure		(686,900)	(108,530)	(81,043)	27,487	25.33%	▲
Loss on Disposal of Assets	8	0	0	0			
<b>Total Operating Expenditure</b>		<b>(7,682,303)</b>	<b>(1,321,892)</b>	<b>(600,377)</b>	<b>721,515</b>		
<b>Funding Balance Adjustments</b>							
Add back Depreciation		2,190,310	365,044	294,340	(70,704)	(19.37%)	▼
Adjust (Profit)/Loss on Asset Disposal	8	(40,000)	0	0	0		
Adjust Provisions and Accruals		0	0	0	0		
<b>Net Cash from Operations</b>		<b>331,719</b>	<b>1,595,008</b>	<b>1,770,352</b>	<b>182,010</b>		
<b>Capital Revenues</b>							
Grants, Subsidies and Contributions	11	1,429,305	176,332	124,500	(51,832)	(29.39%)	▼
Proceeds from Disposal of Assets	8	365,650	88,914	0	(88,914)	(100.00%)	▼
<b>Total Capital Revenues</b>		<b>1,794,955</b>	<b>265,246</b>	<b>124,500</b>	<b>(140,746)</b>		
<b>Capital Expenses</b>							
Land Held for Resale	13	(200,000)	(33,332)	0	33,332	100.00%	▲
Land and Buildings	13	(867,720)	(94,596)	(118,084)	(23,488)	(24.83%)	▼
Infrastructure - Roads	13	(1,177,100)	(196,166)	(184,736)	0	0	
Infrastructure - Other	13	(617,000)	(102,346)	(112,855)			
Plant and Equipment	13	(742,364)	(123,722)	0	123,722	100.00%	▲
Furniture and Equipment	13	(21,000)	(3,498)	0	3,498	100.00%	▲
<b>Total Capital Expenditure</b>		<b>(3,625,184)</b>	<b>(553,660)</b>	<b>(415,675)</b>	<b>137,064</b>		
<b>Net Cash from Capital Activities</b>		<b>(1,830,229)</b>	<b>(288,414)</b>	<b>(291,175)</b>	<b>(3,682)</b>		
<b>Financing</b>							
Transfer from Reserves	7	0	0	0	0		
Advances to Community Groups	10	85,507	0	0	0		
Repayment of Debentures	10	(150,774)	0	0	0		
Transfer to Reserves	7	(125,510)	0	0	0		
<b>Net Cash from Financing Activities</b>		<b>(190,777)</b>	<b>0</b>	<b>0</b>	<b>0</b>		
<b>Net Operations, Capital and Financing</b>		<b>(1,689,287)</b>	<b>1,306,594</b>	<b>1,479,177</b>	<b>178,328</b>		
<b>Opening Funding Surplus(Deficit)</b>	3	<b>1,722,222</b>	<b>1,722,222</b>	<b>1,721,405</b>	<b>(817)</b>	<b>(0.05%)</b>	
<b>Closing Funding Surplus(Deficit)</b>	3	<b>32,937</b>	<b>3,028,816</b>	<b>3,200,581</b>	<b>177,511</b>		

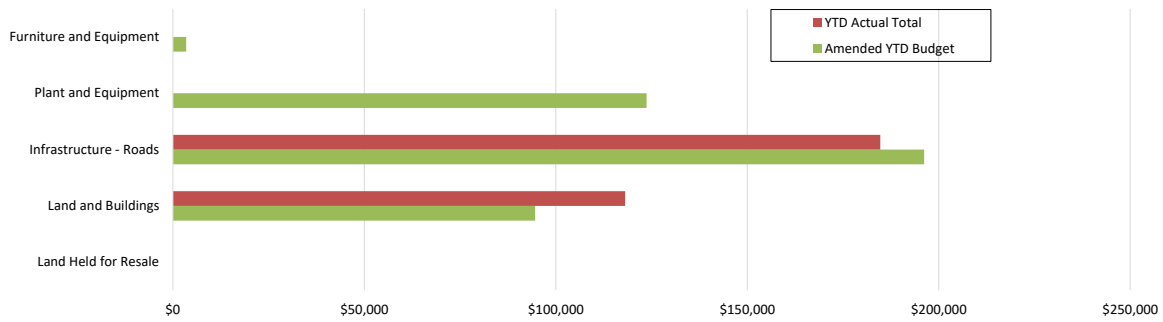
Indicates a variance between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold. Refer to Note 2 for an explanation of the reasons for the variance.

This statement is to be read in conjunction with the accompanying Financial Statements and notes.

**SHIRE OF MINGENEW**  
**STATEMENT OF CAPITAL ACQUISITIONS AND CAPITAL FUNDING**  
For the Period Ended 31 August 2017

Capital Acquisitions	Note	YTD 31 08 2017					
		YTD Actual New /Upgrade (a)	YTD Actual (Renewal Expenditure) (b)	YTD Actual Total (c) = (a)+(b)	Amended YTD Budget (d)	Amended Annual Budget	Variance (d) - (c)
Land Held for Resale	13	\$ 0	\$ 0	\$ 0	\$ 0	\$ 200,000	\$ 0
Land and Buildings	13	118,084		118,084	94,596	867,720	23,488
Infrastructure - Roads	13	184,736		184,736	196,166	1,177,100	(11,430)
Infrastructure -Other	13	112,855		112,855	102,346	617,000	10,509
Plant and Equipment	13	0		0	123,722	742,364	(123,722)
Furniture and Equipment	13	0		0	3,498	21,000	(3,498)
<b>Capital Expenditure Totals</b>		<b>415,675</b>	<b>0</b>	<b>415,675</b>	<b>520,328</b>	<b>3,625,184</b>	<b>(104,653)</b>

Capital Expenditure Program YTD



**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**1. SIGNIFICANT ACCOUNTING POLICIES**

**(a) Basis of Accounting**

This statement comprises a special purpose financial report which has been prepared in accordance with Australian Accounting Standards (as they apply to local governments and not-for-profit entities), Australian Accounting Interpretations, other authoritative pronouncements of the Australian Accounting Standards Board, the Local Government Act 1995 and accompanying regulations. Material accounting policies which have been adopted in the preparation of this statement are presented below and have been consistently applied unless stated otherwise.

Except for cash flow and rate setting information, the report has also been prepared on the accrual basis and is based on historical costs, modified, where applicable, by the measurement at fair value of selected non-current assets, financial assets and liabilities.

**Critical Accounting Estimates**

The preparation of a financial report in conformity with Australian Accounting Standards requires management to make judgements, estimates and assumptions that effect the application of policies and reported amounts of assets and liabilities, income and expenses.

The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances; the results of which form the basis of making the judgements about carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates.

**(b) The Local Government Reporting Entity**

All Funds through which the Council controls resources to carry on its functions have been included in this statement.

In the process of reporting on the local government as a single unit, all transactions and balances between those funds (for example, loans and transfers between Funds) have been eliminated.

All monies held in the Trust Fund are excluded from the statement, but a separate statement of those monies appears at Note 12.

**(c) Rounding Off Figures**

All figures shown in this statement are rounded to the nearest dollar.

**(d) Rates, Grants, Donations and Other Contributions**

Rates, grants, donations and other contributions are recognised as revenues when the local government obtains control over the assets comprising the contributions. Control over assets acquired from rates is obtained at the commencement of the rating period or, where earlier, upon receipt of the rates.

**(e) Goods and Services Tax**

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO).

Receivables and payables are stated inclusive of GST receivable or payable. The net amount of GST recoverable from, or payable to, the ATO is included with receivables or payables in the statement of financial position.

Cash flows are presented on a gross basis. The GST components of cash flows arising from investing or financing activities which are recoverable from, or payable to, the ATO are presented as operating cash flows.

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**1. SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**(f) Cash and Cash Equivalents**

Cash and cash equivalents include cash on hand, cash at bank, deposits available on demand with banks and other short term highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value and bank overdrafts.

Bank overdrafts are reported as short term borrowings in current liabilities in the statement of financial position.

**(g) Trade and Other Receivables**

Trade and other receivables include amounts due from ratepayers for unpaid rates and service charges and other amounts due from third parties for goods sold and services performed in the ordinary course of business.

Receivables expected to be collected within 12 months of the end of the reporting period are classified as current assets. All other receivables are classified as non-current assets.

Collectability of trade and other receivables is reviewed on an ongoing basis. Debts that are known to be uncollectible are written off when identified. An allowance for doubtful debts is raised when there is objective evidence that they will not be collectible.

**(h) Inventories**

***General***

Inventories are measured at the lower of cost and net realisable value.

Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

***Land Held for Resale***

Land held for development and sale is valued at the lower of cost and net realisable value. Cost includes the cost of acquisition, development, borrowing costs and holding costs until completion of development. Finance costs and holding charges incurred after development is completed are expensed.

Gains and losses are recognised in profit or loss at the time of signing an unconditional contract of sale if significant risks and rewards, and effective control over the land, are passed on to the buyer at this point.

Land held for sale is classified as current except where it is held as non-current based on Council's intentions to release for sale.

**(i) Fixed Assets**

All assets are initially recognised at cost. Cost is determined as the fair value of the assets given as consideration plus costs incidental to the acquisition. For assets acquired at no cost or for nominal consideration, cost is determined as fair value at the date of acquisition. The cost of non-current assets constructed by the local government includes the cost of all materials used in the construction, direct labour on the project and an appropriate proportion of variable and fixed overhead.

Certain asset classes may be revalued on a regular basis such that the carrying values are not materially different from fair value. Assets carried at fair value are to be revalued with sufficient regularity to ensure the carrying amount does not differ materially from that determined using fair value at reporting date.

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**1. SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**(j) Depreciation of Non-Current Assets**

All non-current assets having a limited useful life are systematically depreciated over their useful lives in a manner which reflects the consumption of the future economic benefits embodied in those assets.

Depreciation is recognised on a straight-line basis, using rates which are reviewed each reporting period. Major depreciation rates and periods are:

Buildings	25 to 50 years
Construction other than Buildings (Public Facilities)	5 to 50 years
Furniture and Equipment	4 to 10 years
Plant and Equipment	5 to 15 years
Heritage Assets	25 to 50 years
Roads	25 years
Footpaths	50 years
Sewerage Piping	75 years
Water Supply Piping and Drainage Systems	75 years

**(k) Trade and Other Payables**

Trade and other payables represent liabilities for goods and services provided to the Council prior to the end of the financial year that are unpaid and arise when the Council becomes obliged to make future payments in respect of the purchase of these goods and services. The amounts are unsecured, are recognised as a current liability and are normally paid within 30 days of recognition.

**(l) Employee Benefits**

The provisions for employee benefits relates to amounts expected to be paid for long service leave, annual leave, wages and salaries and are calculated as follows:

**(i) Wages, Salaries, Annual Leave and Long Service Leave (Short-term Benefits)**

The provision for employees' benefits to wages, salaries, annual leave and long service leave expected to be settled within 12 months represents the amount the Shire has a present obligation to pay resulting from employees services provided to balance date. The provision has been calculated at nominal amounts based on remuneration rates the Shire expects to pay and includes related on-costs.

**(ii) Annual Leave and Long Service Leave (Long-term Benefits)**

The liability for long service leave is recognised in the provision for employee benefits and measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date using the project unit credit method. Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currency that match as closely as possible, the estimated future cash outflows. Where the Shire does not have the unconditional right to defer settlement beyond 12 months, the liability is recognised as a current liability.

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**1. SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**(m) Interest-bearing Loans and Borrowings**

All loans and borrowings are initially recognised at the fair value of the consideration received less directly attributable transaction costs.

After initial recognition, interest-bearing loans and borrowings are subsequently measured at amortised cost using the effective interest method. Fees paid on the establishment of loan facilities that are yield related are included as part of the carrying amount of the loans and borrowings.

Borrowings are classified as current liabilities unless the Council has an unconditional right to defer settlement of the liability for at least 12 months after the balance sheet date.

***Borrowing Costs***

Borrowing costs are recognised as an expense when incurred except where they are directly attributable to the acquisition, construction or production of a qualifying asset. Where this is the case, they are capitalised as part of the cost of the particular asset.

**(n) Provisions**

Provisions are recognised when: The council has a present legal or constructive obligation as a result of past events; it is more likely than not that an outflow of resources will be required to settle the obligation; and the amount has been reliably estimated. Provisions are not recognised for future operating losses.

Where there are a number of similar obligations, the likelihood that an outflow will be required in settlement is determined by considering the class of obligations as a whole. A provision is recognised even if the likelihood of an outflow with respect to any one of item included in the same class of obligations may be small.

**(o) Current and Non-Current Classification**

In the determination of whether an asset or liability is current or non-current, consideration is given to the time when each asset or liability is expected to be settled. The asset or liability is classified as current if it is expected to be settled within the next 12 months, being the Council's operational cycle. In the case of liabilities where Council does not have the unconditional right to defer settlement beyond 12 months, such as vested long service leave, the liability is classified as current even if not expected to be settled within the next 12 months. Inventories held for trading are classified as current even if not expected to be realised in the next 12 months except for land held for resale where it is held as non current based on Council's intentions to release for sale.



**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**1. SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**(p) Nature or Type Classifications**

**Rates**

All rates levied under the Local Government Act 1995. Includes general, differential, specific area rates, minimum rates, interim rates, back rates, ex-gratia rates, less discounts offered. Exclude administration fees, interest on instalments, interest on arrears and service charges.

**Operating Grants, Subsidies and Contributions**

Refer to all amounts received as grants, subsidies and contributions that are not non-operating grants.

**Non-Operating Grants, Subsidies and Contributions**

Amounts received specifically for the acquisition, construction of new or the upgrading of non-current assets paid to a local government, irrespective of whether these amounts are received as capital grants, subsidies, contributions or donations.

**Profit on Asset Disposal**

Profit on the disposal of assets including gains on the disposal of long term investments. Losses are disclosed under the expenditure classifications.

**Fees and Charges**

Revenues (other than service charges) from the use of facilities and charges made for local government services, sewerage rates, rentals, hire charges, fee for service, photocopying charges, licences, sale of goods or information, fines, penalties and administration fees. Local governments may wish to disclose more detail such as rubbish collection fees, rental of property, fines and penalties, and other fees and charges.

**Service Charges**

Service charges imposed under Division 6 of Part 6 of the Local Government Act 1995. Regulation 54 of the Local Government (Financial Management) Regulations 1996 identifies these as television and radio broadcasting, underground electricity and neighbourhood surveillance services. Excludes rubbish removal charges, interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest on rate arrears and interest on debtors.

**Interest Earnings**

Interest and other items of a similar nature received from bank and investment accounts, interest on rate instalments, interest on rate arrears and interest on debtors.

**Other Revenue / Income**

Other revenue, which can not be classified under the above headings, includes dividends, discounts, rebates etc.

**Employee Costs**

All costs associate with the employment of person such as salaries, wages, allowances, benefits such as vehicle and housing, superannuation, employment expenses, removal expenses, relocation expenses, worker's compensation insurance, training costs, conferences, safety expenses, medical examinations, fringe benefit tax, etc.

**Materials and Contracts**

All expenditures on materials, supplies and contracts not classified under other headings. These include supply of goods and materials, legal expenses, consultancy, maintenance agreements, communication expenses, advertising expenses, membership, periodicals, publications, hire expenses, rental, leases, postage and freight etc. Local governments may wish to disclose more detail such as contract services, consultancy, information technology, rental or lease expenditures.

**Utilities (Gas, Electricity, Water, etc.)**

Expenditures made to the respective agencies for the provision of power, gas or water. Exclude expenditures incurred for the reinstatement of roadwork on behalf of these agencies.

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**1. SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**(q) Nature or Type Classifications (Continued)**

**Insurance**

All insurance other than worker's compensation and health benefit insurance included as a cost of employment.

**Loss on asset disposal**

Loss on the disposal of fixed assets.

**Depreciation on non-current assets**

Depreciation expense raised on all classes of assets.

**Interest expenses**

Interest and other costs of finance paid, including costs of finance for loan debentures, overdraft accommodation and refinancing expenses.

**Other expenditure**

Statutory fees, taxes, provision for bad debts, member's fees or levies including WA Fire Brigade Levy and State taxes. Donations and subsidies made to community groups.

**(r) Statement of Objectives**

Council has adopted a 'Plan for the future' comprising a Strategic Community Plan and Corporate Business Plan to provide the long term community vision, aspirations and objectives.

Based upon feedback received from the community the vision of the Shire is:

*"Standing proud, growing strong"*

The Strategic Community Plan defines the key objectives of the Shire as:

*"Economic: To be a diverse and innovative economy with a range of local employment opportunities.*

*Environment: A sustainable natural and built environment that meets current and future community needs.*

*Social: A safe and welcoming community where everyone has the opportunity to contribute and belong.*

*Civic Leadership: A collaborative and innovative community with strong and vibrant leadership."*

**(s) Reporting Programs**

Council operations as disclosed in this statement encompass the following service orientated activities/programs:

**GOVERNANCE**

Expenses associated with provision of services to members of council and elections. Also included are costs associated with computer operations, corporate accounting, corporate records and asset management. Costs reported as administrative expenses are redistributed in accordance with the principle of activity based costing (ABC).

**GENERAL PURPOSE FUNDING**

Rates and associated revenues, general purpose government grants, interest revenue and other miscellaneous revenues. The costs associated with raising the above mentioned revenues, eg. Valuation expenses, debt collection and overheads.

**LAW, ORDER, PUBLIC SAFETY**

Enforcement of Local Laws, fire prevention, animal control and provision of ranger services.

**HEALTH**

Health inspection services, food quality control, mosquito control and contributions towards provision of medical health services.

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**1. SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**(s) Reporting Programs (Continued)**

**EDUCATION AND WELFARE**

Support of day care for children. Autumn Centre for Senior Citizens.  
Youth & seniors projects.

**HOUSING**

Provision and maintenance of rented housing accommodation for pensioners and employees.

**COMMUNITY AMENITIES**

Sanitation, sewerage, stormwater drainage, protection of the environment, public conveniences, cemeteries and town planning.

**RECREATION AND CULTURE**

Parks, gardens and recreation reserves, library services, walk trails, youth recreation,  
Public halls and Mingenew Recreation Centre.

**TRANSPORT**

Construction and maintenance of roads, footpaths, drainage works, parking facilities, traffic control, depot operations, plant purchase and cleaning of streets.

**ECONOMIC SERVICES**

Tourism, community development, pest control, building services and private works.

**OTHER PROPERTY & SERVICES**

Plant works, plant overheads and stock of materials.

**Note 2: EXPLANATION OF MATERIAL VARIANCES**

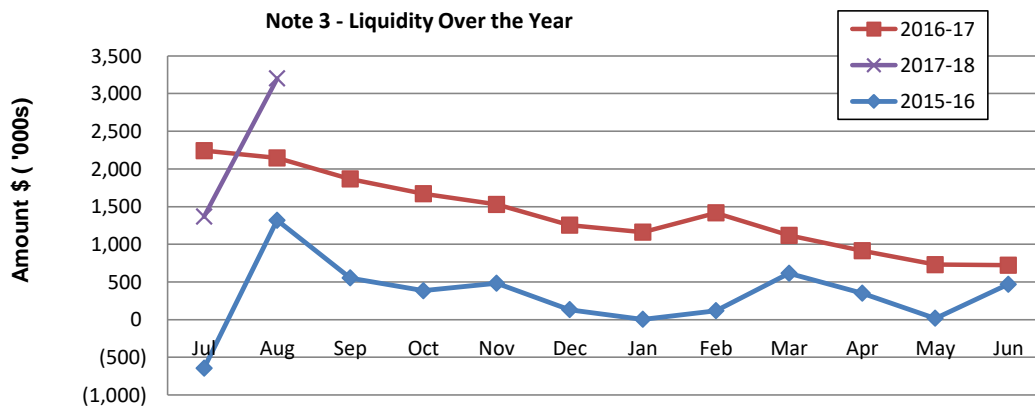
Reporting Program	Var. \$	Var. %	Var.	Timing/ Permanent	Explanation of Variance
<b>Operating Revenues</b>	\$	%			
General Purpose Funding	39,298	2.12%			Special roads 1st quarter grants of \$124,500 was received (which is the 25% of \$49,8000 being full year grants)
Governance	40	1.91%			Nil
Law, Order and Public Safety	(6,647)	(93.92%)			Nil
Health	(60)	(100.00%)			Nil
Education and Welfare	(622)	(100.00%)			Nil
Housing	(6,144)	(35.15%)			Nil
Community Amenities	(1,040)	(1.35%)			Mingenew Revitalisation Plan Project is under by \$10K
Recreation and Culture	(6,365)	(98.83%)			Nil
Transport	(483,318)	(86.00%)	▼		Timing of receiving flood damage grants \$483,318
Economic Services	529	28.06%			Nil
Other Property and Services	(11,139)	(42.45%)	▼		Timing of receiving industrial subdivision grants \$41K
<b>Operating Expenses</b>					
General Purpose Funding	40	0.51%			Nil
Governance	834	1.04%			
Law, Order and Public Safety	(368)	(1.77%)			Bush fire plan & emergency services manager salary is under by 5K
Health	13,573	73.09%	▲		Timing of processing medical practice nor expenses \$7K
Education and Welfare	4,266	33.71%	▲		Assets depreciation is under 7K
Housing	3,450	12.65%	▲		Staff housing maintenanc is under By \$7.5K
Community Amenities	29,703	61.52%	▲		Rubbish site maintenance cost are under \$9K
Recreation and Culture	(12,566)	(8.42%)			Assets depreciation is under by \$50K
Transport	570,710	65.50%	▲		Flood damage wroks is under budget by \$486k and assets deprciation is under budget by 88K
Economic Services	25,963	38.91%	▲		Tourism area promotion is under by \$10K
Other Property and Services	85,909	452.87%	▲		Gross salary & wages are under by 88K
<b>Capital Revenues</b>					
Grants, Subsidies and Contributions	(51,832)	(29.39%)	▼		Timing of receiving RRG grants \$51K
Proceeds from Disposal of Assets	(88,914)	(100.00%)	▼		Timing of disposal of assets \$88K
<b>Capital Expenses</b>					
Land Held for Resale	33,332	100.00%	▲		Industrial subdivision is under budget \$33K
Land and Buildings	(23,488)	(24.83%)	▼		Construction costs for independent living units is under \$23K
Infrastructure - Roads	11,430	5.83%			
Infrastructure - Footpaths	0				
Infrastructure - Drainage & Culverts	0				
Infrastructure - Aerodromes	0				
Plant and Equipment	123,722	100.00%	▲		Timing of purchases
Furniture and Equipment	3,498	100.00%	▲		Timing of purchases
<b>Financing</b>					
Loan Principal	0				Nil

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**Note 3: NET CURRENT FUNDING POSITION**

		Positive=Surplus (Negative=Deficit)		
	Note	YTD 31 Aug 2017	30th June 2017	YTD 31 Aug 2016
		\$	\$	\$
<b>Current Assets</b>				
Cash - Unrestricted	4	801,296	1,276,249	619,625
Cash - Restricted Reserves	4	396,475	396,475	309,092
Cash - Restricted Unspent Grants		568,498	568,498	216,626
Investments		0	0	0
Rates - Current	6	1,873,331	83,832	1,831,314
Sundry Debtors	6	99,824	79,873	48,499
Provision for Doubtful Debts		(1,585)	(1,585)	(1,585)
ESL Levy		0	0	0
GST Receivable		18,220	30,077	13,346
Receivables - Other		0	0	0
Inventories - Fuel & Materials		3,197	3,197	11,717
Inventories - Land Held for Resale		40,394	40,394	80,788
		3,799,651	2,477,010	3,129,423
<b>Current Liabilities</b>				
Sundry Creditors		(124,492)	(261,624)	(93,014)
GST Payable		(10,785)	(29,012)	(22,427)
PAYG		(13,676)	(12,709)	(4,127)
Accrued Interest on Debentures		(11,269)	(13,414)	0
Accrued Salaries & Wages		(1,977)	(1,977)	(1,977)
Current Employee Benefits Provision		(231,014)	(231,014)	(261,493)
Current Loan Liability		(150,775)	(150,775)	(163,871)
		(543,989)	(700,525)	(546,909)
<b>NET CURRENT ASSETS</b>		<b>3,255,662</b>	<b>1,776,485</b>	<b>2,582,514</b>
<b>Less:</b>				
Cash - Restricted Reserves		(396,475)	(396,475)	(309,092)
Inventories - Land Held for Resale		(40,394)	(40,394)	(80,788)
<b>Add Back:</b>				
Current Loan Liability		150,775	150,775	163,871
Cash Backed Employee Provisions	7	231,014	231,014	261,493
<b>Net Current Funding Position (Surplus / Deficit)</b>		<b>3,200,581</b>	<b>1,721,405</b>	<b>2,617,997</b>

0.00



**Comments - Net Current Funding Position**

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**Note 4: CASH AND INVESTMENTS**

	Interest Rate	Unrestricted \$	Restricted \$	Trust \$	Total Amount \$	Institution	Maturity Date
<b>(a) Cash Deposits</b>							
3 Month term Deposit	2.45%		568,498		568,498	NAB	30 September 2017
Municipal Bank Account	1.25%	800,996	181,502		982,498	NAB	At Call
Trust Bank Account	1.25%			98,783	98,783	NAB	At Call
Cash Maximiser Account (Muni)	0.70%	0	0		0	NAB	At Call
Cash On Hand	Nil	300	0		300	NAB	At Call
Reserve Funds	2.55%	0	396,475		396,475	NAB	30 December 2017
<b>(b) Term Deposits</b>							
Short Term Deposits	0.00%	0	0		0		
<b>Total</b>		<b>801,296</b>	<b>577,977</b>	<b>98,783</b>	<b>1,478,056</b>		

**Comments/Notes - Investments**

A review of bank accounts held has been undertaken in conjunction with National Australia Bank. Following this review some changes have been made to the type of accounts we use. To improve interest earnings, the Cash Maximizer Accounts are no longer used (they were earning approximately 0.7% interest) and the Municipal, Trust and Reserve accounts are corporate cheque accounts and will earn interest at the RBA cash rate when balances are >\$250,000 and RBA Cash rate -0.25% when balances are <\$250,000

**Restricted Cash**

**(1) Municipal Fund**

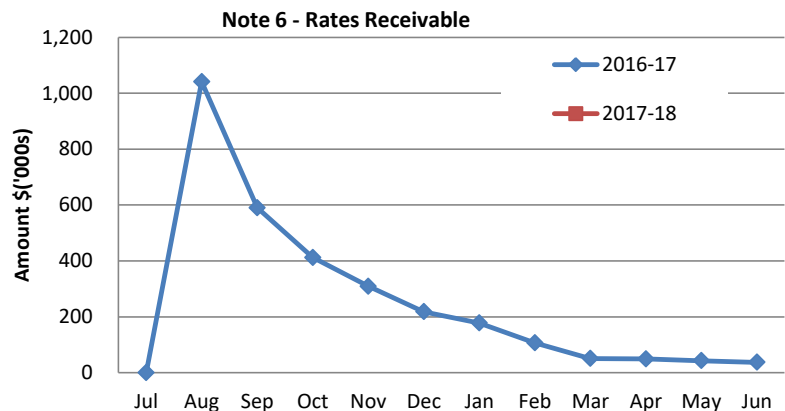
Purpose for Funds Being Restricted	Funding Organisation	Due Date to be Expended	Amount
1 Mooriary Rd	Roads to Recovery	30 June 2019	180,786
2 Town Revitalisation Plan	Department of Planning	30 June 2018	60,000
3 Town Planning Scheme	Department of Planning	30 June 2018	25,000
4 Special Purpose Grants - Bridges	Financial Assistance Grants	30 June 2018	210,000
5 Mingenew Transfer Station	Mid West Development Commission	30 June 2017	45,000
<b>Sub-total</b>			<b>520,786</b>

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**Note 6: RECEIVABLES**

**Receivables - Rates & Rubbish Receivable**

	YTD 31 Aug 2017	30 June 2016
Opening Arrears Previous Years	\$ 83,832	\$ 83,832
Levied this year	1,852,748	1,757,549
<u>Less</u> Collections to date	(63,249)	(1,757,549)
Equals Current Outstanding	<b>1,873,331</b>	<b>83,832</b>
<b>Net Rates Collectable</b>	<b>1,873,331</b>	<b>83,832</b>
% Collected	3.27%	95.45%



**Comments/Notes - Receivables Rates**

Instalment Due Dates:

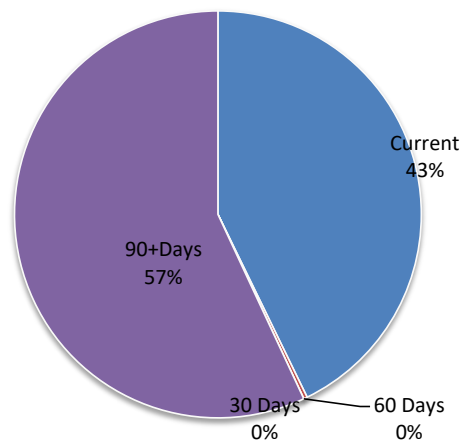
Instalment 1	30-Sep-17
Instalment 2	30-Nov-17
Instalment 3	31-Jan-18
Instalment 4	01-Apr-18

**Receivables - General**

	Current	30 Days	60 Days	90+Days
Receivables - General	\$ 42,699	\$ 287	\$ 0	\$ 56,838
<b>Total Receivables General Outstanding</b>				<b>99,824</b>

**Note 6 - Accounts Receivable (non-rates)**

Arr



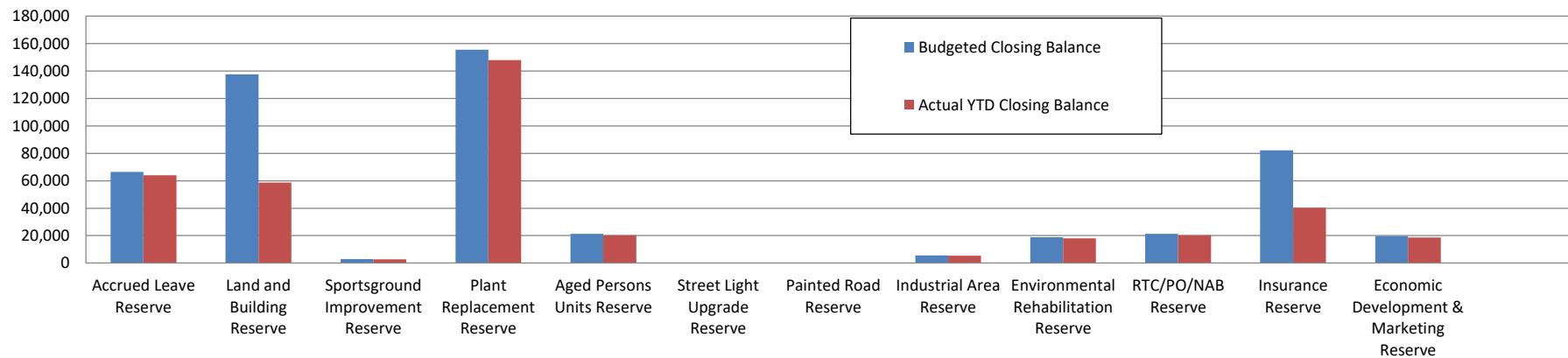
**Comments/Notes - Receivables General**

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
For the Period Ended 31 August 2017

**Note 7: Cash Backed Reserve**

Name	Opening Balance	Budget Interest Earned	Actual Interest Earned	Budget Transfers In (+)	YTD Actual Transfers In (+)	YTD Budget Transfers Out (-)	YTD Actual Transfers Out (-)	Transfer out Reference	Budgeted Closing Balance	Actual YTD Closing Balance
	\$	\$	\$	\$	\$	\$	\$		\$	\$
Accrued Leave Reserve	64,065	1,250	0	1,250	0	0	0		66,565	64,065
Land and Building Reserve	58,767	1,450	0	77,450	0	0	0		137,667	58,767
Sportsground Improvement Reserve	2,725	60	0	60	0	0	0		2,845	2,725
Plant Replacement Reserve	148,056	3,700	0	3,700	0	0	0		155,456	148,056
Aged Persons Units Reserve	20,230	500	0	500	0	0	0		21,230	20,230
Street Light Upgrade Reserve	0	0	0	0	0	0	0		0	0
Painted Road Reserve	0	0	0	0	0	0	0		0	0
Industrial Area Reserve	5,287	125	0	125	0	0	0		5,537	5,287
Environmental Rehabilitation Reserve	18,002	450	0	450	0	0	0		18,902	18,002
RTC/PO/NAB Reserve	20,382	500	0	500	0	0	0		21,382	20,382
Insurance Reserve	40,243	1,000	0	41,000	0	0	0		82,243	40,243
Economic Development & Marketing Reserve	18,719	475	0	475	0	0	0		19,669	18,719
				0	0	0	0			
	<b>396,475</b>	<b>9,510</b>	<b>0</b>	<b>125,510</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>531,495</b>	<b>396,475</b>

**Note 7 - Year To Date Reserve Balance to End of Year Estimate**





**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
For the Period Ended 31 August 2017

**Note 8 CAPITAL DISPOSALS**

Actual YTD Profit/(Loss) of Asset Disposal				Disposals	Amended Current Budget			Comments
Cost	Accum Depr	Proceeds	Profit (Loss)		YTD 31 08 2017			
					2016/17 Budget Profit/(Loss)	2016/17 Actual Profit/(Loss)	Variance	
\$	\$	\$	\$	\$	\$	\$		
0			0	<b>Plant and Equipment</b>				
			0	CEO Vehicle		0		
			0	DCEO Vehicle		0	0	
			0	Works Manager Vehicle		0	0	
<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>		<b>0</b>	<b>0</b>	<b>0</b>	

**Comments - Capital Disposal/Replacements**

SHIRE OF MINGENEW												
NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY												
For the Period Ended 31 August 2017												
AASB 101.10(e)												
AASB 101.51												
AASB 101.112												
LGA S6.2(4)(b)	<b>8. RATING INFORMATION</b>											
FM Reg 23(a)												
			Rate in \$	Number of properties	Rateable value \$	2017/18 interim rates \$	2017/18 back rates \$	Actual Rate Revenue \$	2017/18 Budgeted rate revenue \$	2017/18 Budgeted interim rates \$	2017/18 Budgeted back rates \$	2017/18 Budgeted total revenue \$
RATE TYPE												
General rate												
	GRV - Mingenew		0.145400	129	1,131,000	0	0	164,447	164,447	0	0	164,447
	GRV - Yandanooka		0.145400	2	13,884	0	0	2,019	2,019	0	0	2,019
	GRV- Commercial		0.145400	14	349,700			50,846	50,846			50,846
	GRV - Industrial		0.145400	1	12,480			1,815	1,815			1,815
	UV Rural & Mining		0.013350	120	110,861,500			1,480,001	1,480,001			1,480,001
	UV Mining		0.013350	0	0			0	0			0
	<b>Sub-Totals</b>			266	112,368,564	0	0	1,699,128	1,699,128	0	0	1,699,128
	<b>Minimum payment</b>		<b>Minimum \$</b>									
	GRV - Mingenew		682	64	28,026	0	0	43,648	43,648	0	0	43,648
	GRV - Yandanooka		682	0	0	0	0	0	0	0	0	0
	GRV- Commercial		682	9	6,200			6,138	6,138			6,138
	GRV - Industrial		682	2	1,850			1,364	1,364			1,364
	UV Rural & Mining		1025	23	671,100			23,575	23,575			23,575
	UV Mining		1025	8	39,885			8,200	8,200			8,200
	<b>Sub-Totals</b>			106	747,061	0	0	82,925	82,925	0	0	82,925
				<b>372</b>	<b>113,115,625</b>	<b>0</b>	<b>0</b>	<b>1,782,053</b>	<b>1,782,053</b>	<b>0</b>	<b>0</b>	<b>1,782,053</b>
	Discounts/concessions (Refer note 13)							(1,009)				(1,009)
	<b>Total amount raised from general rates</b>							<b>1,781,044</b>				<b>1,781,044</b>
	Specified area rates (Refer note 10)							0				0
	Ex Gratia Rates							35,524				35,523
	<b>Total rates</b>							<b>1,816,568</b>				<b>1,816,567</b>

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
For the Period Ended 31 August 2017

**10. INFORMATION ON BORROWINGS**

**(a) Debenture Repayments**

Particulars	Principal 01-Jul-17	Refinancing Cost	Principal Repayments		Principal Outstanding		Interest Repayments	
			YTD Actual	YTD Budget	YTD Actual	Budget	YTD Actual	Budget
			\$	\$	\$	\$	\$	\$
<b>Education &amp; Welfare</b>								
Loan 137 - Senior Citizens Buildings	91,633	11,102	0	19,576	0	72,057	312	3,088
<b>Housing</b>								
Loan 133 - Triplex	61,766	7,483	0	13,195	0	48,571	218	1,967
Loan 134 - SC Housing	46,481	5,631	0	9,930	0	36,551	163	1,499
Loan 136 - Staff Housing	110,736	13,416	0	23,656	0	87,080	382	3,738
Loan 142 - Staff Housing	56,153	6,803	0	11,996	0	44,157	199	1,726
<b>Recreation &amp; Culture</b>								
Loan 138 - Pavilion Fitout	87,967	10,658	0	18,792	0	69,175	299	2,964
<b>Transport</b>								
Loan 139 - Roller	24,255	2,939	0	5,182	0	19,073	115	727
Loan 141 - Grader	82,243	9,964	0	17,570	0	64,673	317	2,523
Loan 143 - 2 x Trucks	0		0	0	0	0	60	0
Loan 144 - Side Tipping Trailer	56,154	6,803	0	11,996	0	44,158	199	1,726
Loan 145 - Drum Roller	88,381	10,708	0	18,881	0	69,500	376	2,565
	705,769	85,507	0	150,774	0	554,995	2,640	22,523

All debenture repayments were financed by general purpose revenue.

**(b) New Debentures**

Nil

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
For the Period Ended 31 August 2017

**Note 11: GRANTS AND CONTRIBUTIONS**

Program/Details GL	Grant Provider	Approval	2017-18 Forecast Budget	2017-18 Original Budget	Variations Additions (Deletions)	Operating 2017/18 Budget	Capital 2017/18 Budget	Recoup Status	
								2017-18 YTD Actual	2017-18 YTD Budget
		(Y/N)	\$	\$	\$	\$	\$	\$	\$
<b>GENERAL PURPOSE FUNDING</b>									
Financial Assistance Grant - Roads	Grants Commission	Y	167,449	167,449	0	0	167,449	37,179	41,862
Financial Assistance Grant - General	Grants Commission	Y	142,313	142,313	0	142,313	0	32,436	23,718
<b>LAW, ORDER, PUBLIC SAFETY</b>									
ESL Administration Grant	Department of Fire & Emergency Services	Y	4,000	4,000	0	4,000	0	0	666
ESL Annual Grant	Department of Fire & Emergency Services	Y	23,194	23,194	0	23,194	0	0	5,799
Bushfire Management Plan	Department of Fire & Emergency Services	Y	30,000	30,000	0	30,000	0	0	0
<b>HEALTH</b>									
Nil		N	0	0	0	0	0	0	0
<b>EDUCATION &amp; WELFARE</b>									
Seniors Week Grant	COTAWA	N	1,000	1,000	0	1,000	0	0	166
Community Christmas Tree	CBH	N	2,000	2,000	0	2,000	0	0	332
<b>HOUSING</b>									
Independent Living Units	WCHS	Y	0	0	0	0	0	0	0
<b>COMMUNITY AMENITIES</b>									
Thank a Volunteer Day	Department of Local Government & Communities	N	2,000	2,000	0	1,000	0	0	0
Transfer Station	Mid West Development Commission	Y	5,000	5,000	0	0	5,000	0	832
<b>RECREATION AND CULTURE</b>									
Museum	MWDC	N	1,523	1,523	0	0	1,523	0	252
Museum	Museum Committee	Y	5,000	5,000	0	0	0	0	832
Enanty Barn	TBA	N	0	0	0	0	0	0	0
Littlewell	TBA	N	0	0	0	0	0	0	0
Railway Station	Lotterywest (Town Hall)	N	210,000	210,000	0	0	210,000	0	0
Railway Station	Lotterywest	N	35,000	35,000	0	0	35,000	0	5,832
Football Oval Lights	DSR	Y	200,000	200,000	0	0	200,000	0	0
Football Oval Lights	Football Club	Y	30,000	30,000	0	0	0	0	0
Expo for lighting Tower	Expo Lights	Y	15,000	15,000	0	0	45,000	0	0
Hockey Oval Lights	Hockey Club	Y						0	0
<b>TRANSPORT</b>									
Flood Damage Funding	WADRRRA	Y	2,759,248	2,759,248	0	2,759,248	0	0	459,874
Direct Grant	Main Roads WA	Y	41,594	41,594	0	41,594	0	0	6,932
Blackspot Funding	Main Roads WA	Y	0	0	0	0	0	0	0
Regional Road Group	Main Roads WA	Y	515,333	515,333	0	0	515,333	0	85,888
Financial Assistance Special Grant - Bridge	Department of Infrastructure	Y	0	0	0	0	0	124,500	0
Roads To Recovery	Department of Infrastructure	Y	0	0	0	0	0	0	0
Street Lighting	Main Roads WA	Y	2,500	2,500	0	2,500	0	0	416
<b>ECONOMIC SERVICES</b>									
Mingenev Hill Walk Trail	TBA	N	0	0	0	0	0	0	0
<b>OTHER PROPERTY &amp; SERVICES</b>									
Industrial Subdivision	Mid West Development Commission	N	150,000	150,000	0	0	150,000	0	41,666
Rural Residential Subdivision	Mid West Development Commission	N	100,000	100,000	0	0	100,000	0	0
<b>TOTALS</b>			<b>4,442,154</b>	<b>4,442,154</b>	<b>0</b>	<b>3,006,849</b>	<b>1,429,305</b>	<b>194,115</b>	<b>675,067</b>
Operating	Operating		3,012,849	3,012,849	0	3,006,849	0	156,936	498,735
Non-Operating	Non-operating		1,429,305	1,429,305	0	0	1,429,305	37,179	176,332
Contribution & Reimbursement	Operating & Non Operating		11,096	11,096				4,528	
			<b>4,453,250</b>	<b>4,453,250</b>				<b>198,643</b>	<b>675,067</b>

**SHIRE OF MINGENEW**  
**NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY**  
**For the Period Ended 31 August 2017**

**Note 12: TRUST FUND**

Funds held at balance date over which the Shire has no control and which are not included in this statement are as follows:

Description	Opening Balance 1 Jul 17	Amount Received	Amount Paid	Closing Balance 31-Aug-17
	\$	\$	\$	\$
BCITF Levy	0	424	0	424
BRB Levy	4	458	0	462
Autumn Committee	974	0	0	974
Community Bus	2,200	400	(400)	2,200
ANZAC Day Breakfast Donation	501	0	0	501
Building Relocation Bond	1,000	0	0	1,000
Mid West Industry Road Safety Alliance	21,294	63,700	(3,300)	81,694
Mingenew Cemetery Group	4,314	0	0	4,314
Bonds		145	0	145
Housing Bonds	1,428			1,428
Cool Room Bond	530			530
Outdoor Camera Bond	350			350
Animal Trap Bond	0	50	0	50
Projector Screen	0	0	(50)	(50)
Other Bonds	200			200
Rates Incentive Prizes	100	0	0	100
Sinosteel Community Trust Fund	0	0	0	0
Tree Planter - LCDC	88	0	0	88
Weary Dunlop Memorial	87	0	0	87
Mingenew P & C - NBN Rental	0	0	0	0
Joan Trust	2,161	0	0	2,161
Youth Advisory Council	746	0	0	746
Centenary Committee	897	0	0	897
Community Christmas Tree	432	0	0	432
Silverchain Committee	0	0	0	0
Seniors Donations	50	0	0	50
	<b>37,356</b>	<b>65,176</b>	<b>(3,750)</b>	<b>98,783</b>

SHIRE OF MINGENEW  
 NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
 For the Period Ended 31 August 2017

Note 13: CAPITAL ACQUISITIONS

Infrastructure Assets		Amended Annual Budget	Original Full Year Budget	YTD Budget	YTD Actual	Variance (Over)/Under	Comment
Land Held for Resale							
Community Amenities							
Other Property & Services							
Industrial Area Development	4504	200,000	200,000	33,332	0.00	200,000	
<b>Total Land Held for Resale</b>		<b>200,000</b>	<b>200,000</b>	<b>33,332</b>	<b>0</b>	<b>200,000</b>	
<b>Land &amp; Buildings</b>							
Shire Office	A001	10,000	10,000	1,666	0.00	10,000	
Child Care Facility	0075	20,000	20,000	3,332	0.00	20,000	
Lot 66 Shenton Street	H001	5,000	5,000	832	0.00	5,000	
13 Moore Street	H005	5,000	5,000	832	0.00	5,000	
King Street Triplex - Unit 1	H008	4,000	4,000	664	0.00	4,000	
King Street Triplex - Unit 2	H009	4,000	4,000	666	0.00	4,000	
King Street Triplex - Unit 3	H010	4,020	4,020	668	0.00	4,020	
Staff Housing - 34 William Street (ex Silver Chain)	H011	12,000	12,000	1,996	0.00	12,000	
Staff Housing - 2 Bedroom Key Worker Housing	H007	5,000	5,000	832	0.00	5,000	
Lot 5 Field Street	H002	7,500	7,500	1,250	0.00	7,500	
Lot 15 Field Street	H003	10,000	10,000	1,664	0.00	10,000	
Lot 89 Victoria Street	H004	5,000	5,000	832	0.00	5,000	
Aged Care Units	0165	265,000	265,000	44,166	118,084.00	146,916	
Silver Chain House	0166	0	0	0	0.00	0	
Town Hall	2434	300,000	300,000	0	0.00	300,000	
Enanty Barn	0067	10,000	10,000	1,666	0.00	10,000	
Museum	0068	25,000	25,000	4,166	0.00	25,000	
Old Roads Building	0069	6,200	6,200	1,032	0.00	6,200	
Old Railway Station	0070	70,000	70,000	11,666	0.00	70,000	
Business Incubator	5964	100,000	100,000	16,666	0.00	100,000	
<b>Total Land &amp; Building Total</b>		<b>867,720</b>	<b>867,720</b>	<b>94,596</b>	<b>118,084</b>	<b>749,636</b>	

SHIRE OF MINGENEW  
 NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
 For the Period Ended 31 August 2017

Note 13: CAPITAL ACQUISITIONS

Infrastructure Assets		Amended Annual Budget	Original Full Year Budget	YTD Budget	YTD Actual	Variance (Over)/Under	Comment
<b>Infrastructure - Other</b>							
Waste Transfer Station	3084	140,000	140,000	23,328	0.00	140,000	
Little Well Project	0071	35,000	35,000	5,830	0.00	35,000	
Mingenew Hill Project	0142	40,000	40,000	6,190	0.00	40,000	
Net Ball Court	0169	150,000	150,000	25,000	0.00	150,000	
Bride Street Recreation Area	0141	100,000	100,000	16,666	0.00	100,000	
Football Oval Lights	0140	140,000	140,000	23,332	112,855.0	27,145	
Water Tanks & Reticulation	0167	12,000	12,000	2,000	0.00	12,000	
<b>Total Other Infrastructure</b>		<b>617,000</b>	<b>617,000</b>	<b>102,346</b>	<b>112,855</b>	<b>504,145</b>	
<b>Furniture &amp; Office Equip.</b>							
Office PC's & Laptops	A201	8,000	8,000	1,332	0.00	8,000	
Council Chamber - Tables & Chairs	A302	10,000	10,000	1,666	0.00	10,000	
Christmas Lights	0065	3,000	3,000	500	0.00	3,000	
<b>Total Furniture &amp; Office Equip.</b>		<b>21,000</b>	<b>21,000</b>	<b>3,498</b>	<b>0</b>	<b>21,000</b>	

SHIRE OF MINGENEW  
 NOTES TO THE STATEMENT OF FINANCIAL ACTIVITY  
 For the Period Ended 31 August 2017

Note 13: CAPITAL ACQUISITIONS

Infrastructure Assets		Amended Annual Budget	Original Full Year Budget	YTD Budget	YTD Actual	Variance (Over)/Under	Comment
<b>Plant , Equip. &amp; Vehicles</b>							
<b>Governance</b>							
CEO Vehicle Replacement	A100	135,000	135,000	22,500	0.00	135,000	
DCEO Vehicle Replacement	A101	86,000	86,000	14,332	0.00	86,000	
Works Manager Vehicle	0170	86,000	86,000	14,332	0.00	86,000	
Sundry Plant	0171	10,000	10,000	1,666	0.00	10,000	
Portable Traffic Lights	0172	35,000	35,000	5,832	0.00	35,000	
Grader	0174	345,000	345,000	57,500	0.00	345,000	
Road Broom	0177	25,000	25,000	4,166	0.00	25,000	
Slasher	0178	20,364	20,364	3,394	0.00	20,364	
<b>Total Plant, EQUIP &amp; Vehicles</b>		<b>742,364</b>	<b>742,364</b>	<b>123,722</b>	<b>0</b>	<b>742,364</b>	
<b>Roads &amp; Bridges</b>							
Roadworks Construction - Own Resources	0001	72,500	72,500	12,078	0.00	72,500	
Mooriary Road (R2R)	6074	121,600	121,600	20,264	89,244.35	32,356	
Special Purpose Grant - Yarragadee Bridge	6075	210,000	210,000	35,000	0.00	210,000	
Mingenev Mullewa Road Reseal (RRG)	RR65	450,000	450,000	74,996	95,492.00	354,508	
RRG - Coalseam Road	RR61	323,000	323,000	53,828	0.00	323,000	
<b>Total Roads &amp; Bridges</b>		<b>1,177,100</b>	<b>1,177,100</b>	<b>196,166</b>	<b>184,736.35</b>	<b>992,364</b>	
<b>Capital Expenditure Total</b>							
		<b>3,625,184</b>	<b>3,625,184</b>	<b>553,660</b>	<b>415,675</b>	<b>3,209,509</b>	



## 9.2.2 ACCOUNTS FOR PAYMENT – MONTH ENDING 31 AUGUST 2017

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:** ADM0042  
**Disclosure of Interest:** Nil  
**Date:** 14 September 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 August 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).

List of Payments  
Licensing & Credit Card Payments

### **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

<b>OFFICER RECOMMENDATION – ITEM 9.2.2</b>
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**That Council confirm the accounts as presented for August 2017 from the Municipal & Trust Fund totalling \$233,373.96 represented by Electronic Funds Transfers of EFT 10986, 11021 and 11028 and 11030. Direct Deduction DD8203.1.1, 2, 3, 4, 5 &6 , DD 8204.1, 2, 3, 4,&6, Municipal Cheque numbers 8520 to 8522.**

Date: 14/09/2017  
Time: 8:20:18PM

**Shire of MINGENEW**  
**List of Accounts for 1 August 2017 to 31 August 2017**

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<b>Cheque /EFT No</b>	<b>Date</b>	<b>Name</b>	<b>Invoice Description</b>	<b>Bank Code</b>	<b>INV Amount</b>	<b>Amount</b>
8520	28/08/2017	SYNERGY	Power Bill from 21/06/2017 - 18/08/2017	M		5,634.45
8521	28/08/2017	WATER CORPORATION	Water Account for the period 31/05/2017 - 02-08/2017	M		3,953.93
8522	28/08/2017	WESTERN POWER	Connection to Power Lot 43, 15 King Street	M		450.00
EFT10986	01/08/2017	ADINA APARTMENT HOTEL PERTH	Accomodation for councillor & CEO for Local Government Week	M		4,745.00
EFT10987	03/08/2017	FIVE STAR BUSINESS EQUIPMENT & COMMUNICATIONS	Photocopier rentals	M		421.30
EFT10988	04/08/2017	WESTERN AUSTRALIAN TREASURY CORPORATION	Government Gurantee fees for Various Council Loans	M		2,640.39
EFT10990	15/08/2017	ANDREWS & CO	JULY MWIRSA INVOICE	T		3,300.00
EFT10991	15/08/2017	Kenneth Roy Jones	REFUND OF CAT TRAP HIRE BONDS	T		50.00
EFT10992	15/08/2017	Mingenew - Irwin Group	REFUND OF COMMUNITY BUS HIRE BOND ON 8/8/2017	T		400.00
EFT10993	24/08/2017	C & J LUCKEN TRANSPORT	Gravel Cartage for Mooriary Road	M		10,890.00
EFT10994	24/08/2017	PEST A KILL WA	Seventh Year Exterra for 5 field street	M		660.00
EFT10995	24/08/2017	Plunkett Homes	Progress Payment for Unit 1 Shenton Street	M		117,484.00
EFT10996	28/08/2017	Australian Services Union	Payroll deductions	M		54.90
EFT10997	28/08/2017	AUSTRALIA POST	July 2017 Postage Fees	M		99.45
EFT10998	28/08/2017	ABCO PRODUCTS	Cleaning Products for Expo	M		474.19
EFT10999	28/08/2017	AVON WASTE	Rubbish Collection for Weeks ending 14/07/2017 & 21/07/2017	M		2,359.58
EFT11000	28/08/2017	BUNNINGS BUILDING SUPPLIES PTY LTD	Purchase of Paint for Line Marking	M		29.74
EFT11001	28/08/2017	Courier Australia	Courier fees for RSA SIGNS	M		143.26

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**Shire of MINGENEW**  
**List of Accounts for 1 August 2017 to 31 August 2017**

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<b>Cheque /EFT No</b>	<b>Date</b>	<b>Name</b>	<b>Invoice Description</b>	<b>Bank Code</b>	<b>INV Amount</b>	<b>Amount</b>
EFT11002	28/08/2017	CHILD SUPPORT AGENCY	Payroll deductions	M		526.96
EFT11003	28/08/2017	LANDGATE	Minimum Charge Fee	M		65.50
EFT11004	28/08/2017	GHD PTY LTD	WANDRRA Works	M		2,455.75
EFT11005	28/08/2017	Gorgina Groves	Cemetery Fee Refund	M		55.00
EFT11006	28/08/2017	IT Vision	Annual License Fees 2017/2018	M		25,208.96
EFT11007	28/08/2017	IRWIN PLUMBING SERVICES	Pump out Rec Centre Septic Tanks	M		3,547.50
EFT11008	28/08/2017	State Library Of Western Australia	Annual fee for Lost & Damaged Public Library Materials 2017/18	M		220.00
EFT11009	28/08/2017	LOCAL GOVERNMENT PROFESSIONALS AUSTRALIA WA	2017/18 Membership	M		601.00
EFT11010	28/08/2017	LO-GO APPOINTMENTS	Recruitment of Governace Officer - Kelvin Matthews	M		3,909.47
EFT11011	28/08/2017	LATERAL ASPECT	Service & Commercial Fees	M		6,692.31
EFT11012	28/08/2017	LGRCEU	Payroll deductions	M		54.82
EFT11013	28/08/2017	MINGENEW SHIRE COUNCIL	Payroll deductions	M		220.00
EFT11014	28/08/2017	STARICK TYRES	Tyres	M		166.64
EFT11015	28/08/2017	MINGENEW PRIMARY SCHOOL	Paints used in Banner Artwork	M		272.89
EFT11016	28/08/2017	MARKETFORCE	Advertising Proposed Local Laws	M		1,953.50
EFT11017	28/08/2017	MGB DIESEL CONTRACTING PTY LTD	Service of CAT Grader	M		11,773.74
EFT11018	28/08/2017	Officeworks	Purchase of Panasonic Board and Stand	M		2,682.38
EFT11019	28/08/2017	PEMCO DIESEL PTY LTD	Supply of fuel hoses for Back Hoe	M		161.44
EFT11020	28/08/2017	SHIRE OF COOROW	Resource Sharing - Manager of Regulatory Services July 2017	M		2,099.00

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Shire of MINGENEW  
List of Accounts for 1 August 2017 to 31 August 2017

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Cheque /EFT No	Date	Name	Invoice Description	Bank Code	INV Amount	Amount
EFT11021	28/08/2017	Telstra Corporation	Telstra Account for the Month of July 2017	M		1,193.76
EFT11028	07/08/2017	FIVE STAR BUSINESS EQUIPMENT & COMMUNICATIONS	Photocopy rentals for the month of August 2017	M		421.30
EFT11030	31/08/2017	NAB BUSINESS VISA	August 2017 Credit Card Payment	M		4,298.74
DD8203.1	09/08/2017	WA SUPER	Payroll deductions	M		3,638.88
DD8203.2	09/08/2017	PERSONAL CHOICE PRIVATE FUND EWRAP SUPER	Superannuation contributions	M		1,115.21
DD8203.3	09/08/2017	MLC SUPER FUND	Superannuation contributions	M		77.82
DD8203.4	09/08/2017	Sun Super	Superannuation contributions	M		217.50
DD8203.5	09/08/2017	PRIME SUPER	Superannuation contributions	M		274.04
DD8203.6	09/08/2017	BEATTIE PETA SMSF PTY LTD	Superannuation contributions	M		188.57
DD8204.1	23/08/2017	WA SUPER	Payroll deductions	M		3,613.89
DD8204.2	23/08/2017	PERSONAL CHOICE PRIVATE FUND EWRAP SUPER	Superannuation contributions	M		1,115.21
DD8204.3	23/08/2017	MLC SUPER FUND	Superannuation contributions	M		77.82
DD8204.4	23/08/2017	Sun Super	Superannuation contributions	M		217.50
DD8204.5	23/08/2017	PRIME SUPER	Superannuation contributions	M		274.04
DD8204.6	23/08/2017	BEATTIE PETA SMSF PTY LTD	Superannuation contributions	M		192.63

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**Shire of MINGENEW**  
**List of Accounts for 1 August 2017 to 31 August 2017**

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<b>Cheque /EFT No</b>	<b>Date</b>	<b>Name</b>	<b>Invoice Description</b>	<b>Bank Code</b>	<b>INV Amount</b>	<b>Amount</b>
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**REPORT TOTALS**

<b>Bank Code</b>	<b>Bank Name</b>	<b>TOTAL</b>
M	MUNI - NATIONAL AUST BANK	<b>229,623.96</b>
T	TRUST- NATIONAL AUST BANK	<b>3,750.00</b>
<b>TOTAL</b>		<b>233,373.96</b>

## Licensing , Payroll and Credit Card Transactions

### **Transport Licensing**

Direct Debit from Muni bank 1/8/2017 to 31/8/2017	\$19,374.05
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### **Staff payroll**

PPE 9/8/2017	\$25,085.41
PPE 23/8/2017	\$24,535.14

### **Credit Card**

CEO's Credit Card - August 2017	\$4,298.74
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## 9.3 ADMINISTRATION

### 9.3.1 FEES & CHARGES – AGED CARE UNOT RENT ADJUSTMENT

**Location:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** ADM0291  
**Date:** 12 September 2017  
**Author:** Belinda Bow, Governance Officer

#### Summary

This report recommends that Council review and adopt the fees and charges associated with the Aged Persons Units as adopted in the 2017/18 budget.

#### Attachment

Department of Housing Rent to Income Policy  
Harcourts Comparative Market Analysis & Property Appraisal Units 1-4 Victoria St  
Public Housing Rent Calculations Changes

#### Background

The Government of Western Australia Housing Authority is committed to providing a rent setting method that is fair and equitable for all public housing tenants. As such, rent must be set using one of 2 methods-

- Tenants pay either 25% of the household income as rent, or
- The market rent for the property; whichever is the lesser amount.

Tenants who occupy their current rental property before 28 March 2016 will receive rent increases until they are paying 25% of the assessable household income as rent or the market rent. The rent increases will be staged with increased limits applied to reduce the impact of the changes for these tenants, the attachments for further information.

Previously, the Mingenew Shire has considered assessable income when setting rental rates for the aged persons units, however incorrect methodology has been applied and thus rent has been undercharged.

Furthermore, there has been no onsite market appraisal for the units in recent times. Consequently different rent rates are currently being charged between the 4 aged persons units and the Shire of Mingenew has been approached by a tenant seeking justification as to why this is occurring.

#### Comment

In response to this query the Shire of Mingenew in consultation with the Department of Housing, has organised an onsite property appraisal through Harcourts Dongara to determine the current market rate. The current market rate for the units is as follows (as per Harcourts report)-

- Units 1, 3 & 4 (2 bedroom)- \$125 to \$170 per week
- Unit 2 (1 bedroom)- \$105 to \$150 per week.

The assessable income of tenants has also been reviewed and the following rent charges have been set for the 2017/18 budget-

- Unit 1, 3 & 4 \$125 per week
- Unit 2 \$105 per week



Documentation informing tenants of rent increases have been issued in accordance with Department of Housing Guidelines. Tenants have been given 60 days notice of the rental increases that does not exceed rent increase limits of \$12 per week.

**Consultation**

Martin Whitely, Chief Executive Officer  
Durga Ojha, Finance Manager  
Department of Housing

**Statutory Environment**

**Local Government Act 1995 section 6.16**

(3) Fees and charges are to be imposed when adopting the annual budget but may be —

- (a) imposed\* during a financial year; and
- (b) amended\* from time to time during a financial year.

**Local Government Act 1995 section 6.19**

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and
- (b) the date from which it is proposed the fees or charges will be imposed.

**Residential Tenancies Act 1987 section 30**

(1) Subject to this section and except where rent payable under a residential tenancy agreement is calculated by reference to the tenant's income, the rent payable under a residential tenancy agreement may be increased by the lessor by written notice to the tenant, in a form approved by the Minister, specifying the amount of the increased rent and the day as from which the increased rent becomes payable, being a day —

- (a) not less than 60 days after the day on which the notice is given; and
- (b) not less than 6 months after the day on which the tenancy commenced, or, if the rent has been increased under this section, the day on which it was last so increased,

but otherwise the rent shall not increase or be increased.

**Policy Implications**

Nil

**Financial Implications**

Variation to the 2017/18 budget fees and charges

**Strategic Implications**

Nil

**Voting Requirements**

Absolute Majority

**OFFICER RECOMMENDATION – ITEM 9.3.1**

**That Council**

1. Adopts the revised rental charges for the aged persons units of \$125 a week for the 2 bedroom units and \$105 a week for the 1 bedroom unit, and
2. Gives local public notice of the revised rental charges for the aged persons in accordance with s6.19 of the Local Government Act 1995



Government of **Western Australia**  
Housing Authority

RENT TO

INCOME

POLICY

## RENT TO INCOME POLICY

### PREAMBLE

The Housing Authority requires tenants to pay either 25% of the household income as rent or the market rent for the property.

Tenants eligible to pay rent by reference to the household income will pay no more than 25% of the household income as rent. If 25% of the household income is more than the market rent then the rent payable is the market rent.

Tenants not eligible to pay rent by reference to the household income may pay a market rent which is more than 25% of the household income.

The Housing Authority is committed to providing a rent setting method that is fair and equitable for all public housing tenants.

After 28 March 2016 any income that is regular, ongoing and provided to meet the cost of living is considered by the Housing Authority to be "assessable" and used to calculate how much rent is payable. In addition, some previously non-assessable incomes and incomes assessed at less than 25% in the rent calculation became assessable at the full 25% rate from 28 March 2016. If applicable, tenants who occupied their current rental property before 28 March 2016 will receive rent increases until they are paying 25% of the assessable household income as rent or the market rent. The rent increases will be staged with increase limits applied to reduce the impact of the changes for these tenants.

### POLICY

1. Tenants are required to pay 25% of the total assessable gross (before tax) income of all household members who have reached 16 years of age as rent or market rent, whichever is the lower amount.

Any income which is regular, ongoing and provided to meet the general costs of living is considered assessable income for the purpose of calculating rent.

### GUIDELINES

#### 1.1 Assessable income includes:

- "General income" - e.g. wages, salaries, superannuation, salary sacrificed amounts, child maintenance and interest from financial assets including savings
- "Statutory income" - e.g. pensions, benefits and allowances.

#### 1.2 Assessable income is further defined as payments that:

- are or can be received as regular fortnightly income and therefore can be planned for;
- are ongoing and for which recipients do not need to requalify for once eligible;
- temporarily replace a recipient's primary form of income - e.g. Paid Parental Leave;
- are for, or able to be used for general livings costs.

## RENT TO INCOME POLICY

### POLICY

2. "Non-assessable" incomes are not used in calculating how much rent is payable. The Housing Authority currently treats the following incomes as non-assessable for the calculation of rent.

### GUIDELINES

- 1.3 Household members are the tenant(s), their partner(s), dependants and non-dependants of the tenant, non-family members and boarders. Refer to the Tenancy Management Policy for information about visitors.
- 1.4 Rent is determined at the time of signing the Tenancy Agreement and whenever a rent assessment is carried out.
- 2.1 Any income received by a household member who is under 16 years of age or has reached 100 years of age is non-assessable for the calculation of rent. Refer to "Centenarians" for more information.

### NON-ASSESSABLE GOVERNMENT INCOME PAYMENTS

Abstudy Pensioner Education Supplement  
 AIC Pensioner Education Supplement  
 Assisted and Isolated Children  
 Attendant Allowance  
 Austudy Education Pension Allowance  
 Bereavement Payment  
 Child Disability Allowance – One Off  
 Clothing Allowance (DVA)  
 Crisis Payment  
 Dad and Partner Pay  
 Decoration Allowance (DVA)  
 Disaster Recovery Allowance  
 DVA Disability Pension - Extreme Disablement Adjustment  
 DVA Disability Pension - General Rate  
 DVA Disability Pension - Intermediate Rate  
 DVA Disability Pension - Special Rate  
 Education Tax Refund Payment  
 Emergency Payment  
 Emergency Recovery Payment (including Burial Assistance,  
 Hospital, medical and Repatriation Expenses)  
 Essential Medical Equipment Payment  
 Exceptional Circumstances Relief Payment

Ex-Gratia Payment  
 FACS Pensioner Education Supplement  
 Flexible Support Payment  
 Funeral Expenses – One Off  
 HECS or Course Fees  
 Income Support Bonus  
 Mobility Allowance  
 Newborn Supplement  
 Newborn Upfront Payment  
 Orphans Allowance/Pension (DVA)  
 Overseas Add-On Payment (For Child)  
 Pensions Loan Scheme  
 Permanent Impairment Payment (DVA)  
 Prisoner of War Recognition Supplement (DVA)  
 Recreation Transport Allowance (DVA)  
 Remote Allowance (DVA)  
 School Kids Bonus  
 Special Employment Advance  
 Stillborn Payment  
 Student Education Payments (DVA)  
 Student Start-Up Scholarship  
 Veterans Supplement (DVA)

## RENT TO INCOME POLICY

### POLICY

3. Tenants who are not eligible to have their rent calculated by reference to income will pay the market rent for the property.

#### Documentation Required For A Rent To Income Assessment

4. Applicants will be required to provide documentation as proof of income.

### GUIDELINES

- 3.1 Tenants may be required to pay market rent if they:
  - are ineligible for public housing (refer to the Tenant Eligibility Policy for information about tenants residing in the North West or remote locations and those who become ineligible after occupying the premises);
  - do not keep the Housing Authority up to date with changes to their household income;
  - do not respond to the annual income review; or
  - leave the premises for longer than 6 months.
- 3.2 Tenants paying rent under this option may pay a market rent which is more than 25% of their household assessable income.

4.1 **Centrelink and Department of Veterans Affairs (DVA) pension or benefit recipients** will need to provide a Statement of Benefit from Centrelink or DVA that is not more than four weeks' old. The Housing Authority reserves the right to request such proof of a lesser period. A claim for benefit is not sufficient evidence.

4.2 **Wage and Salary earners** will need to provide their last 3 months' payslips if available, or alternatively have their employer complete an Employer Income Verification Statement. If payslips are provided, an average income will be determined for the rent assessment even if the payslips cover less than a 3 month period. Any variation in income will be taken into account for the rent assessment once 3 months' payslip history has been provided.

## RENT TO INCOME POLICY

### POLICY

### GUIDELINES

#### Salary Sacrifice

5. Salary sacrificed payments (including superannuation contributions) are included in the total assessable income.

#### Income From Assets

6. For the purpose of the rent to income assessment, all household members are required to declare all financial and property assets and income derived from these assets. Where an income from these assets is not provided, is not received, cannot be substantiated or does not accrue, then an income will be deemed, based on the net value of the asset, for the purposes of the rent to income assessment.

#### Income From Self Employment

7. Self-employed tenants will have their rent to income assessed on the basis of their taxable income or an equivalent award wage for the occupation in that industry, whichever is the greater.

- 4.3 Overseas pension recipients must provide proof of the pension source and amount.
- 4.4 For the purpose of determining rent, tenants not in receipt of an income or with an income lower than the base statutory benefit who are eligible to make application for a statutory benefit but choose not to, will be deemed to be receiving the base statutory benefit for which they would be eligible. Examples:
- A person who loses their job, but would prefer to live off savings than apply for unemployment benefits.
  - A person who loses all or part of their payment for a period because they have breached the Centrelink Activity Test.

- 5.1 The salary sacrificed component is not deducted from the gross (before tax) income for the rent calculation.

- 6.1 The deeming rate that is applied to the value of financial and property assets is in line with Centrelink's deeming rate for financial assets. (See Eligibility Policy for definition).

- 7.1 Self-employed tenants will need to provide their last financial year income tax assessment from the ATO. If they have difficulties in supplying this documentation, they will be assessed at the equivalent award rate for the occupation in that industry.

## RENT TO INCOME POLICY

### POLICY

### GUIDELINES

7.2 Where a household continues to be eligible for part or full Centrelink entitlements, including the New Enterprise Incentive Scheme (NEIS), then the assessable income will be the Centrelink entitlement or equivalent and the estimated profit from self-employment.

7.3 For the purpose of determining rent, where a couple are in a business partnership and the level of assessable income is less than an award wage for a similar occupation or trade, then only one wage is deemed.

7.4 The following is provided as an example only.

A taxi driver is considered self-employed. As there is no award for taxi drivers the Transport Workers (Passengers vehicle) Award is the closest equivalent.

- A fulltime taxi driver working 38 hours per week would have an assessable income of the award rate.

A part time taxi driver's assessable income will be calculated by multiplying the number of hours worked by the hourly rate. The hourly rate is calculated by dividing the award rate by 38 hours.

### Lump Sum Compensation and Severance Payments

8. Tenants in receipt of a lump sum compensation or severance payment will continue to have rent assessed on the same income they received before the receipt of the lump sum payment, for the period that they are excluded from receiving a Centrelink benefit or allowance.

8.1 Centrelink excludes a person from receiving a benefit or allowance for a period of time after the receipt of a lump sum compensation payment. The exclusion period is based upon Centrelink calculations regarding the component of the payment that is for loss of income.

8.2 Centrelink may exclude a person from receiving a benefit or allowance for a period of time after the receipt of a lump sum severance payment. Centrelink's Unemployment Non-Payment Period may apply if a person becomes unemployed voluntarily or is dismissed by their employer due to misconduct.

## RENT TO INCOME POLICY

### POLICY

#### Child Maintenance Payments

9. Child maintenance payments will be assessed as part of the household income.

#### Absentee Tenant Minimum Rent

10. Tenants in sole occupation who are required to enter supported accommodation will have their rent reduced to the minimum rent of \$10 per week for a period of 3 months.

### GUIDELINES

- 8.3 Any interest received from the lump sum payment will be included as income.
- 8.4 Where the partner continues to be eligible for Centrelink entitlement other than Family Allowance, then this amount may not be assessed if this causes income to be double counted.
- 9.1 Discretion may be exercised where it can be proved that maintenance payments are not regular.
- 10.1 This is applicable to tenants who are entering into a specific rehabilitation program, respite, nursing home and outpatient treatment where they are required to pay rent or lodgings to another organisation.
- 10.2 Tenants who are escaping Family and Domestic Violence and are residing in a Women's Refuge will have their application for Absentee Tenant Minimum Rent policy considered after a minimum of 7 days in a Women's Refuge. The tenant must provide documentation to verify that they are residing in a refuge and unable to return to their tenancy. Verification may include a letter from the women's refuge, a copy of current violence restraining orders, support letter from the Police Domestic Violence Resource and Referral Centre. The letter must advise the reason why they are unable to return to their property. (Refer to Family & Domestic Violence Policy).
- 10.3 Public housing tenants are eligible for Centrelink Rent Assistance when in supported accommodation.



## RENT TO INCOME POLICY

### POLICY

### GUIDELINES

- 10.4 A review will be undertaken at the end of 3 months. Absentee Minimum Rent can be cancelled at any time during the 3 month period if the tenant returns to the property or is found to be ineligible for the rent concession.
- 10.5 If there are other household members the rent is reassessed on their income only and no income details are entered for the tenant.
- 10.6 Tenants are to provide supporting documentation verifying that they are entering into a specific program to be entitled to Absentee Tenant Minimum Rent. Should they not remain in the program or are absent from the property for a period that is less than 3 months the Housing Authority is to be advised immediately they return to the tenancy and a new Rent Assessment Form is to be completed and submitted to the Housing Authority.
- 10.7 The tenant must advise the Housing Authority of contact address and telephone number(s) of the person(s) who will be taking care of the property during the absence period. The Housing Authority will enter into negotiations with the tenant and/or the nominated person in regard to property care and maintenance during the absence period.

### Department of Veteran's Affairs (DVA) Disability Pensions

11. Tenants and other household members receiving a non-assessable DVA disability pension will have their rent assessed using the full rate of the Centrelink benefit they would otherwise be entitled to receive.
- Non-assessable DVA disability pensions:
- DVA Disability Pension - General Rate
  - DVA Disability Pension - Intermediate Rate
  - DVA Disability Pension - Special Rate (also commonly known as totally and permanently incapacitated pension)
  - DVA Disability Pension - Extreme Disablement Adjustment.
- 11.1 Where a non-assessable DVA disability pension is received either as the sole source of income or in combination with a Centrelink pension, the full Centrelink benefit rate (Age or Disability Support Pension - single or partnered rate as appropriate) is assessed for the rent calculation. The DVA disability pension is not assessed.

## RENT TO INCOME POLICY

### POLICY

### GUIDELINES

#### Tenants Housing Migrants With Assurances Of Support Or Persons Seeking Asylum

12. A Migrant with an Assurance of Support or a person seeking asylum in Australia who is housed by a tenant is not regarded as being in receipt of a statutory income and rent will be calculated using the total assessable gross income of all other household members.

#### Centenarians

13. Tenants and household members reaching 100 years of age will have their income excluded from the rent calculation from the date of their 100<sup>th</sup> birthday.

- 11.2. The full (not partial) Centrelink benefit rate including the Energy Supplement and Pension Supplement is used for the rent calculation.
- 11.3. A partner of a non-assessable DVA disability pension recipient who receives a reduced Centrelink pension as their sole source of income will have the full partnered rate of Centrelink pension used for the rent calculation.
- 11.4. All other assessable incomes including those paid by Centrelink or DVA are included in the rent calculation.

- 12.1 Migrants with assurances of support or persons seeking asylum in Australia are not entitled to statutory benefit from Centrelink and are not to be confused with tenants who are eligible for Centrelink payments but do not apply for them.

- 12.2 Where the migrant or person seeking asylum in Australia is the partner of a single tenant who is in receipt of a Centrelink benefit, the Housing Authority will assess the tenant at the rate of income for couples, as determined by Centrelink.

- 12.3 Where a migrant with an Assurance of Support or a person seeking asylum in Australia is housed by a tenant, transfer to alternate accommodation in order to accommodate the increase in family size is not available.

- 13.1 Proof of age may be required.

- 13.2 The requirement for the tenant to advise the Housing Authority of any changes to the income or details of household members will remain. Rent will be calculated using the total assessable gross income of all household members excluding the centenarian (100 year old person).

## RENT TO INCOME POLICY

### POLICY

#### Changes to Household Members And/or Household Income

14. Tenants are required to advise the Housing Authority immediately if there is any change to the household composition and/or household income of \$10 per week or more by submitting a completed Rent Assessment form.
15. Tenants who do not submit a completed Rent Assessment form when required will be charged market rent.

#### Backdating of Rent

16. Rent charges will be backdated where the tenant's weekly household income increased by \$10 per week or more and the tenant did not advise the Housing Authority by submitting a completed Rent Assessment form.
17. The Housing Authority is not liable to repay an overpayment of rent if the tenant does not immediately advise the Housing Authority of a decrease in household income by submitting a completed Rent Assessment form.

### GUIDELINES

- 14.1 Completed Rent Assessment forms submitted by tenants will be processed immediately by the Housing Authority.
- 14.2 Any rent increase will be effective from the date that the household income changed.
- 15.1 Tenants submitting a completed Rent Assessment form after the due date will have the rent subsidy, if applicable, reinstated effective from the date that the Rent Assessment form was received by the Housing Authority.
- 16.1 Rent charges will be backdated to the date that the weekly household income increased by \$10 or more.
- 16.2 Backdating rent charges for a period greater than 3 months must be authorised by a Housing Authority Manager.
- 16.3 Regional Management will consider the individual circumstances of the tenant and may exercise discretion on compassionate or medical grounds.



Government of **Western Australia**  
Housing Authority

INDIVIDUAL

PROPERTY

MARKET RENTS

POLICY

## **INDIVIDUAL PROPERTY MARKET RENTS POLICY**

The Housing Authority assesses rental payments by two separate processes. A Rent to Income assessment is based on the tenant's income and not the market features of the property occupied (See Rent to Income Policy).

An Individual Property Market Rent is charged where a tenant is not eligible to have the rent calculated in reference to income and the rent is based on the market features of a property. Under an Individual Property Market Rent, the market features of a property are assessed by data supplied by the Valuer General's Office (VGO) and reviewed annually.

The VGO bases the market value of a property, on four property attributes and the location. These are:

1. Dwelling type: Whether the property is a single detached house, a medium density/grouped housing complex or a flat/apartment
2. The number of bedrooms contained in the property
3. Construction Material – Whether the property is brick/masonry or frame construction.
4. The age of the dwelling
5. The locational index. This is based on factors such as the suburb in which the property is located. It is further categorised by region in which the property is located – metropolitan/country, northwest (including Kalgoorlie/Boulder).

If you wish to know the market rent placed on an individual property, contact the Housing Authority's regional or branch office responsible for the management of the accommodation.



## **COMPARATIVE MARKET ANALYSIS**

**12 VICTORIA ROAD, MINGENEW, WA 6522**

PREPARED BY JOHN COOPER, HARCOURTS DONGARA, PHONE: 0428 427 823



# Harcourts

Shire Of Mingenew  
12 Victoria Road  
Mingenew, WA, 6522

Dear Belinda,

Property Appraisal Units 1-4 Victoria Road Mingenew

Thank you for your invitation to appraise your property and provide you with an appraisal as to what your property may be worth in today's market.

We have based this appraisal on current market conditions as well our extensive knowledge of the property market in the local area.

Units 1,3 and 4 2 Bedroom 1 Bathroom open-plan kitchen, dining, lounge.

Rental Estimate \$125 to \$170 per week.

Unit 2 1 Bedroom 1 bath open-plan kitchen, dining, lounge.

Rental Estimate \$105 to \$150 per week.

Should you have any questions relating to the information contained in this document please feel free to contact me on the details below.

Thank you again for the opportunity to access your property and for considering the services of our office. I look forward to working with you soon.

Kind Regards

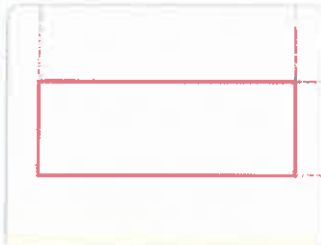
John Cooper

Licensee

John Cooper  
Harcourts Dongara  
Phone: 0428 427 823  
Email: [dongara@harcourts.com.au](mailto:dongara@harcourts.com.au)



**12 VICTORIA ROAD, MINGENEW, WA 6522**



## Owner Details

Owner Name(s): SHIRE OF MINGENEW

Owner Address: N/A

Phone(s): \*(08) 9928 1445 (WHITE)

Owner Occupied:

Owner Type:

## Property Details

ID: 13836756 / WA998453

UBD Ref: 2 1 1

RPD: 66/P000573 (2012/848)

Property Type: Unit - N/A

Area: 906 m<sup>2</sup>

Area \$/m<sup>2</sup>:

Water/Sewerage:

Land Use (1): HOME UNIT (60)

Land Use (2): HOME UNIT (60)

Council: MINGENEW, SHIRE OF

Features: Lowset, Contemporary, Air Conditioned, Close to Schools

## Zoning

Plan #:

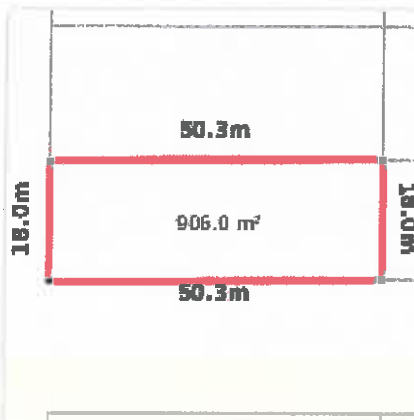
Zoning:

Parish:

P000573

## Sales History

Sale Amount:	Sale Date:	Vendor:	Area:	Sale Type:	Related:
\$ 0	18/06/1994		906 m <sup>2</sup>	Normal Sale	No



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## MINGENEW - Nearby Properties For Rent

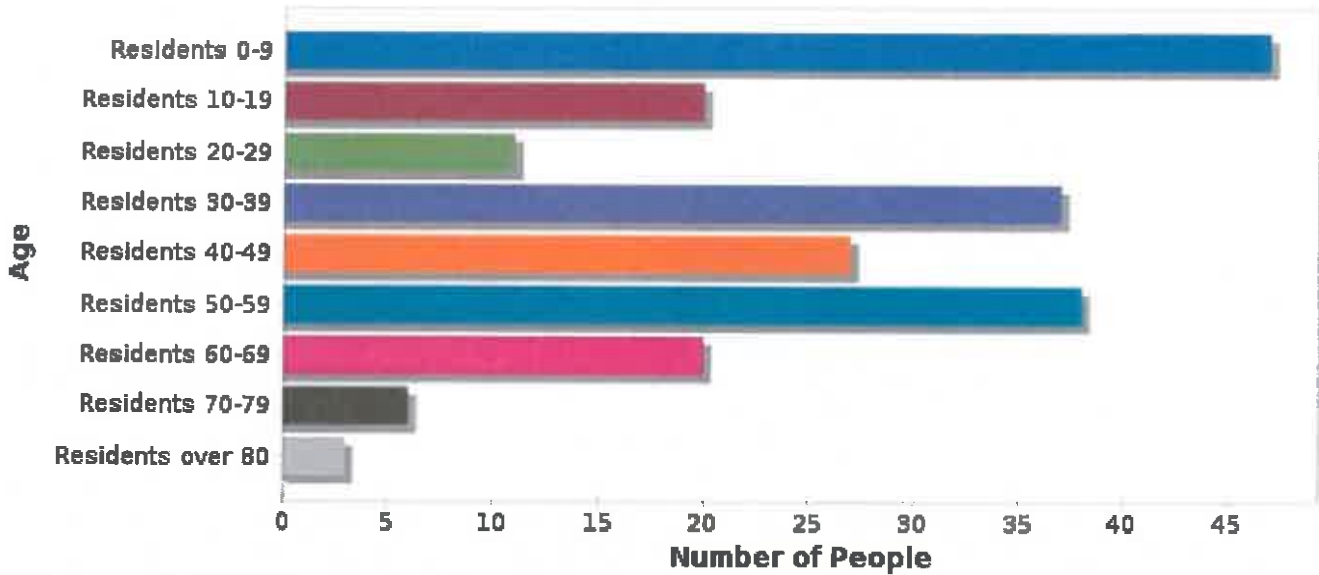


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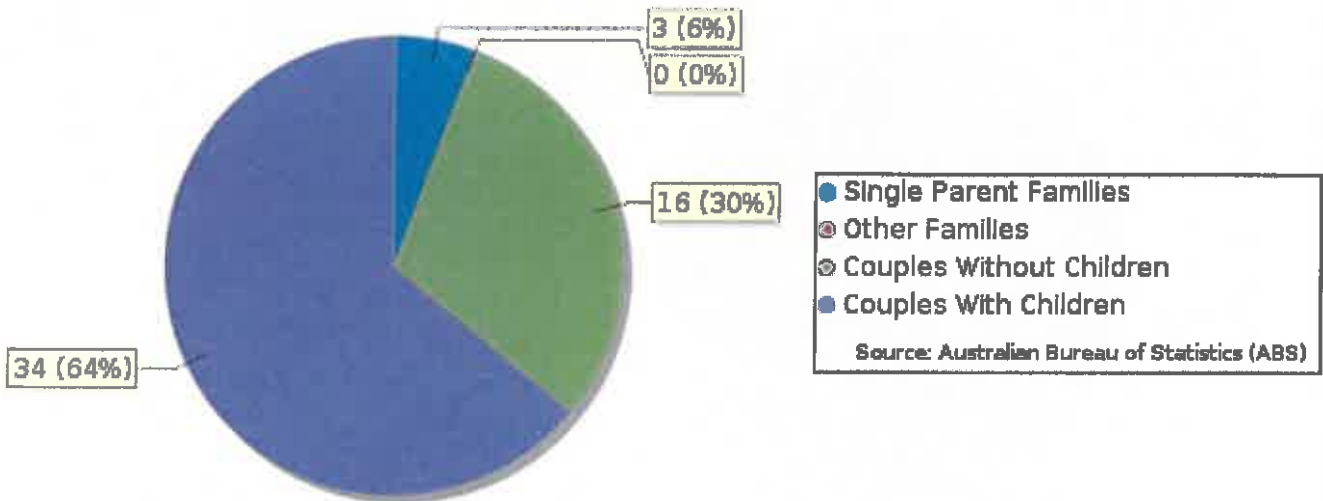
## Demographics - Age of Population (2011)

### Mingenew



## Demographics - Family Composition (2011)

### Mingenew

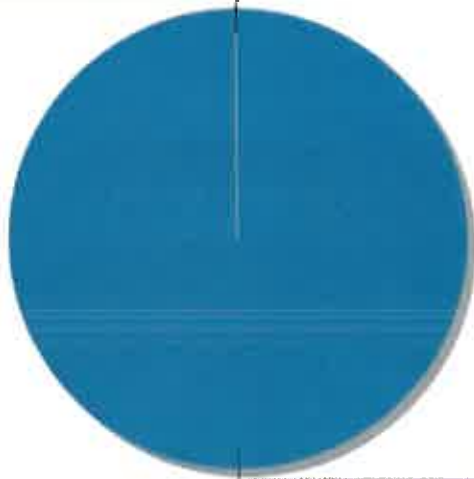




## Housing - Dwelling Structure (2011)

### Mingenew

0 (0%)  
0 (0%)  
0 (0%)



74 (100%)

- House
- Semi-Detached / Townhouse
- Flat, Unit or Apartment
- Other Dwelling

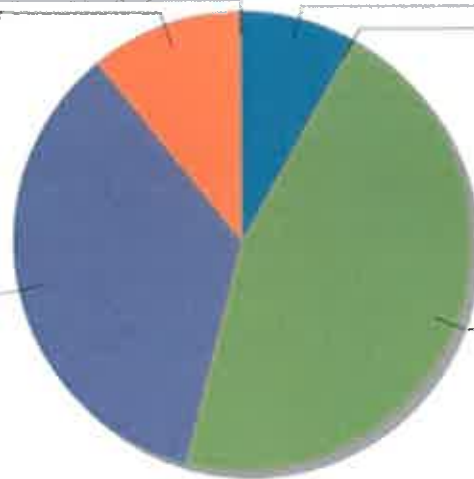
Source: Australian Bureau of Statistics (ABS)



## Housing - Home Ownership (2011)

### Mingenew

0 (0%)  
8 (11%)



6 (8%)  
0 (0%)

26 (35%)

34 (46%)

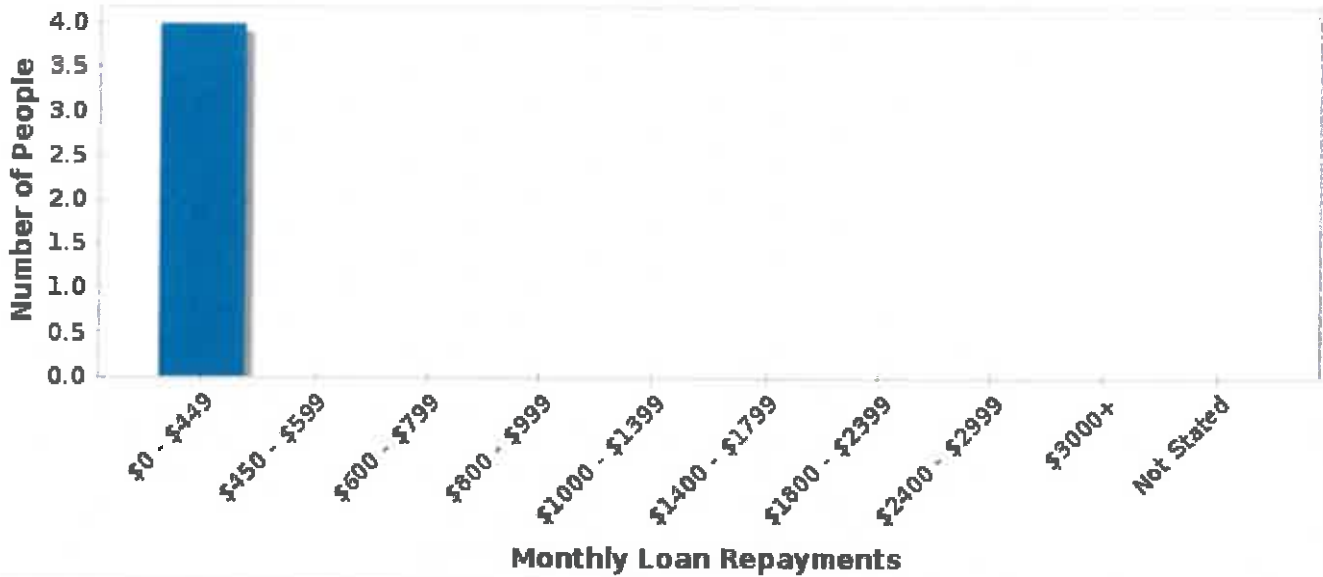
- Being Purchased
- Being Rented
- Fully Owned
- Others
- Private Rental
- Social Housing

Source: Australian Bureau of Statistics (ABS)



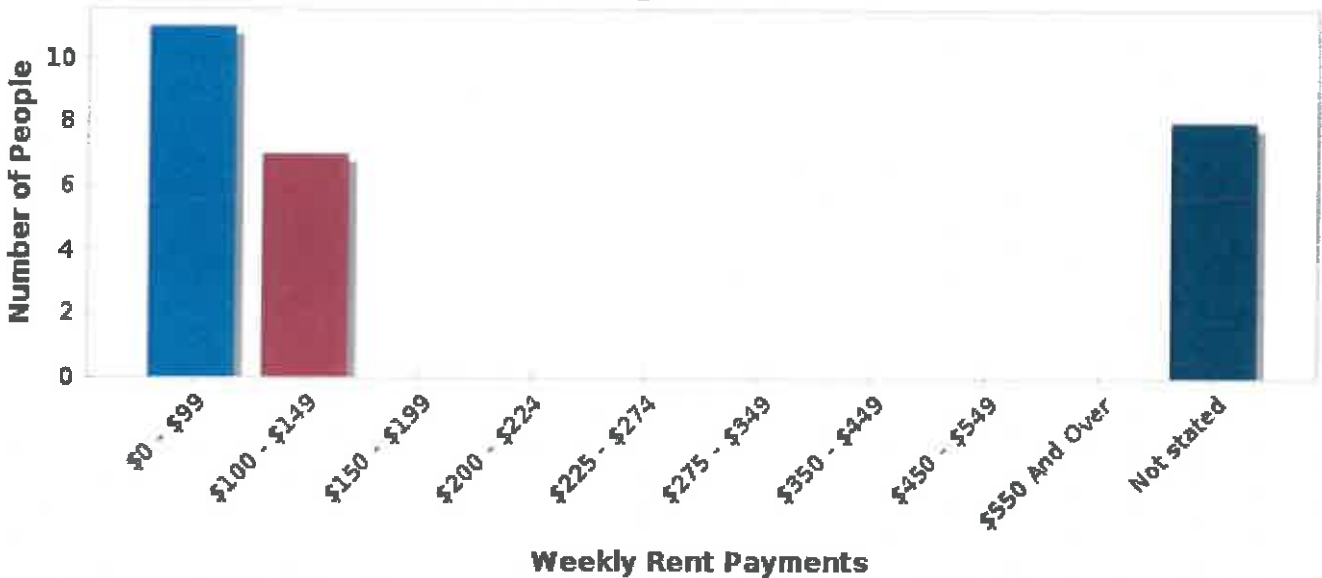
## Housing - Home Loan Repayments - Monthly (2011)

### Mingenew



## Housing - Rent Payments - Weekly (2011)

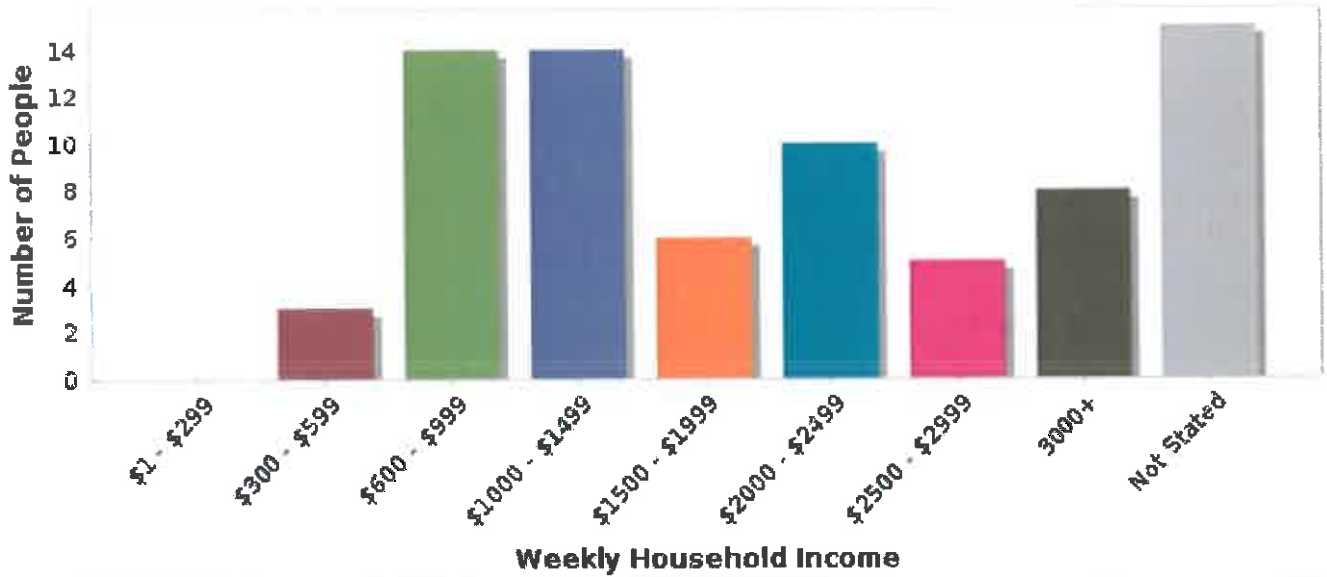
### Mingenew





## Housing - Household Income - Weekly (2011)

### Mingenew



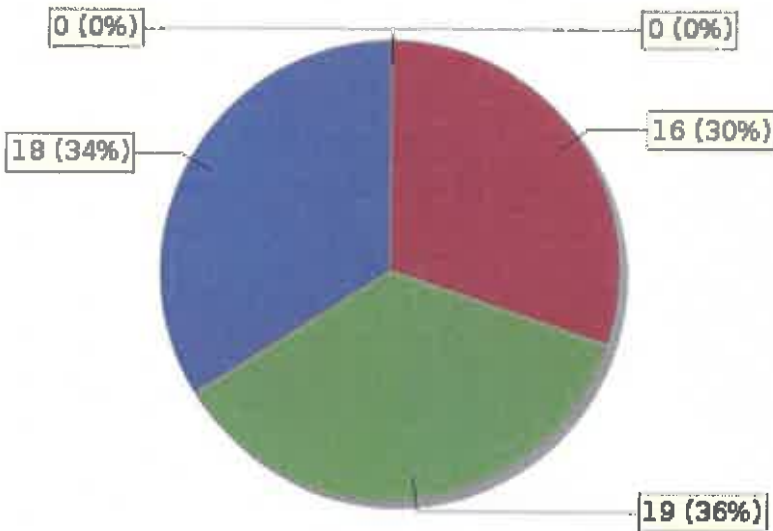
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## Other Statistics - Non-School Qualification: Level of Education (2011)

### Mingenew



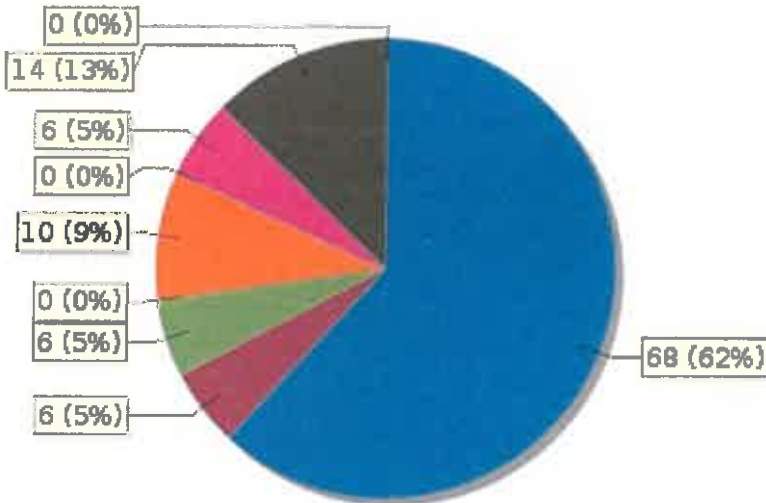
- Postgraduate
- Bachelor Degree
- Diploma
- Certificate
- Not Stated

Source: Australian Bureau of Statistics (ABS)



## Other Statistics - Occupation (2011)

### Mingenew



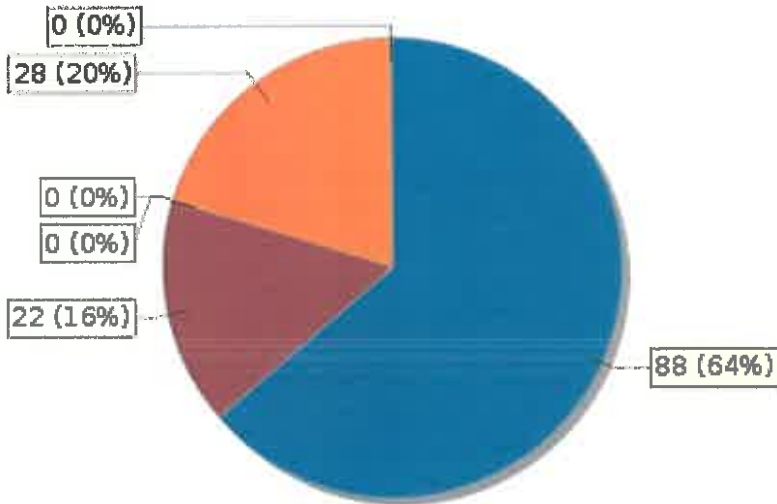
- Managers
- Professionals
- Technicians & Trades People
- Community & Personal Service
- Clerical/Administrative
- Sales
- Machinery Operators/Drivers
- Labourers
- Other

Source: Australian Bureau of Statistics (ABS)



## Other Statistics - Employment (2011)

### Mingenew

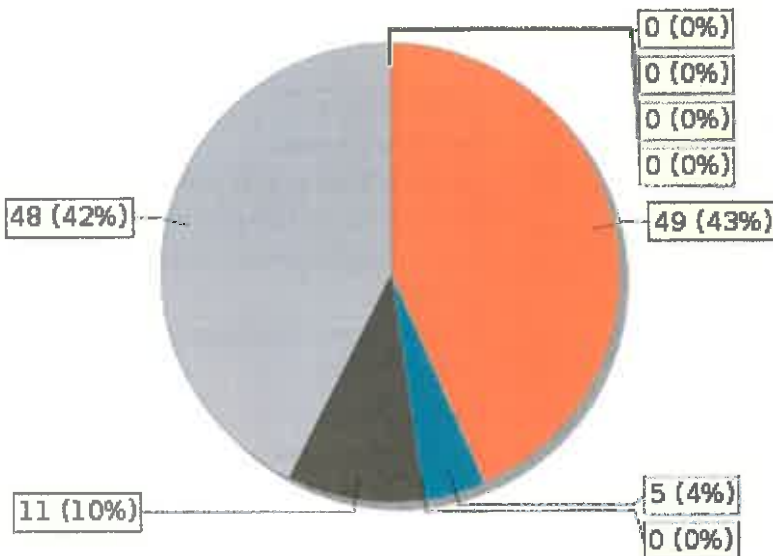


- Full-Time
  - Part-Time
  - Employed: away for work
  - Unemployed, looking for work
  - Not in the labour force
  - Labour force status not stated
- Source: Australian Bureau of Statistics (ABS)



## Other Statistics - Method of Travel to Work (2011)

### Mingenew

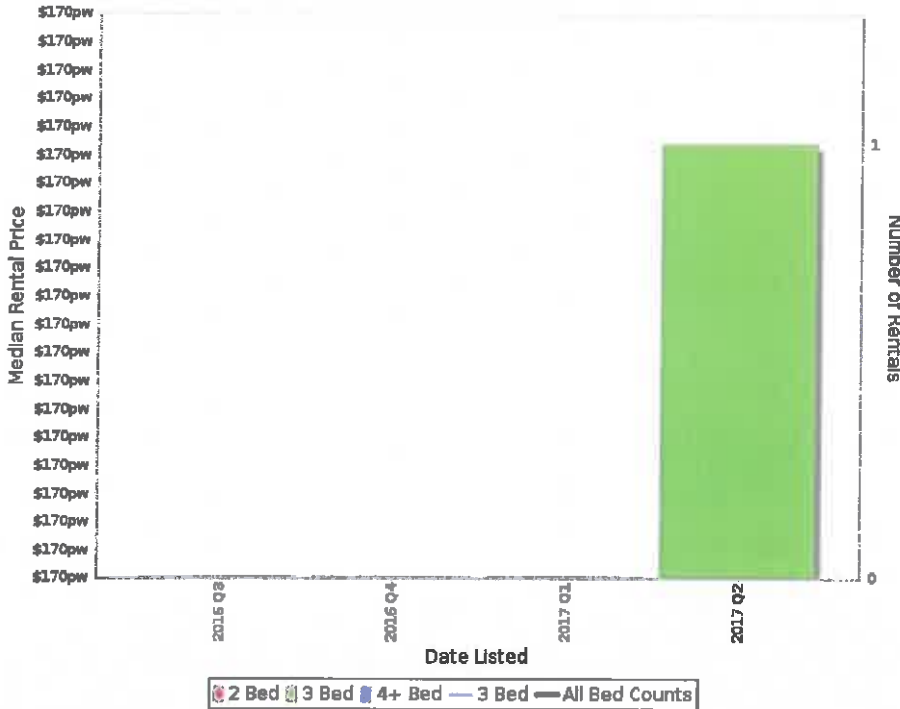


- Train
  - Bus
  - Ferry
  - Tram (other light rail)
  - Car
  - Motorbike / Truck
  - Bicycle
  - Walked Only
  - Other
- Source: Australian Bureau of Statistics (ABS)





## MINGENEW - Median Weekly Rents (Houses)

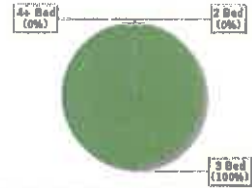


### Suburb Sale Price Growth

**-31.3%**

Current Median Price: \$80,000  
Previous Median Price: \$116,500  
Based on 8 registered House sales compared over the last two rolling 12 month periods.

### Bedroom Breakdown



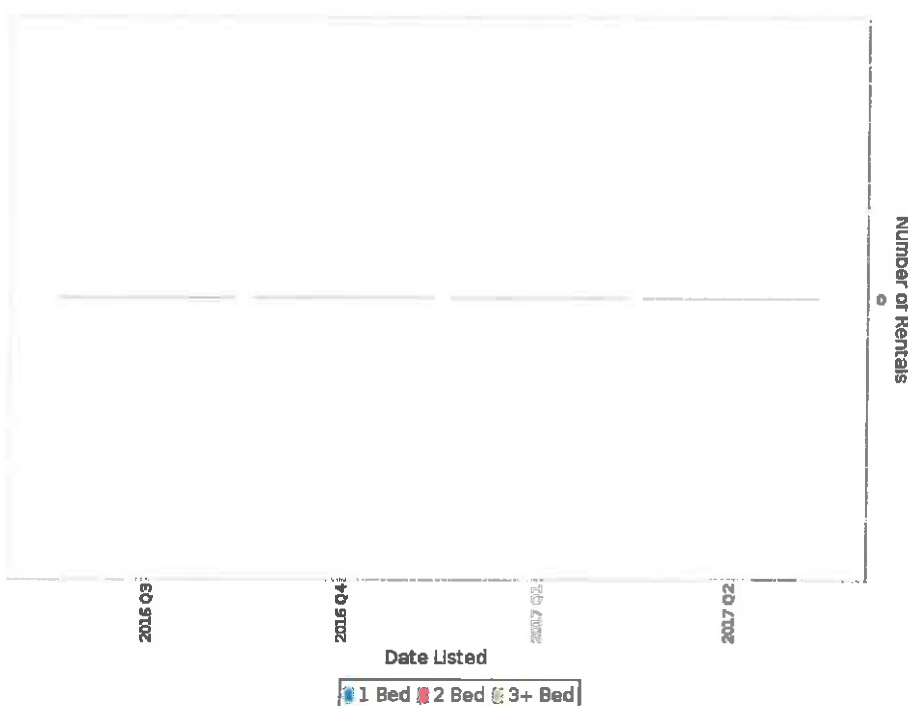
### Suburb Rental Yield

**+11.1%**

Current Median Price: \$80,000  
Current Median Rent: \$170  
Based on 1 registered House sales compared over the last 12 months.



## MINGENEW - Median Weekly Rents (Units)



### Suburb Sale Price Growth

N/A

### Bedroom Breakdown

No data available

### Suburb Rental Yield

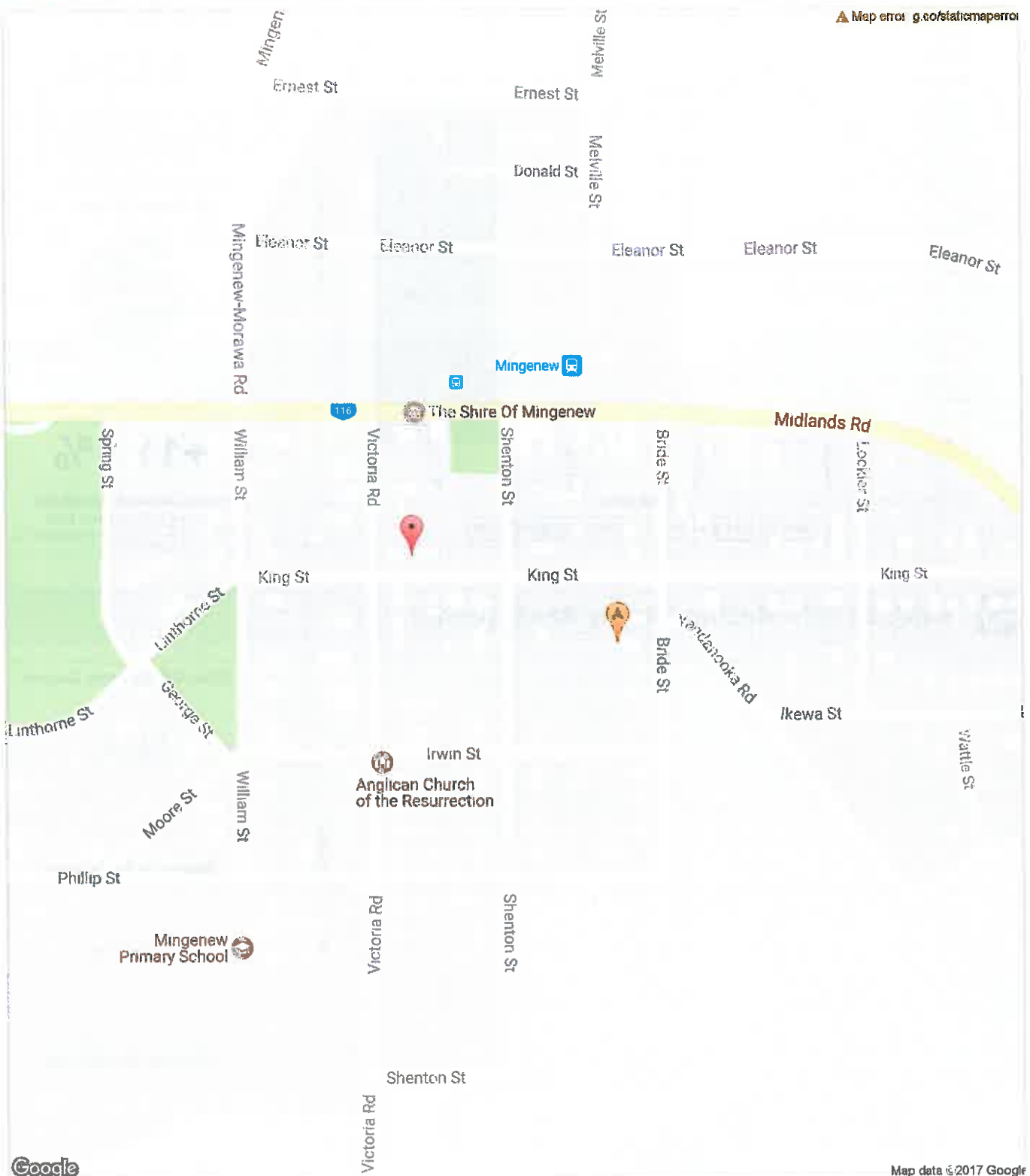
N/A





## Comparables Map for 12 VICTORIA ROAD, MINGENEW, WA 6522

Map error: [g.co/staticmaperror](http://g.co/staticmaperror)



- For Rent
- For Sale
- Sold

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## Nearby Comparable Rental Properties

### Search Criteria

**Focus Property:** 12 VICTORIA ROAD, MINGENEW, WA 6522

**Radius:** 500 m

**Listed Period:** 21/02/2017 to 21/08/2017

### Search Summary

Records: 1

	Price	Days	Area
<b>Lowest</b>	\$ 170	62	1,214 m <sup>2</sup>
<b>Highest</b>	\$ 170	62	1,214 m <sup>2</sup>
<b>Average</b>	\$ 170	62	1,214 m <sup>2</sup>
<b>Median</b>	\$ 170	62	1,214 m <sup>2</sup>



## 17 BRIDE ST, MINGENEW 6522

3 2 -



**Property Type:** House  
**Area:** 1,214 m<sup>2</sup>  
**RPD:** 10//P000573

**Current Rent Price:** \$170 per week

**First Rent Price:**

**Month Listed:** June 2017

**Features:**





12 VICTORIA ROAD, MINGENEW, WA 6522



## Appraisal Price Range:

This market analysis has been prepared on 21/08/2017 and all information given has been based on a current market analysis for the property listed above. Based on this, we believe this property to be estimated in the following range:

**\$105pw to \$170pw**

## Property Summary:

**Land:** 906 m<sup>2</sup>

**Features:** Lowset, Contemporary, Air Conditioned, Close to Schools

## Contact your agent for further information:

**Agent Name:** John Cooper  
**Mobile:** 0428 427 823  
**Office:** Harcourts Dongara  
**Office Phone:**  
**Email:** [dongara@harcourts.com.au](mailto:dongara@harcourts.com.au)



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# PUBLIC HOUSING RENT CALCULATION CHANGES

## Updated Information



The Housing Authority is committed to making sure that rent charges are fair and equitable for all public housing tenants. We are continuing to adjust rents in stages so all tenants pay 25 per cent of income as rent.



You won't pay more than 25 per cent of your assessable household income as rent.

**Over half of public housing households are already paying 25 per cent of their assessable household income as rent and will not receive any further rent increases connected with the changes. Remaining tenants will be moved to 25 per cent in small increments.**

Tenancies commencing before 28 March 2016 are moving to the revised rent calculation method in stages to reduce the impact. The first stage is a rent increase up to a maximum of \$12.00 per week. This increase will see most tenants paying rent equal to 25 per cent of their assessable household income. Remaining tenants will have an additional smaller rent increase of up to \$6.00 per week applied in the second stage.

### How the changes may affect your rent

Find the date your tenancy started below to see when and how the changes will be applied to your rent.

TENANCY START DATE			
	Before 28 September 2015	From 28 September 2015 to 27 March 2016	From 28 March 2016
STAGE ONE	Your rent is calculated: a. under the revised method; or b. using the method before 28 March 2016 plus \$12.00  whichever is lower <sup>1</sup>	From 30 January 2017, your rent will be calculated: a. under the revised method; or b. using the method before 28 March 2016 plus \$12.00  whichever is lower <sup>1</sup>	You are already paying rent calculated using the revised method and you will have no rent increases connected with the change.
STAGE TWO	At your next annual review your rent will be calculated: a. under the revised method; or b. using the method before 28 March 2016 plus \$18.00 <sup>2</sup>  whichever is lower <sup>1</sup>	From 31 July 2017 your rent will be calculated: a. under the revised method; or b. using the method before 28 March 2016 plus \$18.00 <sup>2</sup>  whichever is lower <sup>1</sup>	

<sup>1</sup> Market rent will be applied if that is lower than subsidised rent.

<sup>2</sup> \$18.00 is the combined total of the \$12.00 increase in Stage One and the additional \$6.00 increase in Stage Two.



### Background information

Since 28 March 2016, some income payments that were previously non-assessable or partially assessable became assessable at the full 25 per cent rate when calculating rent. Tenants who are eligible for subsidised public housing pay no more than 25 per cent of their assessable household income as rent.



### Tenant notice

Tenants that have a change in rent due to the revised rent calculation changes will receive 60 days' notice before their rent increases.

Tenants who moved in before 28 September 2015 were sent advice in writing of changes to their rent due to the rent calculation changes that took effect on 28 March 2016.

Tenants who moved in between 28 September 2015 and 27 March 2016 will be sent advice in writing in November 2016 of changes to their rent due to rent calculation changes.

Tenants who moved in on, or after 28 March 2016 already have their rent calculated under the revised calculation method so there is no change to their rent charge.

### Other reasons your rent may increase

Rent increases happen due to changes in the individual circumstances and incomes of tenants and householders. Separate to the rent calculation change, rent increases may occur if household income has increased or a person has moved into the property.

### Transferring tenants

If you transfer to another public housing property and had the \$12.00 and \$6.00 rent increase limits applied to your previous tenancy they will cease. The rent for your new tenancy will be the full 25 per cent of income.

### Information and assistance

If you have any questions about the rent calculation changes please speak with your Housing Services Officer or visit the Housing Authority website [www.housing.wa.gov.au](http://www.housing.wa.gov.au) for more information.

If you are experiencing financial difficulty you may be eligible for assistance through the State Government's Energy Assistance Payment (EAP) [www.concessions.wa.gov.au](http://www.concessions.wa.gov.au) and the Hardship Utility Grant Scheme (HUGS) [www.cpfswa.gov.au](http://www.cpfswa.gov.au).

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### 9.3.2 ADOPTION OF COUNCIL LOCAL LAWS

<b>Location/Address:</b>	Shire of Mingenew
<b>Name of Applicant:</b>	Shire of Mingenew
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	ADM0384
<b>Date:</b>	12 September 2017
<b>Author:</b>	Kelvin Matthews, Locum Governance Officer

#### **Summary**

This report recommends that Council consider comments made to its proposed local laws detailed in Appendix 1 as attached to this report for adoption in accordance with section 3.12 of the Local Government Act 1995.

#### **Attachment**

Local Laws Rubric Matrix

Submissions Received - Department of Local Government, Sport and Cultural Industries

Draft Local Laws incorporating submission comments

#### **Background**

Council resolved at its Ordinary Council Meeting (OCM) dated 19 July 2017 to advertise and invite submissions to the following draft proposed local laws in accordance with section 3.12 of the Local Government Act 1995;

- Repeal Local Laws 2017
- Standing Orders Local Law 2017
- Cemeteries Local Law 2017, and
- Extractive Industries Local Law 2017
- Health Local Law 2016,
- Animal, Environment and Nuisance Local Law 2016
- Waste Local Law 2013
- Fencing Local Law 2017

In accordance with legislative requirements a copy of the proposed local laws were advertised by state-wide public notice (Saturday 22<sup>nd</sup> of July 2017) and a copy of the local laws were provided to the Minister for Local Government. The Council was required to advertise the proposed local laws for a period of no less than six weeks pursuant to section 3.12 (3) (a) (iii) of the Local Government Act 1995 and to consider any submissions received in regards to the local laws at the close of this period. The only submission received was from the Department of Local Government, Sport and Cultural Industries (DLGSC).

Appendix 2 of the agenda report from the OCM dated 19 July 2017 provided a brief descriptive Rubric Matrix regarding the status of Councils local laws. In particular Councils attention was drawn to the following in regard to each local law:

- Repeal Local Law 2017 - required to repeal and amend existing local laws noting that research reveals approximately 45 obsolete Shire of Mingenew Local Laws (some formerly known as By-laws) still exist where the Local Laws Register does not record any repeal.

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 September 2017

- Standing Orders Local Law – required in accordance with Part 5, Division 2 of the Local Government Act 1995 and Part 2 of the Local Government (Administration) Regulations 1996 for the proper legislative conduct and procedure of Council (and Committee) Meetings. Council had previously considered a draft Meetings Procedure Local Law in 2016 and has a current Meetings Procedure Policy, however the draft Local Law was not formally adopted by Council and the Policy does not provided legislative compliance in the conduct of Council Meeting (and Committees) procedures.
- Cemeteries Local Law - the purpose of this local law is to provide for the control and regulation of Councils cemetery site for the benefit of the community within its district.
- Extractive Industries Local Law – the purpose of this local law is to provide for the control and regulation of the extraction of materials within the district, where and when applicable.
- Fencing Local Law - the purpose of this local law is to provide for the control and regulation of fencing in accordance with the Dividing fences Act 1961 within its district and has been updated from the gazetted local law of 1999. A building licence is not required for a fence on a rural lot in accordance with Part 3, clause 7 of the local law.
- Health Local Law – required to provide a legislative means of effectively controlling the possibility of health related issues that may adversely impact on the health and well being of the community of the district.
- Animal, Environment and Nuisance Local Law - required to provide a legislative means of effectively controlling the possibility of animal and nuisance related matters that may adversely impact on the health and well-being of the community of the district.
- Waste Local Law - the purpose of this local law is to provide for the control and regulation of Councils waste landfill site and the collection of domestic and commercial waste (putrescible and inert) within its district.

### **Comment**

As noted above the only submission received were comments from the Department of Local Government, Sport and Cultural Industries (“DLGSC”) that suggested a number of changes and edits as detailed in the attached collated DLGSC Appendix 1. These changes and edits are highlighted in each local law for Councils reference and will be removed when the final copies of the local laws are sent to the State Government Gazette and the Committee Clerk of the Joint Standing Committee on Delegated Legislation. Following publication of the local laws in the Government Gazette, Council must comply with the requirements of the Minister’s Local Laws Explanatory Memoranda Directions 2010. That is Council must, within ten working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the WA Parliamentary Joint Standing Committee on Delegated Legislation at the following address –

Committee Clerk  
Joint Standing Committee on Delegated Legislation  
Legislative Council Committee Office  
GPO Box A11  
PERTH WA 6837

### **Consultation**

- All councillors
- Public in accordance with section 3.12(2) of the Local Government Act 1995 whereby Statewide Public Notice calling for submissions was undertaken.

### **Statutory Environment**

The legislative process required when adopting (or amending) local laws is prescribed in sections 3.12 – 3.16 of the Local Government Act 1995 as follows:

➤ **S3.12 - Procedure for making local laws**

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) *Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
  - (a) *give Statewide public notice stating that —*
    - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
    - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*

*and*

  - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

**\* Absolute majority required.**

- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice —*
  - (a) *stating the title of the local law; and*
  - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*



- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section —*  
**making** *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

➤ **S3.14 - Commencement of local laws**

- (1) *Unless it is made under section 3.17, a local law comes into operation on the 14<sup>th</sup> day after the day on which it is published in the Gazette or on such later day as may be specified in the local law.*
- (2) *A local law made under section 3.17 comes into operation on the day on which it is published in the Gazette or on such later day as may be specified in the local law.*

➤ **S3.15 - Local laws to be publicised**

*A local government is to take reasonable steps to ensure that the inhabitants of the district are informed of the purpose and effect of all of its local laws.*

➤ **S3.16 – Periodic review of local laws**

- (1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*
- (2) *The local government is to give Statewide public notice stating that —*
  - (a) *the local government proposes to review the local law; and*
  - (b) *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
  - (c) *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- (2a) *A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.*
- (3) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (4) *When its council has considered the report, the local government may determine\* whether or not it considers that the local law should be repealed or amended.*

All of the above local laws will ensure that Council is legislatively compliant in the manner in which it governs its district that simultaneously meets its local needs and circumstances.

**Policy Implications**

The review of Councils Policies is nearing completion that will simultaneously support Councils legislative local law requirements as well as meeting local needs and circumstances.

**Financial Implications**

Payment for advertising of the new local laws and for publication in the State Government Gazette, and is included in Councils 2017-18 budget.

**Strategic Implications**

- Shire of Mingenew Community Strategic Plan 2012 Outcome 4.5.1 – Ensure compliance with local, town planning, building and health and all other relevant legislation.
- Shire of Mingenew Community Strategic Plan 2012 Outcome 4.5.2 – Maintain, review and ensure relevance of Council policies and local laws.

**Voting Requirements**

Absolute Majority

<b>OFFICER RECOMMENDATION – ITEM 9.3.2</b>
--

That Council adopt by **ABSOLUTE MAJORITY** the following Shire of Mingenew Local Laws in accordance with section 3.12 of the Local Government Act 1995:

- **Repeal Local Law 2017**
- **Standing Orders Local Law 2017**
- **Cemeteries Local Law 2017**
- **Extractive Industries Local Law 2017**
- **Health Local Law 2017**
- **Fencing Local Law 2017**
- **Animal, Environment and Nuisance Local Law 2017, and**
- **Waste Local Law 2017**

# SHIRE OF MINGENEW



## LOCAL LAWS REVIEW RUBRIC MATRIX

SEPT 2017

Local laws are made to meet local circumstances and needs, and assist local governments in promoting good governance for the people in their districts. Local Laws are the subsidiary legislation made by Local Governments under delegated power granted by the:

- *Local Government Act 1995*
- *Public Health Act 2016, and*
- *Various other legislative instruments*

In accordance with section 3.16 of the WA Local Government Act 1995 whereby within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended. Furthermore when Council has considered the report, the local government may determine (by Absolute Majority) whether or not it considers that the local law should be repealed or amended. Section 3.12 of the WA Local Government Act 1995 prescribes the manner and procedure for making, repealing and/or amending a Local Law noting section 3.12(7) whereby the Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.

The following rubric matrix provides a breakdown and description of the individual current Local Laws of the Shire of Mingenew with comments relevant to each individual Local Law in regard to its status and compliance including where appropriate that the Local Law be repealed in accordance with the legislative process.

<b>LOCAL LAWS RUBRIC MATRIX</b>					
<b>LOCAL LAW &amp; REFERENCE NUMBER</b>	<i>Retain</i>	<i>Repeal Entirely</i>	<i>Retain &amp; Amend</i>	<i>New Local Law</i>	<i>Comments</i>
Repeal Local Laws		✓		✓	Required to repeal and amend existing local laws
Standing Orders Local law				✓	New Local Law - refer to section 3.5 of the LG Act. Note replaces current Meeting Procedures Policy
Cemeteries Local Law				✓	New Local Law - refer to section 3.5 of the LG Act

Extractive Industries Local Law				✓	New Local Law - refer section 3.5 of the LG Act
Health Local Law			✓		Amended where applicable to previous draft and to incorporate legislation update
Waste Local Law			✓		Amended where applicable to previous draft and to incorporate other legislation
Animal, Environment & Nuisance Local Law			✓		Amended to incorporate other legislation
Fencing Local Law			✓		Amended to include updates noting previous Fencing Local Law from 1999

**Additional Comments:**

- Council has numerous Local Laws that date from circa 1919 that can be deemed obsolete and unnecessary to the current governance functions of Council. The purpose and effect of the Repeal Local Law 2017 is to allow for more effective and efficient local government by removing these outdated and irrelevant local laws.
- Council has no legislative Standing Orders Local Law that provides for the conduct of its Council and Committee Meetings. The only previously recorded Standing Orders Local Law is from 1965 and is therefore obsolete and outdated. While Council does have a current Policy in regard to its Standing orders, it is a legislative requirement to have Standing Orders that prescribe the manner in which Council conduct its meeting process and procedure. The purpose of the proposed Standing Orders Local law is to provide for this process to be conducted in accordance with the Act, the Regulations and this local law.
- Council has no current Cemeteries Local Law with the only previously recorded local law(s) being its Cemetery Fees Local Law in 1978. Accordingly it is recommended that Council adopt a new Cemeteries Local Law that will prescribe the manner in which the operations and administration of the Mingenew cemetery are managed.
- Council has no current Extractive Industries Local Law with no previous local law being recorded. Accordingly it is recommended that Council adopt a new Extractive Industries Local Law that will prescribe the manner in which the operations and administration of any extractive industry (if and when applicable) are managed.
- Council gazetted its Fencing Local Law in February 1999 and this has been reviewed and updated to reflect any changes.
- Council prepared a draft Health Local Law (in 2016), a draft Waste Local Law (in 2013) and a draft Animals Local Law (in 2016), however had not formally adopted the process of advertising and calling for submissions in accordance with section 3.12 of the Local Government Act 1995. In particular the Health Act 1911 has now been revoked and replaced with a new Public Health Act 2016 and the provisions of the new Public Health Act 2016 need to be reflected (where applicable) in the Shire of Mingenew Health Local Law. Accordingly it is recommended that Council adopt these local laws to provide for the efficient and effective good governance of its district.

This email is in response to your email dated 2 August 2017 regarding the Shire's proposed *Extractive Industries Local Law 2017*.

The Department's comments are noted below. I will continue to send comments for the other local laws throughout this week and the following Monday. Unfortunately I will need an extension for 2 of the local laws, but only an extension until Wednesday next week. Please let me know if there are any issues with this.

Please contact me if you have any queries regarding the comments.

### **Proposed Extractive Industries Local Law 2017**

#### **1. Enabling Clause**

The current date in the enactment clause of 19 July 2017 is incorrect.

Under section 3.12(4) of the Local Government Act 1995, a local law can only be made after the public submission period has closed.

The date that should appear in the enactment clause will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to 'make' that local law.

The Shire should ensure the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.

#### **2. Commencement clause**

It is suggested that the local law should include a commencement clause stating the day that the local law will come into operation. The standard format is as follows:

##### **1.2 Commencement**

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

The Shire should update any clause numberings, cross-references and the contents accordingly.

#### **3. Clause 1.2 – Definitions**

Currently, **Act** is defined as meaning the *Local Government Act 1995* and other prescribed legislation as identified in the local law.

It is recommended that the sentence "and other prescribed legislation as identified in the local law" is deleted. Where the word "Act" appears in this local law, it is referring to the Local Government Act and not any other Act. Furthermore, all other Acts cited in the local law are quoted in full.

#### **4. Clause 1.4 – Repeal clause**

The Shire should delete the repeal clause from the local law and contents as it is not required.

#### **5. Clause 1.3 – Application**

In clause 1.3, subclause (1)(e) should be deleted as no licences have been issued under a local law repealed by clause 1.4.

If the Shire has issued licences prior to this local law coming into effect, and the Shire would like those licences to continue to be valid, the Shire may like to consider retaining subclause (1)(e) and redrafting as follows:

(e) do not affect the validity of any licence issued by the local government if that licence is currently in force at the date of gazettal of this local law.

#### **6. Incorrect clause references**

The Shire should ensure that all references and cross references are accurate, particularly if any changes are made as a result of the Department's comments. Currently, numerous clauses make incorrect references in the local law, for example:

- Clause 2.2(1)(e)(i), refers to the plan referred to in paragraph (b). Paragraph (1)(b) refers to an extraction programme as opposed to a 'plan'. The Shire may like to change the cross reference (1)(a) which refers to a plan of the excavation site.
- Clause 2.2(1)(e)(ii): the Shire may like to consider changing the reference to "paragraph (e)" to "paragraph (d)".

This list is not exhaustive and it is suggested that the Shire review all cross references in the local law.

#### **7. Clause 3.2 – Payment of Annual Licence Fee**

Under clause 3.2, a licensee must pay the annual licence fee on or before 30 June each year.

Under clause 3.1(5)(a), a licensee must pay the annual licence fee, or the relevant proportion of the annual licence fee to 31 December before a licence is issued by the CEO.

As both clauses relate to the payment of the annual licence fee, the Shire may like to consider providing a consistent date for both clauses e.g. for example both clauses refer to 30 June.

## 8. Australian Standards

Clause 6.4(1)(c) refers to the Australian Standard AS2187 SAA Explosives Code.

It is recommended that the following definition is inserted in clause 1.2:

**AS** means an Australian Standard published by Standards Australia as amended from time to time;

The Delegated Legislation Committee has requested that where an Australian Standard is referenced, the standard should be cited in full at some point in the local law. It appears that the Australian Standard has been referenced in full in clause 6.4(1)(c). The Shire should ensure that the full citation is correct and up to date. If the Committee determines that the citation is incorrect, they will most likely request the Shire amend it.

The Committee has requested that local governments inform the public where a copy of the Standard may be accessed, either through their website or some other means.

The Committee may inquire as to how this information is being made available to the public. The Committee may request undertakings from the Shire if the Committee believes that the information has not been sufficiently provided.

## 9. Clause 6.4 – Blasting

Currently, there is no unmodified penalty set for clause 6.4(2). This has two significant consequences:

- (a) There will be no unmodified penalty for committing this offence; and
- (b) The modified penalty for this clause is invalid, since it cannot be greater than 10% of the unmodified penalty (which is effectively zero).

It is suggested that an unmodified penalty is inserted into the local law after clause 6.4(2).

The Department notes that inserting unmodified penalties is likely to be a “significant difference” for the purposes of section 3.13 of the *Local Government Act 1995*.

This will mean that inserting penalties will require the Shire to restart the 3.12 process from the beginning. If penalties are inserted without restarting the process, the local law may be invalid or disallowed by Parliament.

## 10. Formatting and spacing

The Shire should review the formatting and spacing in the local law. For example, subclauses, paragraphs and subparagraphs should be indented as follows:

---

### 1.3 Application

(1) The provisions of this local law –

- (a) subject to paragraphs (b), (c), (d) and (e);
- (i) apply and have force and effect throughout the whole of the district...

---

### Minor edits:

1. **Contents:** insert the Schedule title.
2. **Clause 1.2:**
  - a) **District** requires a lower case ‘d’.
  - b) In the definition of nuisance, in paragraph (c), delete the full stop and insert a semicolon after “the interference”.
  - c) **Occupier** requires a lower case ‘o’.
  - d) **Person** requires a lower case ‘p’.
  - e) All defined terms should be indented.
3. **Clause 2.1:** the Penalty listed under clause 2.1 requires a comma i.e. \$5,000.
4. **Clause 2.2:**
  - In subclause (1), delete “applicant” and insert “applicants” after “signed by each of the”.
  - In subclause (3)(a), delete “m2” and insert “square metres”.
  - In subclause (3)(b), delete “m3” and insert “cubic metres”.
7. **Clause 3.1:** In subclause (5)(a), insert “in accordance with section 6.16 to 6.19 of the Act;” after “from time to time”.
8. **Clause 3.2:** insert “in accordance with section 6.16 to 6.19 of the Act;” after “from time to time” and before “for the purpose”.
10. **Clause 4.3:** in subclause (1)(d), delete “2.2(1)(c)(d)” and insert “2.2(1)(c) and (d)”.
11. **Clause: 4.3:** in subclause (2), “If –” should be moved to a new, separate line and be numbered as subclause (3). Subsequently, subclause (3) should be renumbered to subclause (4).
12. **Clause 5.1:** In subclause (1)(b), the sentence “the licensee shall give to the local government a bond...” should not be on a new line and should be moved to sit with the sentence above.
13. **Clause 5.2:**
  - In subclause (1)(b), the sentence ““then; subject to the local government...” ...” should not be on a new line and should be moved to sit with the sentence above. In subclause (1), paragraphs (c) and (d) should be renumbered as (i) and (ii).
14. **Clause 6.1:** in subclause (e), insert a semicolon after “residence”.
15. **Clause 6.3:** in subclause (b), delete “Department of Minerals and Energy” and insert “Department of Mines, Industry Regulation and Safety”.
16. **Clause 7.4:** paragraph (b) should be moved to a new line.
17. **Clause 8.1:** in paragraph (b), delete comma and insert a semicolon after “under this local law”.
18. Remove the line following clause 9.3.
19. **Schedule 1:** delete “Refer” from the heading line ‘Prescribed Offences’ above the Schedule 1 table.

The Shire should check all references and cross references, particularly if any changes are made as a result of the Department’s comments.

## **Minister's Directions – pursuant to s 3.12(7) of the Local Government Act 1995**

Please note: once the Shire has published a local law in the *Government Gazette*, the Shire must comply with the requirements of the Minister's *Local Laws Explanatory Memoranda Directions 2010*. The Shire must, within 10 working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the Committee at the current address:

Committee Clerk  
Joint Standing Committee on Delegated Legislation  
Legislative Council Committee Office  
GPO Box A11  
PERTH WA 6837  
Email: [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au)  
Tel: 9222 7404  
Fax: 9222 7805

A copy of the Minister's Directions and Explanatory Memoranda forms can be downloaded from the Department of Local Government and Communities website at [www.dlgc.wa.gov.au](http://www.dlgc.wa.gov.au). Failure to comply with the Directions may render the local law inoperable.

Please note that my comments:

- have been provided to assist the Shire with drafting matters in relation to the local law;
- do not constitute legal advice;
- have been provided in good faith for the Shire's consideration; and
- should not be taken as an approval of content.

The Shire should ensure that a detailed editorial analysis of the proposed local law has been undertaken and that the content of the local law is in accordance with the Shire's policies and objectives.

Kind regards

### **Courtney Allen**

Senior Legislation and Strategy Officer – Local Government  
Department of Local Government, Sport and Cultural Industries  
140 William Street, Perth WA 6000  
GPO Box R1250, Perth WA 6844  
Telephone +61 8 6552 1437  
Email [courtney.allen@dlgsc.wa.gov.au](mailto:courtney.allen@dlgsc.wa.gov.au)  
Web [www.dlgsc.wa.gov.au](http://www.dlgsc.wa.gov.au)

## **Shire of Mingenew Cemeteries Local Law 2017**

### **1. Enactment Clause**

The current date of 19 July 2017 in the enactment clause and common seal is incorrect.

Under section 3.12(4) of the *Local Government Act 1995*, a local law can only be made after the public submission period has closed.

The date that should appear in the enactment clause and common seal will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to 'make' that local law.

The Shire should ensure the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.

### **2. Contents page**

i) It is suggested that at Part 7 the division title is in italics, in lower case and centralised. This should be the case throughout the entirety of the local law. For example,

*"Division 2 – Lawn section"*

iii) Schedules should be bold, lower case and centralised. For example,

**Schedule 1 – Modified penalties**

### **3. Clause 1.4 – Repeal**

Currently, this local law repeals the *Shire of Mingenew Cemeteries Local Law 1978* published in the *Government Gazette* on 2 June 1978. The Local Law published in the *Government Gazette* on this date was in fact an amendment local law. The principal local law is the *By-laws of the Mingenew Public Cemetery* published in the *Government Gazette* on 27 November 1953.

The Department is aware that its online local law register references the 2 June 1978. The Department apologises for this oversight and has updated the local law register accordingly.

It is recommended that the Shire amend the repeal clause as follows:

#### **1.4 Repeal**

*The By-laws of the Mingenew Public Cemetery published in the Government Gazette on 27 November 1953 is repealed.*

All subsequent amendments to the By-laws will be repealed by repealing the principal local law.

### **4. Interpretation clause**

i) In the definition of **Act**, the reference to the *Local Government Act 1995* should be deleted. References to 'Act' throughout the local law apply only to the *Cemeteries Act 1986*.

ii) In the definition of **Board** and **local government**, delete "the district of". The **Board** and **local government** refers to the local government authority (the Shire of Mingenew), as opposed to the district of the local government.

### **5. Clause 1.6 – Application as to assistance animals**



It is suggested that this clause should be removed here. Instead, it is suggested that in clause 8.1 of Part 8, the clause is re-worded to reference assistance dogs being permitted in the cemetery. By applying this addition, the Shire would be adhering to Commonwealth legislation, as it is appropriate to do so. For example,

### 8.1 Animals

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an **assistance animal** as defined in section 9(2) of the *Disability Discrimination Act 1992* or with the approval of the CEO or an authorised officer.

### 6. Clause 5.8 – Ashes held by the Board

Clause 5.8(b) makes reference to a “clause 5.12”, which does not exist in this local law. It is suggested that this reference be removed and replaced with “clause 5.7”.

### 7. Schedule 2 – Infringement Notice

This schedule references the wrong local government for payment of the penalty. Directly following reference to the Shire of Mingenew, the Shire of Dardanup is included under the same address. This should be altered to reflect the correct local government authority.

### Minor edits

- In the **contents page**, remove the space between clause 7.19 and 7.20;
- At **clause 2.1**, replace “**Chief Executive Officer**” with “**CEO**”;
- The title for clause 3.3 should be directly above the clause text, not on separate pages.
- There are formatting issues throughout the entirety of the local law. In every clause where subclauses and subparagraphs are referenced, please insert indents. For example,

### Clause 3.3 Certificate of identification

- (1) After a dead body is placed...
- (a) in the opinion of a funeral director...

Please be sure to also include spacing where appropriate;

- At **clause 5.6(e)**, insert “or” after “this local law.”;
- At **clause 5.7**, delete the space between “upon” and “payment of the set fee”.
- **Part 7** – centralise all division headings;
- At **clauses 7.6** and **7.7**, there is inconsistencies with how times are written. For example, “6.00pm” is appropriate, in every instance;
- At **clause 8.4(a)**, add “or” after subclause (a);
- At **clause 8.7**, the clause should be renumbered to “8.6” to reflect the contents and natural numbering. Schedule 1 should be updated accordingly;
- At **clause 8.8**, the clause should be renumbered to “8.7” to reflect the contents and natural numbering;
- **Schedule 1**:
  - o Clause 7.7 should be itemised *after* 7.5 (the order of items 4 and 5 should be reversed);
  - o Item 8 should refer to clause “8.4” as opposed to clause “8.5”;
  - o Item 9 should refer to clause “8.5” as opposed to clause “8.6”.
- In **Schedule 2**, at “exceeding speed limit” re-format the tick box to be consistent with the other tick boxes; and

The Shire should check all references and cross references, particularly if any changes are made as a result of the Department’s comments.

### Former Minister’s Directions – pursuant to s 3.12(7) of the *Local Government Act 1995*

Please note: once the Shire has published a local law in the *Government Gazette*, the Shire must comply with the requirements of the Minister’s *Local Laws Explanatory Memoranda Directions 2010*. The Shire must, within 10 working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the Committee at the current address:

Committee Clerk  
Joint Standing Committee on Delegated Legislation  
Legislative Council Committee Office  
GPO Box A11  
PERTH WA 6837  
Email: [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au)  
Tel: 9222 7404  
Fax: 9222 7805

A copy of the Minister’s Directions and Explanatory Memoranda forms can be downloaded from the Department of Local Government and Communities website at [www.dlqc.wa.gov.au](http://www.dlqc.wa.gov.au). Failure to comply with the Directions may render the local law inoperable.

Please note that my comments:

- have been provided to assist the Shire with drafting matters in relation to the local law;
- do not constitute legal advice;
- have been provided in good faith for the Shire’s consideration; and
- should not be taken as an approval of content.

The Shire should ensure that a detailed editorial analysis of the proposed local law has been undertaken and that the content of the local law is in accordance with the Shire policies and objectives.

Kind regards

### Courtney Allen

Senior Legislation and Strategy Officer – Local Government  
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GPO Box R1250, Perth WA 6844  
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## Shire of Mingenew Local Law Relating to Fencing

### 1. Contents Page

The below edits are suggested:

- Contents title: in the title, delete "LOCAL LAWS" and insert "LOCAL LAW".
- All Schedules should have the following title convention:

**Schedule 1 – Specifications for a sufficient fence on a residential lot**

### 2. Enactment Clause

The current date of 19 July 2017 in the enactment clause and common seal is incorrect.

Under section 3.12(4) of the *Local Government Act 1995*, a local law can only be made after the public submission period has closed.

The date that should appear in the enactment clause and common seal will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to 'make' that local law.

The Shire should ensure the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.

### 3. Repeal clause

Under clause 1.2, the local laws repealed are stated as being published in the *Government Gazette* on 12 June 1968 and 17 February 1999. The *Government Gazette* was not published on either date.

The Shire should ensure references to the repealed local laws, including the date in which they appeared in the *Government Gazette*, and the title of the local law, are accurate.

### 4. Application of local laws

In the clause title, the Shire should replace the current title with "Application" only. Following this, replace the current sentence with "This local law applies throughout the district".

Furthermore, all references to "these Local Laws" throughout the local law should be removed and replaced with "this local law".

### 5. Commencement clause

The Shire should include a commencement clause stating the day in which the local law will come into operation. For example:

-----  
**3 Commencement**

'This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.'

-----

The Shire should update any re-numbering of clauses as a result of including this clause in the local law.

### 6. Interpretation – clause 4

a) It is suggested that the Shire inserts a definition for each of the following terms which are used in the local law:

- **Council;**
- **licence;**
- **thoroughfare.**

Whilst not all of these definitions are necessary, they may assist readers and reduce the possibility of misinterpretation.

b) In the definition of **Act**, delete the reference to the *Local Government Act 1995*. Where 'Act' is used in the local law, it refers to the *Dividing Fences Act 1961* only.

c) In the definition of dangerous, a reference is made to a licence issued "under Part 6 of this local law". Part 6 refers to notices of breach. The Shire may like to consider whether Part 5 is the appropriate reference.

d) Reference is made to the *Town Planning and Development Act 1928* in the definitions of **lot** and **town planning scheme**. This Act was repealed on 9 April 2006 and is no longer in effect.

The Shire may like to refer to the *Planning and Development Act 2005* instead. It should be noted that any town planning scheme made under the previous *Town Planning and Development Act 1928* continues in force as a local planning scheme under the *Planning and Development Act 2005* (section 68).

e) In the definition of **notice of breach**, the reference to '17(1)' should be updated to '16(1)'.

7. **Clause 6 – Sufficient Fences** It is suggested that the first and last sentence in this clause is numbered as a subclause. For example:

- 
- (1) Unless by agreement....
  - (2) Subject to subclauses (4) and (5)....
    - (a) on a Residential Lot....
- 

The Shire should update all numbering and cross-references accordingly.

### 8. Australian Standards

The Delegated Legislation Committee has previously requested that references to Australian Standards include the words "as amended from time to time." For example, in clause 4, the definition for **AS** should be amended to:

**AS or AS/NZS** means an Australian or Australian/New Zealand Standard as published by Standards Australia and as amended from time to time;

Furthermore, the names of Australian Standards should not be abbreviated when cited in local laws, unless the standard has been cited in full previously in the local law. Reference is made to Australian Standards in the following parts of the local law:

- Clause 13(2)(b);
- Schedule 1, Part C; and
- Schedule 1, Part D.

The full title of the Standard has not been referred to in these instances. For example Part 5, clause 13(2), refers to “AS/NZS 3016:1994”.

The Shire should use the full citation and title when using these references. Alternatively, the Shire can insert a definition of these references in Part 1, clause 4, citing the full title of the Australian Standard in the definition. The Shire should also consider what version of the Australian Standard should be adhered to. AS/NZS 3016:1994 was superseded in 2002; the Shire may like to include the phrase “as amended from time to time” to ensure the most up to date version is used. For example:

**AS/NZS 3016:2002** means the standard published by Standards Australia as *AS/NZS 3016:2002: Electrical installations – Electric security fences, as amended from time to time*;

The Shire should ensure that the citation referred to in clause 13(2) is complete and accurate. If the citation is inaccurate, the Committee may request that the citation be amended.

The Delegated Legislation Committee has expressed concerns with the use of Australian Standards in local laws, as the Standards are protected by copyright and are not public documents. The Committee has expressed that where Australian Standards are used, the general public should be informed by the City as to where they can freely access these Standards. The Committee may inquire as to how this information is to be made available to the public.

#### **9. Clause 10 – General Discretion of the Local Government**

Under subclause 10(1), a local government may consent to the erection or repair of a fence which does not comply with the requirements of the local law. By virtue, this clause requires any person, owner or occupier that is erecting or repairing a fence that will not comply with the local law, to apply to the local government for consent. The Shire may like to insert a clause to this effect, to ensure clarity.

#### **10. External Documents**

The Shire should ensure that a copy of the external documents referred to in the local law, the Australian Standards, are included with the local law when it is submitted to the Committee. The Committee may inquire as to how the Shire will advise the public of where this document can be freely accessed.

#### **11. Part 5 – Electrified and razor wire fences**

- a) Clause 13(1) states that an owner or occupier, other than on a rural lot, shall not have and use an electrified fence on that lot without first obtaining a licence. The current wording infers that the electrified fence has already been constructed.

If the Shire would also like an owner or occupier to apply for a licence prior to the construction of an electrified fence, the Shire may like to make provision for this under subclause (1) and by way of an additional subclause that includes requirements to comply with in constructing an electrified fence. This suggestion is only relevant if it is the Shire’s intention to have an owner or occupier apply for a licence before constructing an electrified fence.

- b) If fencing licences have been issued by the Shire previous to the commencement of this local law, the Shire should make provision for the validity of these licenses upon the introduction of this local law.

#### **12. Application for a Licence**

The Shire may wish to provide further details regarding the process required to obtain a licence under the local law.

An example clause is provided below:

---

(6) An application for a licence under this clause must –

- (a) be in the form determined by the local government;
- (b) be accompanied by any fee imposed by the local government under Part 6 of the *Local Government Act 1995*; and
- (c) include –
  - (i) a written consent signed by the owner of the land on which the fence is located or proposed to be located – unless the applicant is the owner of that land; and
  - (ii) any further information which may be required by the local government.

(7) Where the local government approves an application for a licence under this clause, it shall issue a licence to the applicant in the form determined by the local government.

---

#### **13. Clause 16 – Subclause (3)**

It is desirable that local governments should be allowed to enter land in some circumstances to deal with breaches of fencing local laws. However, care must be taken to ensure that local governments do not go beyond the limited powers of entry granted under the Local Government Act. The Delegated Legislation Committee is currently of the view that the Local Government Act does not authorise entry onto private property to remedy breaches of fencing laws except where the property abuts a public thoroughfare, public place or local government property.

Where a fencing local law attempts to grant the local government the ability to enter private land in other cases, the Committee has requested that the law be amended by adding the following:

---

- (4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the *Local Government Act 1995*.
- 

This should allow the Shire to enter private land in situations where the Local Government Act allows them, without expanding the Shire’s powers of entry beyond the limits of legislative authority.

Further information on this issue can be found in Joint Standing Committee Report 7: *Powers of Entry and Powers to Make Local Laws that Affect Private Land Under the Local Government Act 1995*.

#### 14. Significantly Different

The Department is aware that the effect of some of its suggestions may have the potential for the local law to be significantly different than what was originally advertised by the Shire.

Where a local law to be adopted by Council is significantly different to what was proposed, the section 3.12 procedure must be restarted in accordance with section 3.13 of the Act.

The Delegated Legislation Committee has not provided much guidance on what constitutes a significant difference, but it appears to be any significant change to the obligations, privileges or penalties imposed by the local law.

If the Shire chooses to implement the Department's suggestions in comments 11, 12 and 13, it is advisable to restart the section 3.12 process. If these suggestions are implemented without restarting, it may result in the local law being disallowed.

#### 15. Minor edits

The following minor edits are suggested:

- In every instance where "these Local Laws" is mentioned, the Shire should replace with "this local law".
- Schedule titles should be renamed to Schedule 1; Schedule 2; and Schedule 3. All references to these Schedules should be updated accordingly.
- A stop is not necessary after "mm". For example, Part 3, clause 7(2) "1500mm".
- Where "sub clause" or "sub-clause" appears, replace with "subclause";
- Where "set back" or "set-back" appears, replace with "setback".
- **Clause 1:** place the following in italics "*Shire of Mingenew Local Law Relating to Fencing*".
- **Clause 4:**
  - Remove the quotation marks from defined terms. All defined terms should be bolded and in italics, for example: ***boundary fence***.
  - All subparagraphs e.g. (a) and (b) should be indented.
- **Clause 6:**
  - Indent subparagraphs (a), (b), etc.;
  - In subclause (5), delete "Dividing Fences Act" and insert "Act".
- **Clause 7:**
  - In subclause (2), move the sentence starting with "frontage in order" to the line above to follow the sentence "150mm from the".
  - In subclause (2), delete "Lot" after "driveway into the" and insert "lot".
  - In subclause (2), delete "Lot" after "angled into the" and insert "lot".
- **Clause 10:** in subclause (3), delete "Dividing Fences Act" and insert "Act".
- **Clause 12:**
  - In subclause (3), delete "Lot" after "fencing bounding that" and insert "lot".
  - In subclause (6), delete "Lot" after "fence on that".
- **Clause 16:** replace 1) with (1).
- **Clause 19:** in subparagraph (a) and (b), place the following reference in italics: "*Local Government (Functions and General) Regulations 1996*".
- **Schedule 1:**
  - In Part B, paragraph (d), delete "Clause" and insert "clause".
  - In Part D, indent the subparagraphs (a), (b), etc.
- **Schedule 3:** it is suggested that the first sentence is numbered as "1." and part C is numbered as "2.". The numbering of part A and part B should remain the same.
- Formatting alignment should be consistent throughout each subclause in each schedule.

The Shire should check all references and cross references, particularly if any changes are made as a result of the Department's comments.

#### **Former Minister's Directions – pursuant to s 3.12(7) of the Local Government Act 1995**

Please note: once the Shire has published a local law in the *Government Gazette*, the Shire must comply with the requirements of the Minister's *Local Laws Explanatory Memoranda Directions 2010*. The Shire must, within 10 working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the Committee at the current address:

Committee Clerk  
Joint Standing Committee on Delegated Legislation  
Legislative Council Committee Office  
GPO Box A11  
PERTH WA 6837  
Email: [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au)  
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Please note that my comments:

- have been provided to assist the Shire with drafting matters in relation to the local law;
- do not constitute legal advice;
- have been provided in good faith for the Shire's consideration; and
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The Shire should ensure that a detailed editorial analysis of the proposed local law has been undertaken and that the content of the local law is in accordance with the Shire policies and objectives.



## **Shire of Mingenew Repeal Local Law 2017**

### **1. Enabling Clause**

The current date of 19 July 2017 in the enactment clause is incorrect.

Under section 3.12(4) of the *Local Government Act 1995*, a local law can only be made after the public submission period has closed.

The date that should appear in the enactment clause and common seal will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to 'make' that local law.

The Shire should ensure the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.

### **2. Clause 1.2 – Content and Intent**

Clause 1.2 effectively sets out the purpose and effect of the local law. This clause has no legislative effect and can be removed if the Shire wishes.

While the *Local Government Act 1995* requires the purpose and effect to be included in the public notices relating to a proposed local law, there is no requirement to include the purpose and effect in the local law itself.

If the Shire retains this clause, subparagraphs (a) and (b) etc. should be indented.

### **3. Commencement clause**

It is suggested that the local law should include a commencement clause stating the day that the local law will come into operation. The standard format is as follows:

-----  
**1.2 Commencement**

'This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.'

-----

### **4. Clause 2.1 – Repeal**

i) Repealing amendment local laws

Section 33 of the *Interpretation Act 1984* provides that when a local law is repealed, the repeal will also apply to all amendments of the original local law.

This local law makes reference to subsequent amendments to the principal local law. This is not necessary as repealing the principal local law will repeal these subsequent amendment local laws. The Shire may like to remove references to any amendment local laws.

If the Shire would like to retain a reference to amendment local laws, the Shire should be aware that the Departments online Local Law Register is not a comprehensive register of local laws adopted previous to the register's establishment online. Therefore there could possibly be additional amendment local law dates that are missing. Instead of listing the Gazettal date on which the local law was amended, the Shire may like to instead adopt the wording "and all amendments". This will ensure that it is clear that all amendments are repealed and are not limited to the amendment local laws identified in this local law. For example:

*By-laws Relating to the Manner and Mode of Keeping Dogs published in the Government Gazette on 28 September 1979 and all amendments.*

ii) It is recommended that the dot points are replaced with subclause numbering, for example (a), (b), (c) etc. This will ensure accurate reference can be made to specific subclauses.

Comments are provided on each repeal paragraph accordingly:

- (a) This local law was repealed by a repeal local law published in the *Government Gazette* on 10 June 1965. It is recommended that the Shire remove this subclause.
- (b) The local law published on this date in the *Government Gazette* is an amendment local law. The Shire may like to consider repealing the principal local law as well. The date in which the principal local law was published in the *Gazette* has not been determined by the Department.
- (c) Amend the title of this local law to reflect the title published in the *Government Gazette* and correct the Gazettal date:  
*Mingenew Road Board Poundage Fees and Substance Charges published in the Government Gazette on 20 December 1946.*
- (d) The *Government Gazette* does not exist for the date that this local law was supposedly published. The Shire should ensure the Gazettal date is correct.
- (e) This local law was repealed by the *Road Traffic (By-law Repeal) Regulations 1998* published in the *Government Gazette* on 6 March 1998. It is recommended that the Shire remove this subclause.
- (f) Amend the title of this local law to reflect the title published in the *Government Gazette*:  
*Mingenew Road Board By-law No.21 Depositing of Rubbish published in the Government Gazette on 22 July 1927.*
- (g) The local laws published in the *Government Gazette* on 13 December 1929 and 20 December 1967 were repealed by successive local laws. These references should be removed from this clause and substituted with the following:  
*By-laws Relating to the Manner and Mode of Keeping Dogs published in the Government Gazette on 28 September 1979 and amended in the Government Gazette on 5 February 1988 and 19 January 1996.*
- (h) All of the local laws in this clause have been repealed and it is recommended that this subclause be deleted:
  - The local law published in the *Government Gazette* on 28 September 1979 was a repeal local law. The Shire should not repeal a repeal local law.
  - The local laws published in the *Government Gazette* on 25 September 1970 and 9 September 1977 were repealed by the repeal local law published in the *Government Gazette* on 28 September 1979.
  - The local law published in the *Government Gazette* on 23 September 1932 was repealed by a repeal local law published in the *Government Gazette* on 10 June 1965.
- (i) Amend the title of this local law to reflect the title published in the *Government Gazette*, and split this clause into two subclauses:  
*Mingenew Road Board General By-laws published in the Government Gazette on 10 February 1933.*  
*Mingenew Road Board General By-laws published in the Government Gazette on 17 April 1936.*
- (j) Amend the title of this local law to reflect the title published in the *Government Gazette*:  
*Mingenew Road Board By-law re Appointment of Employees published in the Government Gazette on 12 December 1941.*
- (k) This is an empowering provision as opposed to a by-law or local law; the Shire cannot repeal this notice. Furthermore, if this notice was a local law, it would be repealed by the *Road Traffic (By-law Repeal) Regulations 1998* (please refer to next comment).
- (l) This local law was repealed by the *Road Traffic (By-law Repeal) Regulations 1998* published in the *Government Gazette* on 6 March 1998. It is recommended that the Shire remove this subclause.
- (m) Amend the title of this local law to reflect the title published in the *Government Gazette* and correct the Gazettal date:  
*Mingenew Road Board By-laws governing long service leave published in the Government Gazette on 23 July 1954.*

- (n) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-laws Relating to Old Refrigerators and Cabinets published in the Government Gazette on 22 December 1964 and all amendments*.  
The amendment local law published in the *Government Gazette* on 24 April 1975 was made by the Governor. As this local law applies to local laws made by other local governments, it is suggested this reference be removed. This amendment local law will cease to apply to the principal local law once it is repealed.
- (o) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-law Relating to Prevention of Damage to Streets* published in the *Government Gazette* on 22 December 1964.
- (p) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-law Relating to Removal and Disposal of Obstructing Animals or Vehicles* published in the *Government Gazette* on 22 December 1964.
- (q) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-law Relating to Signs, Hoardings and Billpostings* published in the *Government Gazette* on 22 December 1964 and amended in the *Government Gazette* on 30 May 1975.
- (r) This local law is a repeal local law. It is recommended that the Shire remove this subclause.
- (s) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-law Relating to Storage of Inflammable Liquid) No. 12* published in the *Government Gazette* on 10 June 1965.
- (t) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-law Relating to Control of Hawkers* published in the *Government Gazette* on 10 June 1965 and all amendments.  
The amendment local law published in the *Government Gazette* on 18 April 1975 was made by the Governor. As this local law applies to local laws made by other local governments, it is suggested this reference be removed. This amendment local law will cease to apply to the principal local law once it is repealed.
- (u) Amend the title of this local law to reflect the title published in the *Government Gazette* and correct the Gazettal date:  
*Shire of Mingenew By-law Relating to Standing Orders* published in the *Government Gazette* on 10 June 1965.
- (v) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-laws Relating to Clearing of Land and Removal of Refuse, Rubbish and Disused Material* published in the *Government Gazette* on 17 August 1966.
- (w) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-laws Relating to Noxious Weeds* published in the *Government Gazette* on 16 November 1966.
- (x) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-laws Relating to Fencing* published in the *Government Gazette* on 27 August 1968.
- (y) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-laws Relating to Erection of Verandahs* published in the *Government Gazette* on 6 February 1969 and amended in the *Government Gazette* on 25 January 1974.
- (z) Amend the title of this local law to reflect the title published in the *Government Gazette: Shire of Mingenew By-laws Relating to the Control of Vehicles Driven on Land with is Vested in or under Care, Control or Management of the Shire of Mingenew* published in the *Government Gazette* on 19 February 1969 and amended in the *Government Gazette* on 25 January 1974.
- (aa) These local laws published were repealed by the *Local Government (Caravan Parks and Camping Grounds) Repeal Local Law 1998*, published in the *Government Gazette* on 13 March 1998. It is recommended that the Shire remove this subclause.
- (bb) This subclause refers to an amendment local law. Amendment local laws are automatically repealed when the principal local law is repealed. The principal local law is being repealed in subclause z) and a reference is made to this amendment local law in that subclause. It is recommended that the Shire remove this subclause.
- (cc) This subclause repeals an amendment local law. The Shire should consider if it would also like to repeal the principal local law. If it is the intention of the Shire to repeal the principal local law as well, the Shire may like to re-draft this subclause as follows:  
*Shire of Mingenew By-laws of the Mingenew Public Cemetery* published in the *Government Gazette* on 27 November 1953 and amended in the *Government Gazette* on 25 January 1974 and 2 June 1978.
- (dd) It is recommended that the Shire remove this subclause for the following reasons:
- The local law published in the *Government Gazette* on 18 April 1975 was repealed by the *Local Government (Caravan Parks and Camping Grounds) Repeal Local Law 1998*, published in the *Government Gazette* on 13 March 1998.
  - This clause attempts to repeal the *Local Government (Caravan Parks and Camping Grounds) Repeal Local Law 1998*. The Shire is unable to repeal this local law as it was made by the Governor and applies to all local governments.

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Committee Clerk  
Joint Standing Committee on Delegated Legislation  
Legislative Council Committee Office  
GPO Box A11  
PERTH WA 6837  
Email: [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au)  
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The Shire should ensure that a detailed editorial analysis of the proposed local law has been undertaken and that the content of the local law is in accordance with the Shire policies and objectives.

### **Shire of Mingenew Animals, Environment and Nuisance Local Law 2017**

#### **1. Enactment clause**

The current date in the enactment clause of 19 July 2017 is incorrect.

Under section 3.12(4) of the *Local Government Act 1995*, a local law can only be made after the public submission period has closed.

The date that should appear in the enactment clause will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to 'make' that local law.

The Town should ensure the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.

## 2. Health Act 1911

- a) The Department is aware that the *Public Health Act 2016* received Royal assent on 25 July 2016. It is likely to have multiple implications for health local laws, and potentially animals and environment local laws in the future. It is suggested that the Shire contact the Department of Health for more information on how the new *Public Health Act 2016* is likely to affect local laws. The Shire should also ensure that references to the Public Health Act in the local law are accurate.

### 1. Clause 1.4 – Interpretation

- a) It is suggested a definition is inserted for the following terms used throughout the local law:
- i. **approval**;
  - ii. **bee hives**;
  - iii. **owner**; and
  - iv. **vectors of disease** (or alternatively, replace references to “vectors of disease” with “vermin” in clauses 2.2(a), 2.2(c) and 2.4(f). Schedule 1 should be updated if this suggestion is adopted.)
- b) The following defined terms can be deleted from clause 1.5 as they are not used throughout the local law.
- i. affiliated person;
  - ii. AS/NZS 3500; and
  - iii. local planning scheme.
- c) Several pieces of legislation are referred to in the definition of **Act**. The defined term cannot be used interchangeably to refer to multiple Acts, as it may cause confusion. It is suggested the Shire amend the defined term to refer to one specific Act and cite the other Acts in full throughout the local law.
- d) In the definition of **affiliated person**, there is a reference to the *Associations Incorporation Act 1987*. The Shire should be aware that the *Associations Incorporation Act 2015* came into effect on 1 July 2016 and replaced the 1987 version. The Shire should ensure that any references to external legislation made throughout the local law are correct. However, as advised at comment b) above, the Shire could also remove the definition altogether as “affiliated person” is not referred to in the local law.
- e) Reference is made to the Code of Practice - Pigeon Keeping and the definition given refers to a Code of Practice first published in 1994 by the Pigeon Racing Federation of WA (Inc) and Independent Racing Pigeon Federation (Inc). The 1994 Code appears to have been superseded. The *Animal Welfare (General) Regulations 2003* prescribe Codes of Practice to be adopted for the use, care, welfare, safety or health of animals. The prescribed Code of Practice relating to the keeping of pigeons appears to be the “Code of Practice for Pigeon Keeping and Racing in Western Australia” published by the then Department of Local Government and Regional Development in 2003. The Shire may wish to amend its definition to refer to this Code.

An example for drafting purposes only is:

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Code of Practice – Pigeon Keeping means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the *Animal Welfare (General) Regulations 2003* and amended from time to time;

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- f) The local law contains a reference to an Australian Standard, AS/NZS 3500. Where a reference is made to an Australian Standard, the Committee has previously requested that the reference include the words “as amended from time to time”. The Committee has expressed that where Australian Standards are used, the general public should be informed by the Shire as to where they can freely access these Standards. The Committee may inquire as to how this information is to be made available to the public. If any specific Standards are referred to in the local law, the Shire should ensure that the citations are accurate. If the citation is inaccurate, the Committee may request that the citation be amended. However, as advised at comment b), it is suggested the Shire deleted the definition of AS/NZS 3500 as it is not referred to in the local law.

## 2. External documents

In addition to the Australian Standards, the local law makes reference to other external documents, including the Building Code of Australia, the Code of Practice – Pigeon Keeping and the Residential Design Codes of Western Australia.

The Shire should ensure that copies of all external documents referred to in the local law are included when it is submitted to the Committee. The Committee may also inquire as to how these external documents will be made available to members of the public.

## 3. Department of Environment and Conservation

The local law makes several references to the Department of Environment and Conservation. That Department no longer exists, having been split into the Department of Environment Regulation and the Department of Parks and Wildlife on 1 July 2013.

On 1 July 2017, these Departments were amalgamated, with the Department of Environment Regulation being incorporated into the Department of Water and Environmental Regulation and the Department of Parks and Wildlife being incorporated into the Department of Biosecurity, Conservation and Attractions.

The approval of pigeon keeping is now the responsibility of the Department of Biosecurity, Conservation and Attractions and dust management plans are now the responsibility of the Department of Water and Environmental Regulation. The Shire should update the references accordingly.



#### 4. Keeping of bees

Reference is made to the *Beekeepers Act 1963*. The Beekeepers Act has been repealed and is no longer in force.

The relevant legislation which provides for the registration of beekeepers is the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* (see regulations 13 – 16 and 19).

The Shire should replace the clauses which refer to the *Beekeepers Act 1963* with the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* and ensure that the local law is not inconsistent with the Regulations.

#### 5. Keeping of cats

The Shire should check that the provisions regarding cats are consistent with the *Cat Act 2011*, *Cat Regulations 2012* and *Cat (Uniform Local Provisions) Regulations 2013*.

- a) The *Cat (Uniform Local Provisions) Regulations 2013* provides that the number of cats that can be ordinarily kept at premises does not include cats aged under 6 months old.

The Shire should update clause 2.4(1) and Schedule 1 (Item 5) accordingly.

- b) The application and approval of additional numbers of cats on premises (an exemption to the number of cats that can ordinarily be kept on premises), is dealt with under regulation 8, 9 and 10 of the *Cat (Uniform Local Provisions) Regulations 2013*. The Shire should ensure clause 2.4 is consistent with these Regulations.
- c) The Shire should note, under regulation 7 of the *Cat (Uniform Local Provisions) Regulations 2013* a member of a cat organisation is allowed to keep 3 times the number of cats allowed on premises. The Shire may like to make reference to this in the local law.
- d) The *Cat Act 2011* uses the terminology of a 'cat management facility' as opposed to a 'cattery'.

It is suggested that the definition of "catteries" is changed to "cattery" and that the definition specify that "cattery" includes a 'cat management facility' defined under the *Cat Act 2011*.

#### 6. Clause 3.2 – Control of refuse

Clause 3.2(1)(c) provides that an owner or occupier must "maintain" a street verge or any other reserve.

The Committee has previously raised issues with clauses similar to 3.2(1)(c). This is because the term "maintain" can imply that the owner is responsible for keeping the verge in good repair and fixing any damage that occurs. This interpretation would be unreasonable, since the maintenance and repair of street verges is generally a local government responsibility.

In past cases, the Committee has requested that "maintain" be replaced with "keep".

#### 7. Nuisance

Clauses 3.2, 3.4(1) and 4.5 are intended to prevent nuisance caused by refuse, smoke, fumes, odours, dust, and liquid waste. In some cases, the owner and/or occupier of premises may not be able to completely control the circumstances that lead to nuisance. Such a clause tends to attract the attention of the Committee.

In previous cases, the Committee has requested that terms such as "reasonable steps" or "reasonable measures" be inserted into such clauses. The Shire should review the nuisance clauses in the local law and insert these terms where appropriate.

For example, clause 3.4(1) could be amended by deleting "must take effective measures" and inserting "shall take reasonable steps to –" after the words "An owner or occupier of land".

#### 8. Clause 3.10 – Disposing of disused refrigerators or similar containers

In subclause (c), refrigerants must be removed from disused refrigerators as per requirements of the *Environment Protection (Ozone Protection) Policy 2000*. This policy has been repealed and should be removed from this local law.

#### 9. Clause 4.4 – Burning rubbish, refuse or other material

It is suggested that the Shire delete the reference to "green garden materials" in clause 4.4(1)(c). The Committee has previously made an undertaking requiring the term be removed from *Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Law 2011*.

#### 10. Clause 4.12 – Placement of advertisement, bill posting or junk mail

Under subclause (1), a person cannot affix or place any letter, figure etc to any buildings, fences or posts. This could potentially prohibit someone from affixing a house number to a building, fence or post. Whilst it may not be the intention of the Shire to enforce the local law in such circumstances, the Shire may like to include a subclause to the following effect:

(3) Subclause (1) does not apply to numbers or letters that indicate a house, unit, or building street number.

#### 11. Clause 6.3 – When local government may undertake work or required by notice

In subclause (2), it is suggested that a reference to subdivision 2 of Division 3 of Part 3 of the Act also be included. Subdivision (2) includes provisions about land.

#### 12. Significantly different than originally proposed



The Department is aware that the effect of some of its suggestions may have the potential for the local law to be significantly different than the local law that was originally advertised by the Shire. Where the final local law to be adopted by Council is significantly different, then the section 3.12 procedure must be restarted in accordance with section 3.13 of the *Local Government Act 1995*.

While the Department is not able to advise definitively on this matter (it is considered by the Committee), the general rule has been that it would be prudent to restart the process where any revisions change any obligations under the local law. Amendments relating to grammatical or formatting changes, or changes which remove inconsistencies with Acts or Regulations, are unlikely to be considered significantly different.

If the Shire is in doubt, then the section 3.12 procedure should be restarted.

### 13. Minor edits

The following minor edits are recommended:

- **Clause 2.1:**
  - In the definition of *animal*, replace “section” with “clause”.
  - In the definition of *catteries*, insert the word “and” after the semicolon.
  - The definition of “manure bin” can be deleted as it does not appear in the local law. *Manure receptacle* is defined in clause 1.4 and is used in throughout the local law.
- **Clause 2.26:**
  - In subclause (1)(b), insert the word “or” after the semicolon.
  - In subclause (2), delete “owners/occupiers” and insert “owners and occupiers”.
- **Clause 2.27** – there appears to some duplication between subclauses (2) and (3). It is suggested that (3)(a) and (3)(b) are included under subclause (2) and subclause (3) is removed.
- **Clause 4.4(2):** delete “sub clause” and insert “subclause”.
- **Clause 4.11:**
  - It is unclear what “Terms” are being referred to. The Shire may like to substitute “Terms” for “written authorisation”.
  - Place *Public Health Act 2016* in italics.
  - The Shire may also like to include Division 4 of Part 2 of the *Public Health Act 2016* as it relates to ‘authorised persons’.
- **Clause 6.3(1):** replace “subclauses” with “clauses”.
- **Schedule 1:**
  - In the **Schedule title**, centralise “[cl. 6.5]”.
  - **Item 1:**
    - Replace “premise” with “premises”.
    - Delete “attract, vermin or insects” and insert “or attract vermin or insects”.
  - **Item 2** – delete “keep premises clean and disinfected” and insert “clean and disinfect premises”.
  - **Item 3** – insert “or other vectors of disease” after “flies”.
  - **Item 4** – replace clause description with the following “Failure to comply with enclosure requirements”.
  - **Item 9** – delete “or suffer to remain”.
  - **Item 10** – delete “2.9” and insert “2.9(2)”.
  - **Item 13** – insert “or emit an unreasonable noise” after “nuisance”.
  - **Item 15** – replace “2.14(3)” with “2.14(4)”.
  - **Item 16** – replace “2.16” with “2.16(2)”.
  - **Delete item 19** – replicates item 18. This item can be deleted.
  - **Item 24** – replace “2.32(2)” with “2.32”.
  - **Item 40** – replace “4.2” with “4.2(b)”.
  - **Item 43** – replace “4.7(1)” with “4.7”.

The Shire should ensure all cross-references in the local law are correct, particularly if any changes are made as a result of these comments.

#### **Minister’s Directions – pursuant to s 3.12(7) of the *Local Government Act 1995***

Please note: once the Shire has published a local law in the *Government Gazette*, the Shire must comply with the requirements of the Minister’s *Local Laws Explanatory Memoranda Directions 2010*. The Shire must, within 10 working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the Committee at the current address:

Committee Clerk  
Joint Standing Committee on Delegated Legislation  
Legislative Council Committee Office  
GPO Box A11  
PERTH WA 6837  
Email: [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au)  
Tel: 9222 7404  
Fax: 9222 7805

A copy of the Minister’s Directions and Explanatory Memoranda forms can be downloaded from the Department of Local Government and Communities website at [www.dlgs.wa.gov.au](http://www.dlgs.wa.gov.au). Failure to comply with the Directions may render the local law inoperable.

Please note that my comments:

- have been provided to assist the Shire with drafting matters in relation to the local law;
- do not constitute legal advice;
- have been provided in good faith for the Shire’s consideration; and
- should not be taken as an approval of content.

The Shire should ensure that a detailed editorial analysis of the proposed local law has been undertaken and that the content of the local law is in accordance with the Shire policies and objectives.

## **Shire of Mingenew Waste Local Law 2017**

### **1. Enacting Provision**

The enacting provision currently states that the local law was made on 19 July 2017. This date is incorrect, as the local law is still in the process of being drafted. The correct date will be after the public submission period, when the council formally resolves to make the final local law under section 3.12(4) of the *Local Government Act 1995*. The Shire should ensure that the date of that resolution is included in the final version.

### **2. Contents Page**

Given the length and content of this local law, it is recommended that the Shire includes a contents page.

### **3. Repeal clause**

It is suggested that a repeal clause is included in this local law and is worded as follows:

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This local law repeals the *By-laws Relating to Clearing of Land and Removal of Refuse, Rubbish and Disused Material*, as published in the *Government Gazette* on 17 August 1966.

---

The Shire should disregard this comment if the above local law is repealed by the Shires proposed *Repeal Local Law 2017*.

### **4. Commencement Clause**

The Shire should include a commencement clause for this local law. This may be worded as follows:

“This local law commences 14 days after the day on which it is published in the *Government Gazette*.”

### **5. Application Clause**

The Shire should include an application clause for this local law. This may be worded as follows:

“This local law applies throughout the district.”

### **6. Clause 1.2 – Definitions**

It is suggested that the Shire inserts definitions of the following terms which are used in the local law:

- **authorised person;**
- **collectable waste;** and
- **right-of-way.**

Several pieces of legislation are referred to in the definition of **Act**. The defined term cannot be used interchangeably to refer to multiple Acts, as it may cause confusion. It is suggested the Shire amend the defined term to refer to one specific Act and cite the other Acts in full throughout the local law.

### **7. Written approval**

The Department is aware that this local law is being made under the *Waste Avoidance and Resource Recovery Act 2007* as well as the *Local Government Act 1995*.

The Shire should ensure that a copy of the proposed local law is provided to the Minister for Environment, if this has not already occurred.

### **8. Consent of the CEO of DWER**

The Shire must gain the consent of the CEO of DWER before making a local law under the WARR Act, as per section 61 of the *Waste Avoidance and Resource Recovery Act 2007*.

The Shire should ensure that the CEO of DWER consents to the *final* draft of the local law. Consent of the CEO should be obtained before the Council resolves to make the local law.

The Shire should also include a signature block for the CEO of DWER in the common seal.

### **9. Clause 3.1 – Offences and penalties**

It is suggested that the Shire provides for modified penalties. This will provide the Shire with more options regarding the way in which the local law is enforced within the district.

If a Schedule is included, it is suggested that the heading be followed by a bracketed reference to the relevant clause in the local law, for example:

---

**Schedule 1 – Prescribed Offences**  
**[Clause 3.1]**

---

However, it is important to note that if the Shire chooses to create modified penalties, this may constitute a “significant difference” to the local law as it was advertised. Where the final local law to be adopted by Council is significantly different than when it was advertised, then the section 3.12 process must be restarted in accordance with section 3.13 of the *Local Government Act 1995*. While the Department is not able to advise definitively on this matter (it is considered by the Joint Standing Committee on Delegated Legislation), the general rule has been that it would be prudent to restart the process where any revisions change any obligations or legal consequences under the local law.

### **10. Clause 2.8 – Building construction**

Clause 2.8(1)(c) provides that a builder must “maintain” a street verge.

The Committee has previously raised issues with clauses similar to 2.8(1)(c). This is because the term “maintain” can imply that the owner is responsible for keeping the verge in good repair and fixing any damage that occurs. This interpretation would be unreasonable, since the maintenance and repair of street verges is generally a local government responsibility.

In past cases, the Committee has requested that “maintain” be replaced with “keep”.

## 11. Clauses of concern – in accordance with Report 46 of the Joint Standing Committee on Delegated Legislation (the Committee)

The Committee has previously found issue with the level of prescription contained in particular clauses of waste local laws.

In those cases, the Committee was concerned the local laws created offences that people in many circumstances, would unavoidably commit. As a result, the Committee recommended disallowance of those waste local laws on the grounds they were not authorised or contemplated by the *Local Government Act 1995* or the *Waste Avoidance and Resource Recovery Act 2007*.

It is recommended that the Shire consider the [46<sup>th</sup> Report of the Delegated Legislation Committee](#); specifically Part 4 and Part 7.

Each of the 'clauses of concern' in this local law, as addressed in the Committee Report, are listed below:

- **Clause 3.1 - "offences and penalties"**
  - 3.1(2)** – The only penalty for each offence under this local law is a penalty not exceeding a \$5 000 fine. It is important to note that the Committee has a preference for waste local laws to include modified penalties. It is suggested that the Shire include prescribed offences in this local law.
- **Clause 2.3 – "use of receptacles"**
  - 2.3(1)(b)** – the Committee considers this clause, which makes it an offence to not keep a lid on a bin closed at all times (even if the bin is empty or perfectly clean) except when depositing waste or cleaning the bin, too prescriptive. For example, local government truck operators may sometimes leave bin lids open after collecting rubbish from bins, or wind may blow open the lid of a bin. Under this clause, occupiers of the premises would be penalised for circumstances outside of their control.
  - 2.3(1)(d)** – The Committee finds this subclause too prescriptive as the clause effectively prohibits a bin from being kept anywhere outside of a specific, authorised area.
  - 2.3(1) e** – The Committee deems that prescribing a bin to be kept 'clean' is too prescriptive and unreasonable. Furthermore, in the context of a rubbish bin, the term 'clean' is subjective and vague.
  - 2.3(1)(g)** – This clause forbids a person from marking the bin, unless approved by an authorised person or under the local law. The Committee may deem this clause too prescriptive as it may be out of the owner and/or occupiers control what marks appear on the bin. Furthermore, a person who temporarily draws cricket stumps on their bin would offend this clause.
  - 2.3(2)(a) and (b)** – These provisions may be deemed unreasonable in that they do not reflect modern realities. For example, it would be difficult for a shift worker or fly in fly out worker or a person who is temporarily overseas, not to commit an offence against this clause. This clause also requires that an owner or occupier place their bin in a particular location. This does not account for circumstances outside the control of the owner or occupier, for example, where the bin is blown over by the wind and falls outside the prescribed area.
  - 2.3(3)** – This clause may be deemed too prescriptive. It requires the Shire to determine what refuse is to be 'treated' before it enters the receptacle. Under this clause, the occupier would need to notify the local government when they are placing refuse in their bin. It also require the occupier to gage what the Shire may find 'offensive'. The occupier of the premises must comply with specific directions prescribed by the Shire that are not clearly defined in the clause.

The Shire should also consider the reasonableness of the following additional clauses:

- 2.3(7)(d) and (e);
- 2.3(8)(c), (e), and (f);
- 2.8(2).

When considering these clauses, it is important to note that the Committee is of the view that in many instances, offences are being committed unintentionally and inadvertently by otherwise law abiding citizens. The Committee is concerned that waste local laws criminalise behaviour that is not obnoxious or hazardous in any way.

## 12. Objections and appeals clause

It is recommended that this local law include an *objections and appeal rights* clause in this local law, stating that Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law. The Committee has advised that waste local laws that do not include such a clause are at risk of disallowance. The Shire may like to consider the following example clause:

----

### 3.2 Objection and appeal rights

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to grant, renew, vary or cancel –

- (a) an authorisation under clause 2.2(2);
- (b) an approval under clause 2.3(2)(a)(i);
- (c) an approval under clause 2.3(7)(a);
- (d) an exemption under clause 2.4(1);
- (e) an authorisation under clause 2.6(6);
- (f) an approval under clause 2.7(3)(b);
- (g) an approval under clause 2.7(3)(f);
- (h) an approval under clause 2.8(1)(a)(ii);
- (i) an authorisation under clause 2.10(1)(c);
- (j) an approval under clause 2.10(2);
- (k) an approval under clause 2.11(1);
- (l) an approval under clause 2.11(3); and
- (m) an approval under clause 2.14(1).

## 13. Significantly different than originally proposed

The Department is aware that the effect of some of its suggestions may have the potential for the local law to be significantly different than the local law that was originally advertised by the Shire. Where the final local law to be adopted by Council is significantly different, then the section 3.12 procedure must be restarted in accordance with section 3.13 of the *Local Government Act 1995*.

While the Department is not able to advise definitively on this matter (it is considered by the Committee), the general rule has been that it would be prudent to restart the process where any revisions change any obligations under the local law. Amendments relating to grammatical or formatting changes, or changes which remove inconsistencies with Acts or Regulations, are unlikely to be considered significantly different.

If the Shire is in doubt, then the section 3.12 procedure should be restarted.

#### 14. Minor edits

- Remove stops after every clause number, i.e. "1.1." should read "1.1" throughout the entirety of the local law;
- Clauses only have a capital letter to begin the title, they do not need capitals throughout;
- **Clause 1.2** – remove the quotation marks from defined terms and italicise defined terms.
- **Clause 1.2** – at "Act", include semicolon after the word "identified";
- **Clause 1.2** – at "owner" the entire citation for the *Local Government Act 1995* must be in italics. In addition, remove the comma after "owner";
- **Clause 1.2** – at "occupier" remove additional space after "land,";
- **Clause 1.2** – at "street alignment" remove space after "prescribed";
- **Clause 2.1** – replace "apply" with "applies";
- **Clause 2.2** – at (1)(a), replace "the local law" with "this local law";
- **Clause 2.2** – at (1)(b), remove additional space after "Act";
- **Clause 2.2** – reword this clause so that it assists readability and clarity. Suggestion is as follows: "efficient apparatus is installed for the destruction of the waste...";
- **Clause 2.2** – at (3), replace "a local government" with "the local government";
- **Clause 2.3** – at (1)(f), place (7) after the word seven, not the word days;
- Between clause (5) and (6), alter inconsistent spacing;
- **Clause 2.3** – at (6), remove capital 'L' at "Local government", replace with lower case;
- **Clause 2.3** – at (7)(a), insert comma after "local government" and at (b), remove comma after "from";
- **Clause 2.3** – at (d), "Clause" must be lower case;
- **Clause 2.3** – at (8)(ii), replace "non –absorbent" with "non-absorbent";
- **Clause 2.4** – at (2), remove additional space after "application";
- **Clause 2.6** – between (a) and (b) the formatting is incorrect and alignment is inconsistent;
- In every instance where the local law says "sub-clause", replace with "subclause";
- **Clause 2.7** – at (1), remove the designation "(c)" and move the sentence across to align with the text in subclause (1).
- **Clause 2.8** – at (1), insert "take reasonable steps to" before "keep such site...".
- **Clause 2.9** – at (2), after "person in charge" add "of the waste facility";
- **Clause 2.10** – at (3)(a), after the semicolon, add "and";
- **Clause 2.11** – at (2), (2)(d) and (3), remove additional spaces after "following", "least", "matter," and after "approval of the";
- **Clause 2.11** – at (3), insert "not" before "dead" and
- **Clause 3.1** – at (1) and (2), remove additional spacing between "local" and "law", after "or" and between "to" and "a penalty".

The Shire should check all references and cross references, particularly if any changes are made as a result of the Department's comments.

#### **Minister's Directions – pursuant to s 3.12(7) of the Local Government Act 1995**

Please note: once the Shire has published a local law in the *Government Gazette*, the Shire must comply with the requirements of the Minister's *Local Laws Explanatory Memoranda Directions 2010*. The Shire must, within 10 working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the Committee at the current address:

Committee Clerk  
Joint Standing Committee on Delegated Legislation  
Legislative Council Committee Office  
GPO Box A11  
PERTH WA 6837  
Email: [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au)  
Tel: 9222 7404  
Fax: 9222 7805

A copy of the Minister's Directions and Explanatory Memoranda forms can be downloaded from the Department of Local Government and Communities website at [www.dlqc.wa.gov.au](http://www.dlqc.wa.gov.au). Failure to comply with the Directions may render the local law inoperable.

Please note that my comments:

- have been provided to assist the Shire with drafting matters in relation to the local law;
- do not constitute legal advice;
- have been provided in good faith for the Shire's consideration; and
- should not be taken as an approval of content.

The Shire should ensure that a detailed editorial analysis of the proposed local law has been undertaken and that the content of the local law is in accordance with the Shire policies and objectives.

### **Shire of Mingenew Standing Orders Local Law 2017**

#### **1. Contents page**

It is suggested that the Shire includes a contents page as the local law is longer than three pages. This will enable readers to determine the contents of the local law at a glance.

#### **2. Part headings and clause titles**

Part headings should be bold and centralised. For example,

#### **Part 1 – Preliminary**

Clause headings only require a capital letter at the beginning and lower case thereafter.

#### **3. Clause formatting**

All clauses throughout the local law should be reviewed to ensure that they are correctly formatted. Examples of standard clauses are as follows:

##### 1. **Clause title**

- (1) Subclause 1.
- (2) Subclause 2 –
  - (a) paragraph a;



- (b) paragraph b;
- (c) paragraph c –
  - (i) sub-paragraph 1; and
  - (ii) sub-paragraph 2;
- (d) paragraph d –
  - (i) sub-paragraph 1; and
  - (ii) sub-paragraph 2; and
- (e) paragraph e.

## 2. Clause title

Clauses can also be split into subclauses which –

- (a) continue the sentence in multiple parts;
- (b) include a list of conditions;
- (c) each subclause ends with a semicolon;
- (d) the second-last subclause ends with “and” or “or”; and
- (e) the final subclause ends with a full stop.

## 4. Enactment clause

The current date of 19 July 2017 in the enactment clause is incorrect.

Under section 3.12(4) of the *Local Government Act 1995*, a local law can only be made after the public submission period has closed.

The date that should appear in the enactment clause and common seal will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to ‘make’ that local law.

The Shire should ensure the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.

## 5. Clause 1.2 – Definitions

It is suggested that the following definition is inserted into the local law:

· “**Criminal Code**”.

## 6. Clause 3.2 Order of Business

The Shire may like to consider removing subclause (1)(i) as there appears to be no reference to this provision in the local law.

## 7. Clause 3.3 – Public question time

The Shire may like to make reference to the fact that public question time will be conducted in accordance with the Act and Regulations.

## 8. Clause 7.4 and 7.5 - Use of phrase “objectionable” and “satisfactory apology”

Clause 7.4(3) states that a person must not use objectionable expressions.

The term “objectionable” is vague and may be subject to interpretation. It may also hinder Council debate, since a member may find an expression objectionable even if it happens to be true and relevant to Council proceedings.

Clause 7.5(1)(b) refers to “offensive or insulting” expressions. For consistency, the Council may wish to change clause 7.4(3) so “objectionable” is replaced with “insulting”.

## 9. Clause 9.15 – Foreshadowed motion

It is suggested that in subclause (3), the term “forthwith” is replaced with “without delay” for ease of reading.

## 10. Provisions under the Act

The Shire may like to make reference to matters covered by the Act and Regulations in this local law, to ensure the local law is read in conjunction with the Act and Regulations.

The Shire should also ensure all provisions in the local law are consistent with the Act and Regulations.

## Minor edits

- The local law uses:
    - o “Elected Member” and “Elected member”;
    - o “Members” and “member”;
    - o “Presiding Member” and “presiding member”;
    - o “Committee” and “committee”;
- interchangeably throughout the local law. It is suggested the Council use these terms consistently throughout the local law.
- **Clause 1.1** – replace “This Local Law” with “This local law”;
  - **Clause 1.2** –
    - o in the definition of “**District**”, delete “**District**” and insert “**district**”; and
    - o at “**Committee**”, replace “Sub-Committee” with “Subcommittee”;
  - **Clause 1.6** – at (c), include the word “better” “before community understanding”;
  - **Clause 1.8** – replace “state” with “State”;
  - **Clause 2.2(1)** – replace “ 72 hours ” with “ 72 hours”;
  - **Clause 3.2** –
    - o for each order of business, remove all capital letters, except for at the beginning; and
    - o
    - o at (r), remove spacing after “the”;
  - **Clause 3.4** – remove capital letters used for “statement” at every instance;
  - **Clause 3.5(b)** –
    - o remove spacing after “ward,”;
    - o
    - o at (3), remove “Motion” and replace with “motion”;
  - **Clause 3.7** –
    - o at (2) insert a comma after “clause” and before “the”;
    - o at (5), (a) should be below (5), not alongside it. The Shire may like to insert something to the effect of “In relation to deputations –” next to designation “(5)”.

- o at (5)(a), replace "Agenda" with "agenda";
- **Clause 3.10** –
  - o at (2), remove " five (5)" and insert "5".
- **Clause 6.2** – at (1)(a)(ii), remove spacing after "or" and before "to" and at (b)(i) after "adjournment";
- **Clause 7.4** – at (2)(a), add "or" after the semicolon;
- **Clause 7.5** – at (1)(b), insert a space after "the" and before "expression";
- **Clause 7.7** – at (1)(a)(i), replace "an" with "a";
- **Clause 7.9** – at (7) remove capitals for "police force";
- **Clause 8.7** – add a comma after "presiding member";
- **Clause 9.6** – insert a comma after "clause 9.3";
- **Clause 9.15** – at (1), remove space after "motion";
- **Clause 10.1** – at (1)(g), replace "(motion of dissent)" with "by a motion of dissent";
- **Clause 11.2** – at (1), re-word this clause to reflect the following: "simple majority or members determine otherwise, by vote";
- **Clause 12.3** – at (1), re-word this clause to reflect the following: "then the CEO is to immediately advise the presiding member...";
- **Clause 14.1** – replace "so doing" with "doing so";
- **Clause 16.4** – remove the comma after "member," and before "or";
- **Clause 16.7** – at (2), replace *Local Government Act 1995* with "the Act";

The Shire should check all references and cross references, particularly if any changes are made as a result of the Department's comments.

#### **Former Minister's Directions – pursuant to s 3.12(7) of the *Local Government Act 1995***

Please note: once the Shire has published a local law in the *Government Gazette*, the Shire must comply with the requirements of the Minister's *Local Laws Explanatory Memoranda Directions 2010*. The Shire must, within 10 working days of the Gazettal publication date, forward the signed Explanatory Memoranda material to the Committee at the current address:

Committee Clerk  
 Joint Standing Committee on Delegated Legislation  
 Legislative Council Committee Office  
 GPO Box A11  
 PERTH WA 6837  
 Email: [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au)  
 Tel: 9222 7404  
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Please note that my comments:

- have been provided to assist the Shire with drafting matters in relation to the local law;
- do not constitute legal advice;
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- should not be taken as an approval of content.

The Shire should ensure that a detailed editorial analysis of the proposed local law has been undertaken and that the content of the local law is in accordance with the Shire policies and objectives.

### **Shire of Mingenew Health Local Law 2017**

#### **1. Public Health Act 2016 – Implications for health local laws**

The Department is aware that the *Public Health Act 2016* received Royal assent on 25 July 2016.

It is likely to have multiple implications for health local laws in the future. It is suggested that the Shire contact the Department of Health for more information on how the new *Public Health Act 2016* is likely to affect health local laws.

#### **2. Enactment clause and reference to Public Health Act**

The current date in the enactment clause of 19 July 2017 is incorrect.

Under section 3.12(4) of the *Local Government Act 1995*, a local law can only be made after the public submission period has closed. The date that should appear in the enactment clause will be a date after the public submission period, when the Council considers the final copy of the proposed local law and resolves to 'make' that local law.

The Shire should ensure the correct date appears in the final copy of the local law when it is formally made by the Council. A failure to do this may result in the Delegated Legislation Committee requesting an undertaking to amend the local law.

Further, the reference to the *Public Health Act 2016* should be removed from the title and the enactment clause, as the Act does not provide a head of power for local governments to make local laws. The powers conferred by the *Local Government Act 1995* appear to provide a sufficient head of power for making the proposed local law. *The Local Government Act 1995* should therefore, be inserted into the title.

Health Local Laws can now be made exclusively under the powers conferred by *Local Government Act 1995* (LG Act) as per section 3.5(4B) of the LG Act.

#### **3. Commencement clause**

It is suggested that the local law include a commencement clause. The standard wording for this clause is as follows:

---

##### **1.2 Commencement**

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

---

#### 4. Application clause

It is suggested that the local law include an application clause. The standard wording for this clause is as follows:

---

##### 1.3 Application

This local law applies throughout the district.

---

#### 5. Repeal

In line with best drafting principles, the Shire should ensure that citations reflect the titles as they appear in the *Government Gazette*. The citations should also be italicised. In addition, the Shire should designate the clause as “1.2”.

The repeal clause has been redrafted for the Shire’s consideration:

---

##### 1.2 Repeal

*The Municipality of the Shire of Mingenew By-laws Relating to Clearing of Land and Removal of Refuse, Rubbish and Disused Material published in the Government Gazette on 17 August 1966 is repealed.*

---

This clause can be removed from this local law if the local law mentioned above is repealed in the Shire’s *Repeal Local Law 2017*.

#### 6. Interpretation

Several pieces of legislation are referred to in the definition of **Act**. The defined term cannot be used interchangeably to refer to multiple Acts, as it may cause confusion. It is suggested the Shire amend the defined term to refer to one specific Act and cite the other Acts in full throughout the local law.

In addition, it is suggested that the Shire include definitions for the following terms used throughout the local law to assist readers and reduce the possibility of misinterpretation:

- *Energy Safety*
- *manufacturer’s specifications*
- *register of keepers*
- *Schedule*
- *WC (as referred to in the table in clause 2.1.4(1))*
- *vectors of disease*

#### 7. Australian Standards

The Delegated Legislation Committee has expressed concerns with the use of Australian Standards in local laws, as the Standards are protected by copyright and are not public documents.

The Shire should double check to ensure the references to the Australian Standards are correct and up to date. If the citation is not accurate, the Delegated Legislation Committee may request the citation be amended. For example, clause 2.1.5(2)(a) refers to “AS/NZS ISO 717.1: 2004” whereas the reference in clause 1.3(1) refers to “AS/NZS ISO 7171.1: 2004”. The Shire should also replace the defined term “**AS**” with “**AS or AS/NZS**”.

In addition, where a reference is made to Australian Standards, the Committee has previously requested that the reference include the words “as amended from time to time.” One suggestion may be to include this in the **AS or AS/NZS** definition in clause 1.5.

Furthermore, references to ‘Standards Association of Australia’ should be replaced with ‘Standards Australia’.

The Committee has also expressed that where Australian Standards are used, the general public should be informed by the Shire as to where they can freely access these standards. The Committee may inquire as to how this information will be made available to the public.

#### 8. External documents

In addition to the Australian/New Zealand Standards referenced above, the local law also makes reference to other external documents, including the Building Code of Australia, the Australian Drinking Water Guidelines and the Food Standards Code.

The Shire should ensure that copies of all external documents referred to in the local law are included when it is submitted to the Committee. The Committee may also inquire as to how these external documents will be made available to members of the public.

#### 9. Clause 3.1.1 – Dwelling house maintenance

Clause 3.1.1 states that an owner or occupier of a dwelling house shall maintain the dwelling house and any appurtenant buildings in sound condition and fit for use.

This clause is potentially problematic as the owner or occupier of a dwelling house may not have the care and control of the appurtenant buildings, which will hinder their ability to maintain those buildings as required in the local law. It is suggested the Shire account for this possibility.

#### 10. Nuisance and “reasonable steps”

The local law contains a number of clauses designed to prevent nuisance. In some cases, the owner or occupier of premises may not be able to completely control the circumstances that lead to nuisance. These clauses tend to attract the attention of the Delegated legislation Committee.

In previous cases, the Committee has requested that terms like “reasonable steps” or “reasonable measures” be inserted into such clauses.

For example:

---

##### 5.1.2 Footpaths etc. to be kept clean

An owner or occupier of premises shall take reasonable steps to maintain any footpath, pavement, area or right of way...

---

#### 11. Clause 5.1.2 – Footpaths etc. to be kept clean

In addition to comment 9 above, this clause states that an owner or occupier must maintain a footpath.

The Committee has previously raised issues with this clause. This is because the term “maintain” can imply that the owner is responsible for keeping the footpath in good repair and fixing any damage that occurs. This interpretation would be unreasonable, since maintenance and repair of footpaths are generally a local government responsibility.

In past cases, the Committee has requested that “maintain” be replaced with “keep”.

The Shire may also like to consider clause 9.2.2(d) in the context of this issue.

## **12. Clause 5.1.8 – Vehicles used for transporting of animals and birds**

This clause currently provides that when a vehicle is used to transport an animal, the vehicle will need to be thoroughly cleaned before it is permitted to enter a town site.

As this clause is drafted, it will require a vehicle to be cleaned even in situations where:

- A family pet is being transported;
- The animal is contained in a carrier; or
- The vehicle is clean even after the animal is transported.

In the past the Committee has requested that the words “Unless transporting a pet animal or bird” be inserted at the beginning of the clause.

## **13. Table 3 – Required buffer distances for intensive piggeries**

The Committee has expressed concerns that 300 metres is an insufficient buffer distance between intensive piggeries and isolated rural dwellings, dairies and industries.

It is suggested that the buffer distances in Table 3 of clause 5.4.4 be increased to a minimum of 1000 metres for isolated rural dwellings, dairies and industries.

## **14. References to certificates**

Multiple clauses in the local law make references to certificates. These may cause confusion to readers, as the clauses assume that the reader knows what specific kind of certificate is being referring to.

It is suggested that the Shire insert definitions for the different kinds of certificate and use these terms in the relevant clauses. For example, in Part 8, Division 1:

### **8.1.2 Lodging House not to be kept unless registered**

(1) In this division –

*Certificate of Registration* means a certificate issued under clause 8.1.4.

## **15. Clause 9.1.7 – Alterations to premises**

Clause 9.1.7 states that a person shall not, without the written permission of the local government, make or permit any change or alteration whatever to premises. The term “change or alteration” can be subject to several interpretations, including minor repairs, installations or interior refurbishment. If the Shire wishes to exempt certain alterations from this clause, this should be mentioned.

## **16. Country Towns Sewerage Act 1948**

Clauses 2.1.11 and 3.1.1 refer to the *Country Towns Sewerage Act 1948*. However, this Act was repealed by the Water Services Legislation Amendment and Repeal Act 2012. Accordingly, as the *Country Towns Sewerage Act 1948* is no longer in effect, all references to this Act throughout the local law should be deleted. If appropriate, the Shire may wish to refer to the *Water Services Act 2012* instead (or other applicable legislation).

The Shire should double check all references to legislation in the local law to ensure that they are current.

## **17. Abbreviation of Environmental Health Officer**

The terms “Environmental Health Officer” and “EHO” are used interchangeably throughout the local law. For best drafting principles, the Shire should choose one term to use consistently. If the Shire chooses to use the abbreviated term “EHO”, it is suggested that the defined term at clause 1.3(1) be amended to reflect this.

## **18. Executive Director Public Health and Manager, Environmental Health**

- a) Several clauses in this local law refer to the Executive Director Public Health. The Shire may like to update this reference to Chief Health Officer to ensure the local law is consistent with the *Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911*.
- b) Several clauses in this local law refer to the Manager, Environmental Health. The Shire may like to insert a definition of Manger, Environmental Health, or update this reference to Principal Environmental Health Officer if this reflects the intention of the Shire.

## **19. Private Property**

Several clauses in tis local law state that if an offender fails to comply with a notice, the local government can carry out the necessary action and recover the costs from the offender.

There is a possibility that doing this may involve entry into private land. The Delegated Legislation Committee has concluded that a local government’s ability to enter private property is subject to restrictions and local laws must be interpreted in line with those restrictions.

It is suggested that the following subclause be inserted:

- (2) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the *Local Government Act 1995*.

This will ensure that the local law is interpreted in a manner consistent with the Act.



This provision is not necessary if the local government is authorised by another Act to enter onto premises (for example, authorised by the *Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911* to enter onto premises to undertake certain things).

## 20. Modified Penalties

The proposed local law does not provide for any modified penalties or prescribed offences.

As a result, the local law only provides basic penalties under clause 10.1.1. This would appear to limit the options of the Shire in how to deal with offences, since any attempt to enforce the local law would require the Shire to take the offender to court.

It is suggested that the Shire provide for prescribed offences and the modified penalty that applies to these offences. This will provide the Shire with more options regarding the way in which the local law is enforced in the district.

## 21. Tables

The local law contains a number of tables. It is suggested that these tables should be placed in separate schedules, so that they don't interfere with the clause structure. Placing the tables in separate schedules will also make these tables easier to amend in the future.

## 22. Schedules

- a) Several Schedules are not referenced in the clauses of the local law. It is suggested the Shire redraft the relevant clauses to refer to the Schedules. For example, 8.1.3 refers to an application for registration of a lodging house to be in the form approved by the local government from time to time. Schedule 1 provides a form to be used to apply for registration of a lodging house.
- b) Schedule titles should also be bold, centralised with the heading followed by a bracketed reference to the relevant clause in the local law. It is not required to include the enacting Acts and local law title under the Schedule titles. For example:

---

### **Schedule 9 – Certificate of sleeping accommodation for a lodging house**

[Clause 3.5.1(2)(b)]

---

In addition, each Schedule should be placed on a separate page with the Schedule title at the top of the page.

## 23. Significantly different than originally proposed

The Department is aware that the effect of some of its suggestions may have the potential for the local law to be significantly different than the local law that was originally advertised by the Shire. Where the final local law to be adopted by Council is significantly different, then the section 3.12 procedure must be restarted in accordance with section 3.13 of the *Local Government Act 1995*.

While the Department is not able to advise definitively on this matter (it is considered by the Committee), the general rule has been that it would be prudent to restart the process where any revisions change any obligations under the local law. Amendments relating to grammatical or formatting changes, or changes which remove inconsistencies with Acts or Regulations, are unlikely to be considered significantly different. The addition of prescribed offences and modified penalties is considered to be significantly different however.

If the Shire is in doubt, then the section 3.12 procedure should be restarted.

## 24. Minor edits

The following minor edits are suggested:

- **Arrangement:** Several clauses in the arrangement are inconsistent with the clauses in the local law. For example, in Part 5 of the arrangement, reference is made to "5.1.4 Prohibition against spitting" however clause 5.1.4 is titled "Transportation, use and storage of offal, blood or other offensive matter". The Shire should update the arrangement to be consistent with the local law.
- Titles of Acts, Regulations and other Legislation should be italicised to reflect good drafting principles. Amend all clauses accordingly to reflect this.
- The Shire should ensure that formatting including alignment and spacing of clauses are consistent throughout the local law.
- It is suggested that the clause number appear before the clause title.
- Several paragraphs throughout the local law contain "l" as a designation, for example in clause 2.1.8(2)(b). The Shire should check that the paragraphs are designated correctly (it appears that it is intended to specify subclause (c) and (e)).
- The Shire uses colons and dashes interchangeably. For best drafting principles it is suggested that one method is chosen and used consistently throughout the local law.
- State Law Publisher's current formatting for defined terms are that they should be **bolded** and *italicised* with no quotation marks. Amend clauses accordingly to reflect this.
- Replace all instances of "these Local-Laws", "these local laws" with "this local law".
- The local law currently has references to clauses within the local law as "section" and "subsection". It is suggested to replace these terms with the words "clause" and "subclause" respectively.
- Clause titles should contain only the first letter capitalised, with the exception of defined terms and legislation, which contain capital letters. Amend all clause titles accordingly.
- In line with best drafting principles, replace all instances of "Local government" with "local government".
- **Clause 1.1:** remove the quotation marks encasing *The Shire of Mingenew Health Local Law 2017*.
- **Clause 1.3:**
  - In all definitions of Australian Standards, delete "Standards Association of Australia" and insert "Standards Australia".
  - In the definition of "**AS 1530.2: 1993**", replace the full stop with a semicolon.
  - In the definition of "**AS/NZS 1530.3: 1999**", replace the full stop with a semicolon.
  - In the definition of "**AS 1668.2 – 2002**", replace the full stop with a semicolon.
  - In the definition of "**AS 2001.5.4 – 2005**", replace the full stop and double quotation marks with a semicolon.
  - In the definition of "**AS/NZS ISO 7171.1: 2004**", replace the double quotation marks with a semicolon.
  - In the definition of **Chief Health Officer**, italicise "*Public Health Act 2016*".
  - In the definition of **Medical Officer**, delete "*(Western Australia)*" and insert "*(WA) Act 2010*".
  - In the definition of **water**, delete "2004" and insert "2011".
- **Clause 2.1.1:**

- In the definition of **temporary sanitary convenience**, replace the full stop with a semicolon and insert the word “and” after it at paragraph (b).
- In the definition of **urinal**, redesignate (i) – (iii) as (a) – (c) and delete the word “or” after “urinal; or”.
- **Clause 2.1.4(1):**
  - Redesignate (i) – (iv) as (a) – (d).
  - Replace the full stop with a semicolon in paragraphs (a) and (b).
  - Replace the full stop with a semicolon and the word “and” after it in paragraph (c).
- **Clause 2.1.5:** align clause (2) with clause (1). This should be adopted in every clause.
- **Clause 2.2.1:** in subclause (1), insert a full stop after “Building Code”.
- **Clause 3.1.2:** in subclause (a), delete “nor- mal” and insert “normal”.
- **Clause 3.3.2(c):** insert the word “and” after the semicolon.
- **Clause 3.5.1(2):**
  - In paragraph (b), replace “schedule (7)” with “Schedule 7”.
  - In paragraph (c), insert “1911” after “Health (Miscellaneous Provisions) Act”
- **Clause 3.5.1(4):** in paragraph (a), delete “(8)” and insert “8”.
- **Clause 4.1.1:** in the definition of **liquid refuse**, delete “car- pet” and insert “carpet”.
- **Clause 4.2.2(a):** delete the word “or” after the semicolon.
- **Clause 5.3.3(1)(d):** insert the word “and” after the semicolon.
- **Clause 5.4.1:** in the definition of **intensive piggery**, insert the word “and” after the semicolon.
- **Clause 6.2.2(1)(a)(iii):** replace the full stop with a semicolon and insert the word “and” after it.
- **Clause 6.5.2:** in paragraph (b)(ii), delete “removed” and insert “remove”.
- **Clause 7.1.3(b):** redesignate this subclause as “(4)”.
- **Clause 7.1.5:** redesignate this clause as clause 7.1.4 and renumber the rest of the clauses in this part accordingly.
- **Part 8 – Lodging Houses:** insert “Division 1” before “Registration”.
- **Clause 8.1.1:**
  - In the definition of **laundry unit**, redesignate subparagraphs (i) – (iv) as (a) – (d).
  - In the definition of **recreational campsite**, redesignate subparagraphs (i) – (iii) as (a) – (c).
  - In the definition of **short term hostel**, insert the word “and” after the semicolon.
- In the clause titled “**Application for registration**”, redesignate paragraph (c) as clause 8.1.3(1).
- In the clause titled “**Approval of application**”, redesignate paragraph (d) as clause 8.1.4.
- **Clause 8.1.2:** paragraph (b) refers to clause 8.4. the local law does not contain a clause 8.4. The Shire should update the reference to reflect the intention of the Shire.
- **Clause 8.1.7(1)(b):** redesignate subparagraphs i. – iii. as (i) – (iii) to be consistent with the designation of other subparagraphs.
- **Clause 8.2.3(1):** redesignate paragraph (e) as subclause (2).
- **Clause 8.2.4:**
  - Redesignate this clause as 8.2.4(1).
  - Redesignate paragraphs (f) and (g) as paragraphs (a) and (b).
  - Redesignate paragraph (h) as subclause (2).
- **Clause 8.2.5(c):** redesignate subparagraphs (vi) and (vii) as subparagraphs (i) and (ii).
- In the clause titled “**Lounge room**”, redesignate paragraph (i) as clause 8.2.6.
- In the clause titled “**Fire prevention and control**”, redesignate paragraph (j) as clause 8.2.7.
- **Clause 8.2.8(b):** insert a comma after “adapted for common use”.
- **Clause 8.2.11:**
  - In subclause (1), redesignate paragraph (k) as subclause (6).
  - In subclause (8)(a)(i), designate “a maximum Flammability Index of 6” as sub-subparagraph (A).
  - In subclause (8)(a)(ii), designate “a maximum Spread of Flame Index of 6” and “a maximum Smoke Developed Index of 5” as sub-subparagraph (A) and (B) respectively.
  - In subclause (8)(a)(iii), designate “a maximum Spread of Flame Index of 7” and “a maximum Smoke Developed Index of 5” as sub-subparagraphs (A) and (B) respectively.
- **Clause 8.3.6:** redesignate paragraph (l) as subclause (2).
- **Clause 8.3.8(1):** redesignate paragraph (m) as subclause (2).
- **Clause 8.3.9(h):** replace “8.31” with “8.3.10”.
- **Clause 8.3.10:** redesignate paragraph (n) as subclause (2).
- **Clause 9.1.1:**
  - In paragraph (b), delete the word “and” after the semicolon.
  - In paragraph (c), replace the full stop with a semicolon and insert the word “and” after it.
- **Clause 9.1.2:** delete “(9)” and insert “9”.
- **Clause 9.1.4:** delete “(10)” and insert “10”.
- **Clause 9.3.2:** replace “Fish premises” with “fish premises”.
- **Clause 9.4.1:**
  - In the definition of **dry cleaning establishment**, redesignate paragraph (o) and subparagraph (ii) as paragraph (a) and (b) respectively.
  - In the definition of exempt laundromat, insert the word “and” after the semicolon in paragraph (b).
- **Clause 9.4.8:** redesignate paragraph (p) as paragraph (c).
- **Clause 10.1.1(2):**
  - Redesignate subparagraphs (i) – (iii) as paragraphs (b) – (d).
  - In paragraph (d), insert a comma after “; and”
  - Delete the designation (q).
- References to Schedules in the local law: in the local law, remove the brackets from the Schedule numbers, for example delete “Schedule (9)” and insert “Schedule 9”.

The Shire should check all references and cross references, particularly if any changes are made as a result of the Department’s comments.

#### **Minister’s Directions – pursuant to s 3.12(7) of the Local Government Act 1995**

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Committee Clerk  
 Joint Standing Committee on Delegated Legislation  
 Legislative Council Committee Office  
 GPO Box A11  
 PERTH WA 6837  
 Email: [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au)

Tel: 9222 7404  
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Please note that my comments:

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**END**

**SHIRE OF MINGENEW**



**PROPOSED ANIMALS, ENVIRONMENT & NUISANCE  
LOCAL LAW**

**SEPTEMBER 2017**

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# LOCAL GOVERNMENT ACT 1995

Shire of Mingenew

## Animals, Environment and Nuisance Local Law 2017

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# LOCAL GOVERNMENT ACT 1995

## SHIRE OF MINGENEW

### ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mingenew resolved on **20 September 2017** to make the following local law.

#### Part 1 — Preliminary

##### 1.1 Citation

This local law may be cited as the *Shire of Mingenew Animals, Environment and Nuisance Local Law 2017*.

##### 1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

##### 1.3 Application

This local law applies throughout the district.

##### 1.4 Interpretation

- (1) In this local law, unless the context specifies otherwise —

**Act** means the *Local Government Act 1995*, or other subsidiary legislation where identified such as *the Public Health Act 2016*, *the Health (Miscellaneous Provisions) Act 1911*, *the Health Services Act 2016*, *the Dog Act 1976* and *the Cat Act 2011*;

**amusement** means anything usually conducted for amusement at a fair, a carnival or a show, whether conducted at a fair, a carnival or a show or elsewhere;

**approval** means approved by the local government authority;

**approved animal** means any farm animal which is the subject of a permit;

**AS or AS/NZS** means an Australian Standard or Australian/New Zealand Standard published by Standards Australia as amended from time to time that is available at [www.standards.org.au](http://www.standards.org.au) and should be used as the contextual reference;

**authorised person** means a person appointed by the local government, under section 9.10 of the Act to perform all or any of the functions conferred on an authorised person under this local law;

**aviary bird** means any bird, other than poultry or pigeons, kept, or usually kept in an aviary or cage;

**bee hives** has the meaning given to it in the *Biosecurity and Agriculture Management Regulations 2013*;

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**birds** includes poultry;

**builder** means the holder of a building permit issued in respect of building works on a building site or a person in control of a building site;

**Building Code** means the latest edition of the Building Code of Australia published by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published with the Building Code;

**building permit** has the meaning given to it by the *Building Act 2011*;

**building site** means any lot for which a building permit is current;

**Class 6 building** means any Class 6 building as defined by the Building Code;

**Class 9 building** means any Class 9 building as defined by the Building Code;

**cattery** means a place where more than 3 cats are kept for the purposes of boarding or more than 6 cats are kept for the purpose of breeding that also includes a 'cat management facility' defined under the *Cat Act 2011*;

**Code of Practice – Pigeon Keeping** means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the *Animal Welfare (General) Regulations 2003* and amended from time to time;

**cow** includes an ox, calf or bull;

**development** has the meaning given to it in the *Planning and Development Act 2005*;

**development approval** means a development approval under a local planning scheme;

**development site** includes any lot or lots for which there is currently a development or subdivision approval, and any lot or lots upon which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place;

**district** means the district of the local government;

**disused** means, in relation to any thing whatsoever, that the thing:

- (a) is not in use for the purpose for which it was designed or appears to have been designed or intended; or
- (b) has been stored or left stationary on land in the district for more than 1 month;

**dust** means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

**EHO** means an Environmental Health Officer appointed by the local government under the Act and includes any acting or Assistant Environmental Health Officer;

**equipment** means equipment, machinery or vehicles used for, or in connection with, the development of land;

**farm animal** includes sheep, cattle, goat, horse (excluding a miniature horse), deer, alpaca, pig (excluding a miniature pig) or any other animal so classified by the local government;

**food premises** includes the meaning of "food" as given under section 9 of the *Food Act 2008* and the meaning of "food business", as given under section 10 of the *Food Act 2008*;

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**horse** means a stallion, mare, gelding, shetland pony, pony, colt or foal, and includes an ass, mule, donkey and any beast of whatever description used for burden or draught or for carrying persons;

**land** includes any building or structure on the land;

**liquid waste** means waste from any process or activity that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

**livestock** means any horse, cow, sheep, goat, swine, buffalo, deer, camel, llama or alpaca;

**livestock vehicle** means a vehicle that contains livestock or previously has been used for the carriage of livestock;

**local government** means the Shire of Mingenew;

**lot** has the meaning given to it by the *Planning and Development Act 2005*;

**manure receptacle** means a receptacle of sufficient capacity to receive all manure produced in one week on premises upon which a farm animal or farm animals are kept, constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;

**miniature horse** means a horse which meets the standard and height for a miniature horse as described by the Miniature Horse Association of Australia Inc;

**miniature pig** means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;

**nuisance** means —

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**occupier** means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;

**owner** has the meaning defined under Section 1.4 of the Act;

**permit** means a permit issued under this local law;

**permit holder** means a person who holds a valid permit;

**pigeon** includes homing pigeons and other domesticated breeds of the species *Columba livia*, but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Department of Environment and Conservation;

**poultry** includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

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**refuse** means any waste material including bricks, lime, cement, concrete, rubble, stones, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

**Regulations** means the *Local Government (Functions and General) Regulations, the Cat Regulations 2012* and *Cat (Uniform Local Provisions) Regulations 2013* and the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*;

**residential building** has the meaning given to it in the Residential Design Codes of Western Australia as amended;

**residential zone** includes any area zoned “Residential” and “Urban Development” under a local planning scheme;

**rural zone** means any area zoned “Rural” or “Rural Residential” under a local planning scheme;

**sand** means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material including dust and gravel;

**stormwater** means any naturally occurring water that results from rainfall on or around a site, or water flowing onto the site;

**street** means any highway or thoroughfare which the public is entitled to use, including the verge and other things including bridges and culverts appurtenant to it;

**subdivision approval** means a subdivision approval under the *Planning and Development Act 2005*;

**townsite** includes the townsites of Mingenew and Yandanooka which are —

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act;

**truck** means a motor vehicle having a tare weight in excess of 3,000 kilograms;

**unreasonable noise** has the meaning given to it by the *Environmental Protection Act 1986*; and

**vermin** includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions.

- (2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.
  - (3) Where, in this local law, a duty, obligation or liability is imposed on an “owner or occupier” the duty shall be deemed to be imposed jointly and severally on each owner and occupier.
  - (4) Where, under this local law, the local government is authorised to carry out actions, or cause to be undertaken works, as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, subdivision 3 of the Act.
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## Part 2 — Keeping of animals

### Division 1 — Animals

#### 2.1 Interpretation

In this Division, unless the context otherwise requires —

**animal** includes cats, dogs, rabbits, ferrets and livestock as prescribed in clause 1.4(1) above or the like;

**cattery** is the premises registered for the breeding or caring of cats; and

**manure bin** means a receptacle constructed of smooth, impervious material and in such a manner as to be easily cleaned, which has a tight fitting lid or cover to prevent the release of odours and prevent the entry of flies;

#### 2.2 Cleanliness

An owner or occupier of premises in or on which a dog, cat or other animal is kept shall —

- (a) keep the premises free from excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health, or to attract rats or other vermin;
- (b) when so directed by an EHO, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free from flies or other vermin, by spraying with a residual insecticide or other effective means.

#### 2.3 Animal enclosures

- (1) A person shall not keep or cause, or permit to be kept, any animals on premises which are not effectively drained or of which the drainage flows to the walls or foundations of any building.
- (2) The owner or occupier of premises where animals are kept shall, when directed by an EHO, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals.

#### 2.4 Cats

- (1) Subject to subclauses (6) and (7), a person shall not, without an exemption in writing from the local government, keep more than 3 cats over the age of 3 months on premises on any land within the district in accordance with the *Cat (Uniform Local Provisions) Regulations 2013*.
  - (2) An owner or occupier of premises may apply in writing to the local government for exemption from the requirements of subclause (1).
  - (3) The local government shall not grant an exemption under subclause (2) unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.
  - (4) An exemption granted under this clause shall specify —
    - (a) the owner or occupier to whom the exemption applies;
    - (b) the premises to which the exemption applies; and
    - (c) the maximum number of cats which may be kept on the premises.
  - (5) A person who is granted an exemption under subclause (3) may be required by the local government to house, or keep cats in such manner as directed by an EHO.
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- (6) A person may keep more than 3 cats on premises used for veterinary purposes or as a pet shop.
- (7) The occupier of any premises shall not keep a cattery on those premises, unless the cattery is registered with the local government and the occupier has complied with the following conditions —
  - (a) the occupier shall obtain approval from the local government to establish a cattery;
  - (b) upon receiving approval to establish a cattery, the occupier shall apply for registration of the cattery in the form approved by the local government;
  - (c) the occupier shall have paid, to the local government, the annual registration fee as determined from time to time by the local government under section 6.16 to 6.19 of the Act;
  - (d) the occupier shall provide, for every cat, a properly constructed shelter with an enclosure, which shall comply with the following conditions —
    - (i) every shelter shall have a floor area of not less than 0.50 square metres for every cat over the age of 3 months old that may be kept therein; and
    - (ii) the area of the enclosure appurtenant to any shelter or group of shelters forming a cattery shall not be less than 3 times the area of the shelter or group of shelters to which it is appurtenant;
  - (e) every shelter or enclosure shall be at least 10 metres from the boundary of any land not in the same ownership or possession, or at least 10 metres from any dwelling, church, schoolroom, hall, factory, dairy or premises wherein food is manufactured, packed or prepared for human consumption; and
  - (f) all enclosures, yards, runs and shelters within which cats are kept shall be maintained at all times in a clean condition and free from **vermin** and shall at any time be cleaned, disinfected or otherwise dealt with as an EHO may direct;
- (8) A certificate of registration of a cattery issued by the local government shall —
  - (a) be in the form approved by local government; and
  - (b) expire on 30 June next after the date of its issue.
- (9) In accordance with regulation 7 of the *Cat (Uniform Local Provisions) Regulations 2013* a member of a cat organisation is allowed to keep 3 times the number of cats allowed on premises.

## ***Division 2 — Keeping of birds***

### **2.5 Keeping of poultry and pigeons in a residential zone**

- (1) An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises any poultry or pigeons —
    - (a) unless approved by the local government in accordance with clause 2.6; and
    - (b) otherwise than in accordance with subclause (2).
  - (2) An owner or occupier of premises in a residential zone shall not keep or permit to be kept on the premises —
    - (a) more than 12 poultry; and
    - (b) more than 12 pigeons unless the owner or occupier is an affiliated person in which case the maximum number of pigeons may be increased to 100.
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## **2.6 Application for approval to keep poultry and pigeons in a residential zone**

- (1) Subject to compliance with subclause 2.5(2), the local government may approve the keeping of poultry or pigeons in accordance with these local laws by an owner or occupier of premises within a residential zone subject to the following—
  - (a) the owner or occupier submitting an application to the local government, which application shall—
    - (i) specify the number of poultry or pigeons proposed to be kept; and
    - (ii) include a site plan showing lot size, location of enclosure, distance from boundaries and buildings and proximity to houses on adjoining land.
- (2) The local government may, at its discretion, conduct public consultation with all owners/occupiers whose property abuts the applicant's property prior to the application being determined.
- (3) The local government may approve, with or without conditions, or refuse to approve an application received under this clause.
- (4) Where an approval for the keeping of poultry or pigeons is issued subject to conditions, the holder of the approval shall comply or cause compliance with those conditions.

## **2.7 Conditions for keeping of poultry**

A person who keeps poultry or permits poultry to be kept shall ensure that —

- (a) no poultry shall be kept less than 6 metres from any residential building;
- (b) no poultry is able to approach within 10 metres of a public street, public building, commercial premises or food premises;
- (c) all poultry is kept in a properly constructed and securely fastened structure;
- (d) the structure has an impervious floor laid with a fall to the front of at least 1 in 50;
- (e) all structures or enclosures within which poultry are kept are maintained at all times in a clean condition; and
- (f) all poultry is kept continually confined.

## **2.8 Roosters, geese, turkeys and peafowl**

Except on land in a rural or rural residential zone, or with the prior written permission of the local government, an owner or occupier of premises shall not keep any of the following —

- (a) roosters;
- (b) geese;
- (c) turkeys; or
- (d) peafowls.

## **2.9 Conditions for keeping of pigeons**

- (1) A person who keeps pigeons, or permits pigeons to be kept, shall ensure that —
    - (a) all pigeons are kept in a properly constructed pigeon loft, except where registered homing pigeons are freed for exercise;
    - (b) all structures or enclosures within which pigeons are kept are maintained at all times in a clean condition;
    - (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building; and
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- (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food premises.
- (2) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice – Pigeon Keeping, subject to the provisions of this local law.

#### **2.10 Termination of approval to keep poultry or pigeons**

If an owner or occupier of premises to whom an approval to keep poultry or pigeons has been granted by the local government pursuant to subclause 2.6(3) —

- (a) breaches a condition of the approval;
- (b) breaches clause 2.7 or clause 2.9 of this local law; or
- (c) fails to comply with a written notice served by the local government in relation to the keeping of poultry or pigeons,

then the local government may cancel its approval upon written notice of such cancellation being given to the owner or occupier within 60 days of the breach or failure to comply as the case may be.

#### **2.11 Restrictions on pigeon nesting and perching**

The local government may order an owner or occupier of a house on or in which pigeons are, or are in the habit of nesting or perching, to take adequate steps to prevent them from continuing to do so.

#### **2.12 Conditions of keeping aviary birds**

A person who keeps, or permits to be kept, aviary birds shall ensure that —

- (a) the aviary or cage in which the birds are kept is located at least 1 metre from any lot boundary and at least 5 metres from a residential building on any other lot;
- (b) there is a floor beneath the roofed area of the aviary or cage which is constructed of smooth, impervious material with a gradient of at least 1 in 50 to the front of the aviary or cage;
- (c) the aviary or cage is kept in clean condition and good repair at all times;
- (d) all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
- (e) effective measures are taken to prevent the attraction or harbourage of vermin.

#### **2.13 Nuisance caused by birds**

An owner or occupier of land shall not keep any bird or birds which —

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

### ***Division 3 — Keeping of bees***

#### **2.14 Permit required to keep bees**

- (1) Subject to the provisions of this clause, a person shall not keep bees or allow bees to be kept on land except in accordance with a valid permit issued in relation to the land.
  - (2) Subclause (1) does not apply where—
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- (a) the land is outside the townsites; and
- (b) the bees are kept—
  - (i) at least 500 metres from a thoroughfare; or
  - (ii) less than 500 metres from a thoroughfare but the vegetation or a screen or other barrier on the land is such as to encourage the bees to fly at a height over the thoroughfare as will not create a nuisance to users of the thoroughfare.
- (3) Subclause (1) does not apply where an occupier of land keeps bees on the land—
  - (a) for a continuous period not exceeding 8 weeks; and
  - (b) for the purpose of pollinating a crop on the land.
- (4) An occupier referred to in subclause (3), in keeping bees under that subclause, shall provide a good and sufficient water supply on the land which is readily accessible by the bees.
- (5) Subclause (1) does not apply where a person keeps bees on Crown land.

## **2.15 Application for a permit**

An applicant for a permit shall—

- (a) be a person registered as a beekeeper under section 8 of the *Beekeepers Act 1963*;
- (b) provide such details as may be required by the local government;
- (c) apply in the form approved by the local government; and
- (d) pay any application fee imposed and determined by the local government under sections 6.16 to 6.19 of the Act.

## **2.16 Determination of application**

- (1) The local government may—
  - (a) refuse to determine an application for a permit which does not comply with clause 2.15;
  - (b) approve an application for a permit subject to the conditions referred to in clause 2.14 and to such other conditions as it considers appropriate; or
  - (c) refuse to approve an application for a permit.
- (2) Where an application for a permit is approved subject to conditions, the permit holder is to comply with those conditions or is to cause those conditions to be complied with.
- (3) Where the local government approves an application under subclause (1)(b), it is to issue to the applicant a permit in the form approved by the local government.
- (4) A permit is valid from the date of issue unless, and until, it is cancelled under this local law.

## **2.17 Conditions of approval**

- (1) Without limiting the generality of paragraph 2.17(1)(b) an application for a permit may be approved by the local government subject to the following conditions—
    - (a) the provision of a good and sufficient water supply on the land which is readily accessible by the bees on the land;
    - (b) each bee hive shall be—
      - (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
      - (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
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- (iii) no more than 2 bee hives are to be kept on land of less than 2,000 square metres in area; and
  - (iv) no more than 15 bee hives are to be kept on land between 2,000 square metres and 20,000 square metres in area.
- (2) In respect of a particular application for a permit, the local government may vary any of the conditions referred to in subclause (1).

#### **2.18 Variation or cancellation of permit and conditions**

- (1) The local government may vary the conditions of a permit after it has been issued.
- (2) The local government may cancel a permit on the request of a permit holder to do so.
- (3) Notwithstanding clause 2.22, a permit shall be cancelled on—
- (a) the permit holder ceasing to be registered as a beekeeper under section 8 of the *Beekeepers Act 1963*; or
  - (b) the expiration of a continuous period of 12 months during which the permit holder has not kept any bees on the land to which the permit relates, without any action required on the part of the local government.

#### **2.19 Permit holder to notify cessation of registration or keeping of bees**

- (1) In this clause a **permit holder** includes the holder of a permit cancelled by subclause 2.18(3).
- (2) A permit holder is to notify the local government in writing as soon as practicable after—
- (a) the permit holder ceases to be registered as a beekeeper under section 8 of the *Beekeepers Act 1963*; or
  - (b) a continuous period of 12 months has passed during which the permit holder has not kept any bees on the land described in her or his permit.
- (3) A permit holder shall, within 7 days of the local government giving the permit holder a written notice to do so, provide to the local government—
- (a) written proof of her or his registration as a beekeeper under section 8 of the *Beekeepers Act 1963*;
  - (b) in respect of land identified by the local government in its notice, a signed statement as to whether or not he or she has kept bees on the land within the 12 months preceding the date of the notice; or
  - (c) both.

#### **2.20 Permit not transferable**

A permit is personal to the permit holder and applies only to the land described in the permit.

#### **2.21 Nuisance**

A person shall not keep, or allow to be kept, bees or beehives, or both, on land so as to create a nuisance.

#### **2.22 Notice to remove bees**

- (1) Whenever, in the opinion of the local government, a person has contravened any provision of the *Beekeepers Act 1963* or of this local law which relates to the keeping of bees or bee hives, the local government may give the permit holder, in relation to that land, or if there is no valid permit in relation to that land, an owner or occupier of the land, a written notice requiring her or
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him to remove any bees or bee hives, or both, from the land within the time specified in the notice.

- (2) Subject to Division 1 of Part 9 of the Act, on the giving of a notice referred to in subclause (1), any valid permit given by the local government relating to the keeping of bees or bee hives on that land is cancelled from the time specified in the notice, being not less than 7 days from the date it is given.
- (3) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both, in such manner as it sees fit and recover the costs of so doing from the permit holder, or an owner or occupier, as the case may be, as a debt due to it.

#### ***Division 4 — Keeping of farm animals***

##### **2.23 Permit required to keep farm animals**

Subject to clause 2.28, an owner or occupier of townsite land shall not keep, or allow to be kept, any farm animal unless —

- (a) in accordance with a valid permit authorising the keeping of such a farm animal issued in relation to the land pursuant to clause 2.26; or
- (b) in a rural zone and in accordance with the provisions of any local planning scheme applicable to that zone.

##### **2.24 Application for a permit to keep farm animals**

An application for a permit required by clause 2.23 shall be in the form approved by the local government and shall include the following information —

- (a) a plan of the property, at a scale not less than 1:200, with dimensions clearly marked, showing where it is proposed that the animal is to be kept and the distance of that location from any residential building on another lot, Class 6 building or Class 9 building, business premises or food premises;
- (b) a sketch plan, at a scale of 1:100, indicating the nature of the shelter or housing to be provided for the animal;
- (c) a detailed written plan for the management of manure which addresses —
  - (i) control of flies and other vermin;
  - (ii) disease prevention; and
  - (iii) prevention of nuisance odours; and
- (d) the appropriate application and permit fees as determined from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act.

##### **2.25 Determination of application to keep farm animals**

- (1) Subject to clause 2.26, the local government may —
    - (a) refuse to determine an application for a permit which does not comply with clause 2.24;
    - (b) approve an application for a permit subject to such conditions as it considers appropriate; or
    - (c) refuse to approve an application for a permit.
  - (2) Where an application for a permit is approved subject to conditions, the permit holder shall comply with those conditions or cause compliance with those conditions.
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- (3) Where the local government approves an application under paragraph (1)(b), it is to issue to the applicant a permit in the form approved by the local government.
- (4) A permit is valid from the date of issue until 30 June the following year, unless it is cancelled prior to that date under this local law.

## **2.26 Conditions of approval to keep farm animals**

- (1) A permit shall not be granted pursuant to clause 2.25 —
  - (a) unless the land for which the approval is sought is of such dimensions and configuration as will permit the subject animal to be confined in a minimum cleared area of 150 square metres and prevented from approaching within 15 metres of any residential building, Class 6 building or Class 9 building, business premises or food premises;
  - (b) in the case of a horse (other than a miniature horse) or cow, unless the land for which the approval is sought has a minimum area of 1 hectare; or
  - (c) for the keeping of any pig (other than a miniature pig).
- (2) The local government shall take into account the opinions of **owners and occupiers** of adjoining properties in determining whether to grant approval for the keeping of a farm animal.
- (3) Approval to keep a farm animal may be issued subject to conditions, including —
  - (a) that a stable or shelter is provided for housing the approved animal;
  - (b) that a manure receptacle is provided in a position convenient to the shelter or place where the approved animal is kept, and that the receptacle is used for the receipt of all manure produced on the premises; or
  - (c) any other conditions that the local government considers necessary for the protection of the health and amenity of the neighbourhood;

and such conditions may be imposed at any time subsequent to the initial approval.

## **2.27 Variation or cancellation of permit to keep farm animals and conditions of permit**

- (1) The local government may vary the conditions of a permit after it has been issued, and shall give notice of such variation to the permit holder.
- (2) The local government may cancel a permit in the event the permit holder —
  - (a) **fails to comply with any condition set under paragraph 2.25(1)(b);**
  - (b) **after being notified of a variation under subclause (1) fails to comply with the varied condition;**
  - (c) **breaches clause 2.28 or clause 2.31 of this local law;**
  - (d) **fails to comply with a notice of breach issued under clause 6.1.**
  - (e) **fails to comply with any condition of the permit; or**
  - (f) **breaches clause 2.28 or clause 2.29 of this local law;**

## **2.28 Conditions for keeping farm animals**

- (1) An owner or occupier of premises upon which a farm animal or farm animals are approved to be kept, shall —
    - (a) maintain the place or places where the animals are kept in clean condition;
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- (b) ensure that any farm animal or farm animals kept on the premises does not cause or constitute a nuisance;
  - (c) maintain the premises free from flies or other vermin by spraying with residual insecticide or other effective means;
  - (d) if a manure receptacle is required to be used —
    - (i) cause all manure produced on the premises to be collected daily and placed in the receptacle;
    - (ii) cause the receptacle to be emptied as often as is necessary to prevent it becoming offensive or a breeding place for flies or other vermin, but in any case at least once a week; and
    - (iii) keep the lid of the receptacle closed except when manure is being deposited or removed; and
  - (e) not permit any farm animal to approach within 15 metres of any residential building, food premises, Class 6 building or a Class 9 building, or a business or commercial premises.
- (2) An owner or occupier of premises in a rural zone shall not keep more than 1 pig other than on premises registered as a piggery pursuant to the provisions of the *Public Health Act 2016*, except with the express written approval of the local government.

### **2.29 Keeping a miniature horse**

- (1) An owner or occupier of a premises may keep only a sterilised miniature horse on land of not less than 1,000 square metres in area provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.
- (2) An owner or occupier of premises shall —
  - (a) not keep more than one miniature horse on land zoned residential or special rural without the written approval of the local government or an authorised person; and
  - (b) not permit a miniature horse to come within 9 metres of any house.
- (3) The local government or an authorised person may prohibit the keeping of a miniature horse on any land or may state the conditions under which a miniature horse may be kept.

### **2.30 Keeping a miniature pig**

- (1) Except for a miniature pig, and subject to subclause (2) no person shall keep a pig or pigs, in any residential area or on any land zoned commercial or industrial under the town planning scheme.
  - (2) Except for premises registered by the local government as an abattoir or a piggery under the provisions of the *Acts* as identified in clause 1.4 of this local law, and except in the case of a miniature pig, the keeping of pigs is forbidden.
  - (3) The local government or an authorised person may prohibit the keeping of a miniature pig on any land, or state the conditions under which the miniature pig may be kept.
  - (4) A person may keep 1 miniature pig in any residential or rural or special rural area provided it is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act is paid.
  - (5) An owner or occupier of premises where a miniature pig is kept shall —
    - (a) only keep a sterilised animal and retain written proof of its sterilisation;
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- (b) confine the animal on the property at all times;
- (c) ensure the animal does not cause a nuisance to any neighbour regarding noise, dust, or odour; and
- (d) maintain documentary evidence that the animal's veterinary treatment against roundworm and tapeworm is current.

### **2.31 Requirements for farm animal shelters**

- (1) Any stable, enclosure or shelter provided for the keeping of farm animals, whether or not a permit is required for the keeping of such farm animals pursuant to clause 2.24, shall —
  - (a) not be situated within 15 metres of any residential building, Class 6 building or Class 9 building, business premises or food premises;
  - (b) not be situated within 1 metre of any lot boundary;
  - (c) be constructed of materials approved by an authorised person;
  - (d) have on each side of the building between the wall and roof a clear opening of at least 150 millimetres in height, and of sufficient length, to provide adequate ventilation to the stable, enclosure or shelter;
  - (e) when required by the local government have a separate stall for each horse, cow or other approved animal, the shortest dimension of which shall be at least twice the length of the animal housed therein; and
  - (f) subject to subclause (2), have a floor, the upper surface of which shall —
    - (i) be raised at least 75 millimetres above the surface of the surrounding ground;
    - (ii) be constructed of cement, concrete or other similar impervious material; and
    - (iii) have a fall of 1 in 100 to a drain which shall empty into a trapped gully situated outside the stable or shelter.
- (2) A stable or shelter constructed with a sand floor may be approved by an authorised person subject to—
  - (a) the site being well drained, with the sand floor being at least 1.5 metres above the highest known ground water level;
  - (b) a 300 millimetre thick bed of crushed limestone being laid under the sand of the stable;
  - (c) the sand, whether natural or imported, being clean, coarse and free from dust;
  - (d) footings to the stable or shelter being a minimum of 450 millimetres below ground level; and
  - (e) the design of the stable allowing for the access of small earthmoving machinery, such as a skid steer loader, into each stall to maintain the correct floor height.
- (3) An owner or occupier of any land upon which a stable or shelter is located must ensure that the stable or shelter complies in all respects with the requirements of subclause (1), and, where the approval referred to in subclause (2) has been granted, with the requirements of subclause (2).

## ***Division 5 — Livestock***

### **2.32 Livestock not to stray**

The owner or person in charge of livestock shall not permit that livestock to stray or to be at large in a townsite street, public road or place, or upon private property without the consent of the property owner.

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### **2.33 Impounding of livestock**

- (1) An authorised person or a member of the police force may impound livestock found straying in contravention of clause 2.32.
- (2) Livestock being impounded shall be placed in the pound or secured on private property with the consent of the owner.

### **2.34 Property to be fenced**

- (1) The owner or occupier of property on which livestock is kept, shall cause the property or a portion of the property to be fenced in a manner capable of confining the livestock, to that portion where the livestock is kept.
- (2) The minimum fencing requirements to confine livestock in a rural or special rural area shall be a fence of post and wire construction.

## **Part 3 — Building, development and land care**

### ***Division 1 — Litter and refuse on building sites***

#### **3.1 Provision of refuse receptacles**

The owner or occupier of a building or development site shall at all times provide and maintain a refuse receptacle, available for use on the site, which includes a suitable cover, to the satisfaction of an authorised person, of such design as will —

- (a) contain any refuse likely to be produced on the site; and
- (b) prevent refuse being blown from the receptacle by wind.

#### **3.2 Control of refuse**

- (1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall —
  - (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
  - (b) keep the site free from any refuse;
  - (c) **keep** the street verge, and any other reserve, immediately adjacent to the site, free of refuse from the site; and
  - (d) ensure the refuse receptacle is emptied when full.
- (2) The owner or occupier of a building site or development site shall ensure that within 2 days of completion of works on the site, the site and the street verge immediately adjacent to it, is cleared of all refuse and all refuse receptacles are removed from the site.

#### **3.3 Unauthorised storage of materials**

- (1) All construction materials must be located on the building site or development site under construction, unless written approval has been given by the local government to store materials on another property (including a road reserve).
  - (2) An application for approval under subclause (1) must be —
    - (a) in writing; and
    - (b) accompanied by the written approval of the landowner of the land on which materials are proposed to be stored.
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## ***Division 2 — Prevention of dust and liquid waste***

### **3.4 Prohibited activities**

- (1) An owner and or occupier of land shall take reasonable steps to —
  - (a) stabilise dust on the land;
  - (b) contain all liquid waste on the land; and
  - (c) ensure no dust or liquid waste is released or escapes from the land, whether by means of wind, water or any other cause.
- (2) Where the local government forms the opinion that —
  - (a) an owner or occupier has not complied with paragraph (1)(a) or paragraph (1)(b); or
  - (b) the dust or liquid waste has been released or escaped from the owner's or occupier's land, the local government may serve on the owner and or occupier of the land, a notice requiring the owner and or occupier to do one or more of the following –
    - (i) comply with subclause (1)(a) or (1)(b);
    - (ii) clean up and properly dispose of any released or escaped dust or liquid waste;
    - (iii) clean up and make good any damage resulting from the released or escaped dust or liquid waste; and
    - (iv) take effective measures to stop any further release or escape of dust or liquid waste;
  - (c) The requirements set out in a notice issued under paragraph (2)(a) must be complied with—
    - (i) within 48 hours of service of the notice where no other time is specified;
    - (ii) within such other period as is specified in the notice; or
    - (iii) immediately, if the notice so specifies.
- (3) Where the local government forms the opinion that dust or liquid waste has escaped or has been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government may serve a notice on —
  - (a) any owner or occupier of the land; or
  - (b) any operator of equipment on the land,

requiring that the activity or use of equipment on the land be ceased immediately, for such period as is specified in the notice.

- (4) Where the local government is of the opinion that dust or liquid waste may be released or escape as a result of an activity which is likely to be carried out from any land, the local government may give to the owner and or occupier a notice providing that the activity may only be carried on subject to conditions specified in the notice.

### **3.5 Dust management**

If an owner or occupier of land intends to undertake any work involving the clearing of land, from which any sand or dust is likely to be released whether by means of wind, water or any other cause, shall —

- (a) submit to an authorised person a Dust Management Plan in accordance with the Department of Environment and Conservation document "A guideline for managing the impacts of dust and associated contaminants from land development sites,
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contaminated sites remediation and other related activities” (March 2011), or any updated version of this document;

- (b) obtain written approval of the Dust Management Plan from an authorised person before commencement of any work.

### ***Division 3 — Smoke***

#### **3.6 Burning of cleared vegetation prohibited**

An owner or occupier of any building or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site unless written authorization is provided by the local government.

### ***Division 4 — Unightly land and disused materials***

#### **3.7 Removal of refuse and disused materials**

- (1) The owner or occupier of a lot shall not keep, or permit to remain on the lot, any refuse, rubbish or disused material of whatever nature or kind which in the opinion of the local government or an authorised person is likely to give the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.
- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of refuse, rubbish or disused material from the lot within the time specified in the notice in accordance with the provisions of section 3.25 of the *Local Government Act 1995*.

#### **3.8 Removal of unsightly overgrowth of vegetation**

- (1) The owner or occupier of a lot shall not permit to remain on a lot, any unsightly overgrowth of vegetation that gives the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.
- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of the overgrowth of vegetation within the time specified in the notice.

#### **3.9 Storage of vehicles, vessels and machinery**

The owner or occupier of a lot shall not at the discretion of the local government —

- (a) store, or allow to remain in public view on any lot, more than 1 vehicle, vessel or machinery (whether licensed or not) in a state of disrepair;
  - (b) store, or allow to remain in public view on any lot, any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month;
  - (c) store, or allow to remain in public view on any lot, any vehicle, vessel or machinery parts (including tyres);
  - (d) wreck, dismantle or break up any vehicle, part or body of a vehicle, vessel or machinery except where performed —
    - (i) inside a building; or
    - (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the street and from adjoining properties; or
  - (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.
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### **3.10 Disposing of disused refrigerators or similar containers**

A person shall not place, leave or dispose of a disused refrigerator, ice chest, ice box, trunk, chest or other similar article having a compartment which has a capacity of 0.04 cubic metres or more on any land without first —

- (a) removing every door and lid and every lock, catch and hinge attached to a door or lid; or
- (b) rendering every door and lid incapable of being fastened; and
- (c) removing any refrigerants.

#### ***Division 5 — Hazardous materials***

### **3.11 Hazardous trees**

- (1) Where a tree on a lot endangers any person or thing on adjoining land, the local government may give a notice to the owner or the occupier of the lot to remove, cut, move or otherwise deal with that tree so as to make the tree safe.
- (2) Where a tree on a lot presents a serious and immediate danger to any person or thing, the local government may take any remedial action it considers appropriate in order to make the tree safe without having given the owner or occupier notice pursuant to subclause (1).
- (3) The local government reserves its right to recover any costs incurred by the local government for remedial action taken in terms of subclause (2).

#### **Part 4 — Nuisances and dangerous things**

##### ***Division 1 — Light***

### **4.1 Use of exterior lights**

An owner or occupier of land on which floodlights or other exterior lights are erected or used, shall not allow the floodlights or other exterior lights to shine directly onto any other premises.

### **4.2 Emission or reflection of light**

An owner or occupier of land shall ensure that —

- (a) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land to more than 50 lux; and
- (b) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

### **4.3 Notice may require specified action to prevent emission or reflection of light**

- (1) Where —
  - (a) floodlights or other exterior lights shine directly onto any other premises;
  - (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land to more than 50 lux; or
  - (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as an authorised person considers necessary within the time specified in the notice.

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- (2) The notice referred to in subclause (1) may direct that —
  - (a) floodlights or other exterior lights are used only during the hours specified in the notice;
  - (b) the direction in which the lights shine be altered as specified in the notice;
  - (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
  - (d) any combination of these measures that the local government believes to be appropriate to the circumstances.

### ***Division 2 — Smoke, fumes, odours and other emissions***

#### **4.4 Burning rubbish, refuse or other material**

- (1) A person shall not set fire to rubbish, refuse or other materials.
- (2) Subclause (1) does not apply to rural or rural residential zoned lots with the exception of subclause (3) below.
- (3) A person shall not set fire to rubbish, refuse or other materials on rural residential zoned property being less than 2,000 square metres unless —
  - (a) approval has first been obtained from the local government;
  - (b) the person demonstrates to the satisfaction of the local government that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;
  - (c) the material does not include any plastic, rubber, food **scraps or other material** likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
  - (d) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and
  - (e) the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.
- (4) Subclauses (1) and (3) shall not apply to any barbeque, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.
- (5) Subclause (4) is subject to any fire danger rating as determined by the Bureau of Meteorology.

#### **4.5 Escape of smoke, fumes, odours and other emissions**

An owner or occupier of land or premises **shall take reasonable steps** not cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

### ***Division 3 — Trucks***

#### **4.6 Livestock vehicles**

- (1) A person shall not park a vehicle containing livestock in a townsite for a period in excess of 30 minutes.
  - (2) A person shall not park a vehicle which contains or has been used for the carriage of livestock so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.
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- (3) If a person parks a vehicle containing livestock in a townsite in accordance with subclause (1), then the person does not contravene subclause (2).

#### **4.7 Truck noise from residential land**

A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 10.30 pm and 6.30 am on the following day without first obtaining the written consent of the local government.

### ***Division 4 — Swimming pool backwash management***

#### **4.8 Disposal of swimming pool backwash**

- (1) The owner or occupier of land on which a swimming pool is constructed shall ensure that all backwash is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.
- (2) Subclause (1) shall not prevent the discharge of swimming pool backwash from a lot into a local government approved stormwater drain or road by a method approved by an authorised person.

### ***Division 5 — Stormwater management***

#### **4.9 Containment of stormwater**

- (1) Subject to subclause (2), the owner or occupier of a lot shall ensure that all stormwater received by any building, house, other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is contained within the lot and is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.
- (2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain or road.

### ***Division 6 — Amusement activities***

#### **4.10 Nuisance**

A person shall not, without written authorisation from the local government, provide or conduct any amusement on land so as to create or be a nuisance to any owner or occupier of land in the district.

#### **4.11 Abatement by authorised person**

Subject to written authorization, and Divisions 2 and 3 of Part , and Division 4 of Part 2 of the *Public Health Act 2016* an authorised person may enter on any land where an amusement is provided or conducted and may do any act or thing reasonably required to abate a nuisance referred to in clause 4.10.

### ***Division 7 — Advertising, bill posting and junk mail***

#### **4.12 Placement of advertisement, bill posting or junk mail**

- (1) A person shall not, without written authorisation from the local government, place or affix any letter, figure, device, poster, sign or advertisement on any buildings, fences or posts.
  - (2) A person shall not place in or on any letter box, gate, fence or generally leave or distribute to any property in the district, any handbill, poster, pamphlet, flyer or other form of advertising or
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promotional material, where there is clearly displayed a sign or notice which states “no junk mail” or words of similar effect.

(3) Subclause (1) does not apply to numbers or letters that indicate a house, unit, or building street number.

#### **4.13 Exemptions**

Clause 4.12 does not apply to —

- (a) delivery of articles by Australia Post;
- (b) documents issued under or for the purposes of an Act of Parliament;
- (c) an authorised person or member of the Police Force acting in the course of their duties;
- (d) electoral materials; or
- (e) legal process.

### ***Division 8 — Bird nuisance***

#### **4.14 Restrictions on feeding of birds**

- (1) A person shall not feed a bird —
  - (a) so as to cause a nuisance, or
  - (b) with a food or substance that is not a natural food of a bird.
- (2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may serve the person a notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

### **Part 5 — Objections and appeals**

#### **5.1 Objections and appeals**

When the local government makes a decision under this local law as to whether it will —

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to that decision.

### **Part 6 — Enforcement**

#### ***Division 1 — Notice of breach***

#### **6.1 Notice of breach**

- (1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such breach.
  - (2) A notice issued pursuant to subclause (1) shall —
    - (a) specify the provision of this local law which has been breached;
    - (b) specify the particulars of the breach; and
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- (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 28 days from the giving of the notice.
- (3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

## **6.2 Form of notices**

Where this local law refers to the giving of a notice other than the giving of an infringement notice and no particular form is prescribed, it will be sufficient that the notice be in writing giving adequate details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

## **6.3 When local government may undertake work required by notice**

- (1) This clause applies only in respect of a notice issued under clauses 3.7(2), 3.8(2), 3.11(1) and 4.3(1) of this local law.
- (2) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of subdivision 2 of Division 3 of Part 3 and subdivision 3 of Division 3 of Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.
- (3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.

### ***Division 2 — Offences and penalties***

#### ***Subdivision 1 — General***

## **6.4 Offences and penalties**

- (1) A person who —
  - (a) fails to do anything required or directed to be done under this local law;
  - (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
  - (c) does anything which under this local law that person is prohibited from doing;commits an offence.
- (2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.
- (3) A person who commits an offence under this local law is liable to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

#### ***Subdivision 2 — Infringement notices and modified penalties***

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## **6.5 Prescribed offences**

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of the *Local Government Act 1995*.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) An authorised person should be satisfied that —
  - (a) commission of the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable;

before giving an infringement notice to a person in respect of the commission of a prescribed offence.

## **6.6 Form of infringement notices**

For the purposes of this local law —

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the *Local Government Act 1995* is that of Form 1 in Schedule 1 of the Regulations;
  - (b) the form of the infringement notice given under section 9.16 of the *Local Government Act 1995* is that of Form 2 in Schedule 1 of the Regulations; and
  - (c) the form of the notice given under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the Regulations.
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## Schedule 1 — Prescribed offences

[cl. 6.5]

Item No	Clause	Nature of Offence	Modified Penalty
1	2.2(a)	Failure to keep premises free from excrement, filth, food waste and other matter likely to be offensive or injurious to health, or attracts vermin or insects	\$150
2	2.2(b)	Failure to clean and disinfect premises when directed by an EHO	\$150
3	2.2(c)	Failure to keep premises free of vermin or flies, or when directed by an EHO, spray premises with residual insecticide or use other means to kill or repel flies	\$150
4	2.3	Failure to comply with enclosure requirements	\$150
5	2.4(1)	Keeping more than 3 cats over the age of 3 months without exemption from the local government	\$150
6	2.4(7)	Establish or maintain a cattery on any lot within the district without approval	\$150
7	2.4(7)	Fail to maintain cattery in compliance with conditions of approval	\$150
8	2.5	Keep, or permit to be kept, any poultry, not in accordance with conditions of these local laws	\$150
9	2.8	Keep a rooster, turkey, goose or geese, or peafowl	\$150
10	2.9 (2)	Failing to keep cages, enclosures and lofts maintained to minimum standard specified in the Code of Practice	\$150
11	2.11	Failing to prevent pigeons nesting or perching	\$150
12	2.12	Failing to keep aviary birds in accordance with conditions of this local law	\$150
13	2.13	Keeping birds so as to create a nuisance or emit an unreasonable noise	\$150
14	2.14(1)	Failure to obtain a permit to keep bees	\$150
15	2.14(4)	Failure to comply with any obligation when temporarily keeping bees	\$150
16	2.16 (2)	Failure to comply with a condition of a permit to keep bees	\$150
17	2.21	Creation of a nuisance from keeping of bees or beehives	\$150
18	2.22	Failure to comply with notice of local government	\$150
19	2.23(a)	Keeping a farm animal without a valid permit	\$150
20	2.28	Failure to comply with the conditions for keeping farm animals	\$150
21	2.29	Keeping a miniature horse on land without approval	\$150
22	2.30	Keeping a miniature pig on land without approval	\$150
23	2.32	Permitting livestock to stray, or be at large in a street, public place or private property without consent	\$150
24	2.34	Failing to keep property fenced in a manner capable of confining livestock	\$150
25	3.1	Failure to provide or maintain a refuse receptacle on a building or development site	\$250
26	3.2	Failure to control refuse on a building or development site	\$250
27	3.3	Unauthorised storage of materials	\$250
28	3.4	Release or escape of dust or liquid waste from land	\$250
29	3.5	Commencing works involving clearing of land without an approved Dust Management Plan	\$250

30	3.6	Burning of cleared vegetation or other material from a building or development site	\$250
31	3.9(a)	Storing, or allow to remain on land, more than one vehicle, vessel or machinery in a state of disrepair	\$250
32	3.9(b)	Storing, or allow to remain on land, any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month	\$250
33	3.9(c)	Storing, or allow to remain on land, any vehicle, vessel or machinery parts (including tyres)	\$250
34	3.9(d)(i)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building	\$250
35	3.9(d)(ii)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not behind a sufficient fence or wall	\$250
36	3.9(e)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	\$250
37	3.10	Disposing of disused refrigerator or similar container with door/lid that can be fastened without removing the refrigerant, door, lid, lock, catch, hinge and rendering the door/lid incapable of being fastened.	\$250
38	4.1	Erection or use of lighting installations other than in accordance with this local law	\$250
39	4.2 (b)	Emitting light so as to create or cause a nuisance	\$250
40	4.5	Permitting the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	\$250
41	4.6(1)	Parking a livestock vehicle in an urban area or townsite in excess of 30 minutes	\$250
42	4.7	Starting or driving a truck on residential land, or adjoining residential land, without consent of the local government	\$250
43	4.8(1)	Discharging swimming pool backwash onto adjacent land so as to cause a nuisance or cause damage	\$250
44	4.9(1)	Failure to ensure that all rainwater or storm water received by a lot and any building, house or structure on the lot, is contained within the lot or discharged directly to a stormwater drain or road	\$250
45	4.10	Conducting an amusement so as to create a nuisance	\$250
46	4.12(1)	Unauthorised placement of advertisement, bill posting or junk mail	\$100
47	4.12(2)	Placement of advertisement, bill posting or junk mail where a "no junk mail", or equivalent, sign is displayed	\$100
48	4.14(1)(a)	Feeding a bird which causes a nuisance	\$250
49	4.14(1)(b)	Feeding a bird a food/substance that is not a natural food	\$250
50	6.4(1)(b)	Failure to comply with notice	\$250



The Common Seal of the Shire of Mingenew was affixed by authority of a resolution of the Council in the presence of:

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**Cr Michelle BAGLEY**  
Shire President

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**Mr M WHITELY**  
Chief Executive Officer

Dated \_\_\_\_ / \_\_\_\_ / \_\_\_\_

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# SHIRE OF MINGENEW



## PROPOSED CEMETERIES LOCAL LAW

SEPTEMBER 2017

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF MINGENEW

**CEMETERIES LOCAL LAW 2017**

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**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

SHIRE OF MINGENEW

**CEMETERIES LOCAL LAW 2017**

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mingenew resolved on **20 September 2017** to make the following local law.

**Part 1 – Preliminary**

**1.1 Citation**

This local law may be cited as the *Shire of Mingenew Cemeteries Local Law 2017*.

**1.2 Application**

This local law applies to the Mingenew Townsite Cemetery located in the district.

**1.3 Commencement**

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

**1.4 Repeal**

**The *By-laws of the Mingenew Public Cemetery* published in the *Government Gazette* on 27 November 1953 is repealed.**

**1.5 Interpretation**

In this local law, unless the context otherwise requires –

**Act** means the *Cemeteries Act 1986*;

**AS** means an Australian Standard published by Standards Australia as amended from time to time that is available at [www.standards.org.au](http://www.standards.org.au) and should be used as the contextual reference;

**ashes** means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

**authorised officer** means an employee of the Board appointed by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this local law;

**Board** means the local government of the Shire of Mingenew;

**CEO** means the Chief Executive Officer, for the time being, of the Board who is also Chief Executive Officer of the Shire of Mingenew;

**district** means the district of the local government;

**funeral director** means a person holding a current funeral director's licence;

**local government** means the district of the Shire of Mingenew;

**mausoleum** means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

**monumental mason** means a person holding a current monumental mason's licence;

**personal representative** means the administrator or executor of an estate of a deceased person;

**set fee** refers to fees and charges set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

**single funeral permit** means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit; and

**vault** means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

## **Part 2 – Administration**

### **2.1 Powers and functions of CEO**

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

## **Part 3 – Application for funerals**

### **3.1 Application for burial**

(1) A person may apply for approval to bury a dead body or dispose of ashes in the cemetery in the form determined by the Board from time to time.

(2) An application under subclause (1) is to be accompanied by the set fee.

### **3.2 Applications to be accompanied by certificates etc**

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

### **3.3 Certificate of identification**

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless –

- (a) in the opinion of a funeral director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

(2) A funeral director shall complete a certificate in the form determined by the Board from time to time, where –

- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

### **3.4 Minimum notice required**

All bookings to hold a funeral shall be made with the Board at least 24 hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

## **Part 4 - Funeral directors**

### **4.1 Funeral director's licence expiry**

A funeral director's licence shall expire on 30 June of each year.

### **4.2 Single funeral permits**

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

### **4.3 Application refusal**

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

## **Part 5 – Funerals**

### **5.1 Requirements for funerals and coffins**

A person shall not bring a dead body into the cemetery unless –

- (a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this local law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

## **5.2 Funeral processions**

The time fixed by the Board for any burial shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 shall pay the set fee for being late.

## **5.3 Vehicle entry restricted**

(1) Subject to subclause (2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.

(2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

## **5.4 Vehicle access and speed limitations**

(1) A person shall drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the CEO.

(2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 25 km per hour, and shall comply with the signs and directions in the cemetery.

## **5.5 Offenders may be ordered to leave**

(1) A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised officer.

(2) A person who has been ordered to leave the cemetery by the CEO or an authorised officer is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony or procession.

## **5.6 Conduct of funeral by Board**

When conducting a funeral under section 22 of the Act the Board may –

(a) require a written request for it to conduct a funeral to be lodged with it;

(b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;

(c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;

(d) specify an area in the cemetery where the dead body is to be buried or the ashes placed;

(e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; or

(f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

## **5.7 Disposal of ashes**

(1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee, the Board may grant permission for the ashes to be disposed of by one of the following methods -



Niche wall  
Memorial wall  
Garden of remembrance  
Ground niche  
Memorial rose, tree or shrub  
Memorial desk  
Other memorials approved by the Board

Granite seat  
Family grave  
Book of remembrance  
Scattering of ashes to the winds  
Family shrub  
Memorial gardens

(2) Subject to subclauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

(3) An authorised officer may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided –

(a) the person requesting the placement of the ashes has the permission of the Board; and

(b) the ashes are placed within an area set aside for that purpose by the Board.

(4) An authorised officer may place the ashes of a deceased person within a grave in accordance with Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

### **5.8 Ashes held by the Board**

(1) If at the expiration of 6 months from the date of cremation at a cemetery –

(a) the ashes of the deceased person have not been claimed; or

(b) no arrangements have been made for the placement of the ashes of a deceased person by the personal representative, then the Board may dispose of the ashes in the cemetery by any of the methods listed in **clause 5.7.**

(2) If prior to the expiration of 6 months from the date of cremation the personal representative of the deceased person requests the Board to store the ashes of the deceased person, and pays to the Board the set fee monthly in advance for such storage, the Board shall store the ashes in safe custody.

(3) Notwithstanding subclause (2), should the personal representative default in the payment of the fee referred to in subclause (2), the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.7.

## **Part 6 – Burials**

### **6.1 Depth of graves**

(1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is –

- (a) subject to paragraph (b), less than 750mm, unless that person has the permission of an authorised officer; or
  - (b) in any circumstances less than 600mm.
- (2) The permission of the authorised officer in subclause (1)(a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

## **6.2 Mausoleum, etc**

- (1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.
- (2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.
- (3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (4) A person shall not place a dead body in a mausoleum except –
  - (a) in a closed coffin; and
  - (b) in a soundly constructed chamber; and
  - (c) in accordance with subclause (5).
- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

## **Part 7 – Memorials and other work**

### ***Division 1 – General***

#### **7.1 Application for monumental work**

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

#### **7.2 Placement of monumental work**

Every memorial shall be placed on proper and substantial foundations.

#### **7.3 Removal of rubbish**

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

#### **7.4 Operation of work**

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised officer shall direct.

### **7.5 Removal of sand, soil or loam**

No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the Board.

### **7.6 Hours of work**

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

### **7.7 Unfinished work**

Should any work by masons or others be not completed before 6.00pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

### **7.8 Use of wood**

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the Board.

### **7.9 Plants and trees**

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the CEO.

### **7.10 Supervision**

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

### **7.11 Australian War Graves**

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves –

- (a) may place a memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

### **7.12 Placing of glass domes and vases**

A person shall not place glass domes, vases or other grave ornaments –

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

## ***Division 2 – Lawn section***

### **7.13 Specification of monuments**

- (1) All monuments in the lawn section of a cemetery shall –

- (a) be made of natural stone; and
  - (b) be placed upon a base of natural stone; and
  - (c) comply with the following specifications –
    - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05 m;
    - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 mm nor more than 450 mm;
    - (iii) the width of the base of the monument shall not exceed 1.20 m;
    - (iv) the depth of the base of the monument shall not exceed 300 mm; and
  - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.
- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

#### **7.14 Headstones**

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

#### ***Division 3 – Memorial plaque section***

##### **7.15 Requirements of a memorial plaque**

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall –
  - (a) be made of admiralty bronze or any other material approved by the Board; and
  - (b) not be less than the dimensions 380 mm x 280 mm, nor more than 560 mm x 305 mm.
- (2) All memorial plaques made of admiralty bronze shall –
  - (a) not exceed 20 mm in thickness; and
  - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall –
  - (a) not exceed 50 mm in thickness placed upon a base mounting approved by the Board; or
  - (b) not be less than 100 mm in thickness if it is not to be placed upon a base mounting.

#### ***Division 4 – Licensing of Monumental Masons***

##### **7.16 Monumental mason's licence**

- (1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under subclause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this local law and such conditions as the Board shall specify upon the issue of that licence.

### **7.17 Expiry date, non-transferability**

A monumental mason's licence –

- (a) shall be valid from the date specified therein until 30 June next following; and
- (b) is not transferable.

### **7.18 Carrying out monumental work**

A person shall not carry out monumental work within the cemetery unless that person –

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.16; or
- (b) is an employee of a person who holds such a licence; or
- (c) is authorised by the Board to do so.

### **7.19 Responsibilities of the holder of a monumental mason's licence**

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this local law, the Act and any other written law which may affect the carrying out of monumental works.

### **7.20 Cancellation of a monumental mason's licence**

(1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds:

- (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works;
- (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
- (c) that the holder of the licence has purported to transfer the licence issued to that holder.

(2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

## **Part 8 – General**

### **8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an **assistance animal** as defined in section 9(2) of the *Disability Discrimination Act 1992* or with the approval of the CEO or an authorised officer.

### **8.2 Damaging and removing of objects**

Subject to clause 8.3, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

### **8.3 Withered flowers**

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

### **8.4 Littering and vandalism**

A person shall not –

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery; or
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

### **8.5 Advertising**

(1) A person shall not advertise or carry on any trade, business or profession within the cemetery without the prior written approval of the Board.

(2) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

### **8.6 Obeying signs and directions**

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised officer.

### **8.7 Removal from the cemetery**

Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board, the CEO or an authorised officer is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

## **Part 9 – Offences and modified penalties**

### **9.1 General**

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

### **9.2 Modified penalties**

- (1) The offences specified in Schedule 1 are offences which may be dealt with under section 63 of the Act.
- (2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Schedule 2.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 3.

**Schedule 1 – Modified Penalties**

<b>Item No.</b>	<b>Clause</b>	<b>Nature of Offence</b>	<b>Modified Penalty</b>
1	5.4(1)	Not driving vehicle on vehicular access way or constructed roadways or within designated areas	\$50.00
2	5.4(2)	Exceeding speed limit	\$50.00
3	7.3	Non removal of rubbish and surplus materials	\$50.00
4	7.5	Unauthorised use of sand, earth or other material taken from the cemetery	\$50.00
5	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
6	8.1	Unauthorised bringing in of animal into cemetery or permitting animal to remain in cemetery	\$50.00
7	8.3	Damaging and removing of objects	\$50.00
8	8.4	Littering and vandalism	\$50.00
9	8.5	Unauthorised advertising, and/or trading	\$50.00
10	8.7	Disobeying sign or lawful direction	\$50.00

**Schedule 2 – Infringement Notice**

[Clause 9.2(3)]

**Infringement Notice**

To: \_\_\_\_\_

(Name)

\_\_\_\_\_  
(Address)

It is alleged that at \_\_\_\_:\_\_\_\_ hours on \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

at \_\_\_\_\_

you committed the offence indicated below by an (x) in breach of clause ..... of the *Shire of Mingenew Cemeteries Local Law 2017*.

\_\_\_\_\_  
(Authorised Person)

Offence

- Not driving vehicle on vehicular access way or designated areas
- Exceeding speed limit
- Not removing rubbish and surplus materials
- Unauthorised use of materials taken from the cemetery
- Leaving uncompleted works in an untidy or unsafe condition
- Unauthorised animal in cemetery
- Damaging and removing of objects
- Littering and vandalism
- Unauthorised advertising and/or trading
- Disobeying sign or lawful direction
- Other Offence: \_\_\_\_\_ \$ \_\_\_\_\_

You may dispose of this matter by payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Mingenew at 22 Victoria Street MINGENEW WA 6522 between the hours of 9am to 4.30pm, Monday to Friday. Please make cheques payable to Shire of Mingenew. Payments by mail should be addressed to –

*The Chief Executive Officer*

*Shire of Mingenew*

*22 Victoria Street (PO Box 120) MINGENEW WA 6522*

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

\_\_\_\_\_



**Schedule 3 – Infringement Withdrawal Notice**

[Clause 9.2(4)]

**Withdrawal of Infringement Notice**

No. \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

To: [1] \_\_\_\_\_

Infringement Notice No \_\_\_\_\_ dated \_\_\_\_/\_\_\_\_/\_\_\_\_ for the alleged offence of [2]

Penalty [3] \$ \_\_\_\_\_ is withdrawn.

(Delete whichever does not apply)

\* No further action will be taken.

\* It is proposed to institute court proceedings for the alleged offence.

(Authorised Person)

[1] Insert name and address of alleged offender.

[2] Insert short particulars of offence alleged.

[3] Insert amount of penalty prescribed.

---

**The Common Seal of the Shire of Mingenew was affixed by authority of a resolution of the  
Council in the presence of:**

\_\_\_\_\_  
**Cr Michelle BAGLEY**

Shire President

\_\_\_\_\_  
**Mr M WHITELY**

Chief Executive Officer

Dated \_\_\_\_/\_\_\_\_/2017

**SHIRE OF MINGENEW**



**PROPOSED EXTRACTIVE INDUSTRIES LOCAL LAW**

**SEPTEMBER 2017**

# LOCAL GOVERNMENT ACT 1995

Shire of Mingenew

## EXTRACTIVE INDUSTRIES LOCAL LAW 2017

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**SCHEDULE 1**

# LOCAL GOVERNMENT ACT 1995

Shire of Mingenew

## EXTRACTIVE INDUSTRIES LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mingenew resolved on **20 September 2017** to make the following local law.

### PART 1—PRELIMINARY

#### 1.1. Citation

This local law may be cited as the *Shire of Mingenew Extractive Industries Local Law 2017*.

#### 1.2. Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

#### 1.3 Definitions

In this local law, unless the context otherwise requires—

**Act** means the *Local Government Act 1995*;

**AS or AS/NZS** means an Australian Standard or Australian/New Zealand Standard published by Standards Australia as amended from time to time that is available at [www.standards.org.au](http://www.standards.org.au) and should be used as the contextual reference;

**Carry on an extractive industry** means quarrying and excavating for stone, gravel, sand, and other material and means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes —

- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;

**CEO** means the Chief Executive Officer of the local government;

**district** means the district of the local government;

**excavation** includes quarry;

**land**, unless the context otherwise requires, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

**licence** means a licence issued under this local law;

**licensee** means the person named in the licence as the licensee;

**local government** means the Shire of Mingenew;

**nuisance** means—

- (a) An activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) An unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) Interference which causes material damage to land or other property on the land affected by the interference;

**occupier** has the meaning given to it in the Act;

**owner** has the meaning given to it in the Act;

**person** does not include the local government;

**secured sum** means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

**site** means the land specified by the local government in a licence.

#### **1.4. Application**

(1) The provisions of this local law—

- (a) subject to paragraphs (b), (c), (d) and (e);
  - (i) apply and have force and effect throughout the whole of the district; and
  - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;
- (b) do not apply to the extraction of minerals under the *Mining Act 1978*;
- (c) do not apply to the carrying on of an extractive industry on Crown land;
- (d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and
- (e) do not affect the validity of any licence issued by the local government if that licence is currently in force at the date of gazettal of this local law.

(2) In sub clause (1) (d) land includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in sub clause (1) (d).

### **PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY**

#### **2.1. Extractive Industries Prohibited Without Licence**

A person must not carry on an extractive industry—

- (a) unless the person is the holder of a valid and current licence; and
- (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5,000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

#### **2.2. Application for Licence**

(1) Subject to sub clause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicants, the owner of the land and any occupier of the land to the CEO together with—

- (a) three copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—

- (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
  - (ii) the land on which the excavation site is to be located;
  - (iii) the external surface dimensions of the land;
  - (iv) the location and depth of the existing and proposed excavation of the land;
  - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
  - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
  - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
  - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
  - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
  - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) three copies of a works and excavation **plan** containing—
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
  - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
  - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
  - (iv) details of the depth and extent of the existing and proposed excavation of the site;
  - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
  - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
  - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
  - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
  - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
  - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
  - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
  - (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
  - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
  - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
  - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) three copies of a rehabilitation and decommissioning programme indicating—

- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
  - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
  - (iii) how any face is to be made safe and batters sloped;
  - (iv) the method by which topsoil is to be replaced and revegetated;
  - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
  - (vi) how rehabilitated areas are to be maintained; and
  - (vii) the programme for the removal of buildings, plant, waste and final site clean up;
  - (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
  - (e) a certificate from a licensed surveyor certifying the correctness of—
    - (i) the plan referred to in paragraph (b); and
    - (ii) the datum peg and related point referred to in paragraph (d);
  - (f) copies of all land use planning approvals required under any planning legislation;
  - (g) copies of any environmental approval required under any environmental legislation;
  - (h) copies of any geotechnical information relating to the excavation site;
  - (i) the consent in writing to the application from the owner of the excavation site;
  - (j) the licence application fee specified by the local government from time to time; and
  - (k) any other information that the local government may reasonably require.
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation—
- (a) the surface area is not to exceed 2,000 square metres; and
  - (b) the extracted material is not to exceed 2,000 cubic metres;
- the local government may exempt a person making application for a licence under sub clause (1) from supplying any of the data specified in paragraphs (c), (e) and (f) of sub clause (1).

## **PART 3—DETERMINATION OF APPLICATION**

### **3.1. Determination of Application**

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.2, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government will notify in writing, unless previously undertaken during the planning application process, all—
- (a) land owners and occupiers of all land adjoining upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence; and
  - (b) referral authorities having control or jurisdiction within an area determined by the local government as likely to be affected by the granting of a licence; and
  - (c) the general public by notice in a newspaper circulating in the local area; advising of the application and specifying that they may, within twenty-one days from the date of the notice, object to or make representations in writing in respect of the issue of a licence by the local government.
- (3) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
  - (b) approve the application—
    - (i) over the whole or part of the land in respect of which the application is made; and



- (ii) on such terms and conditions, if any, as it sees fit.
- (4) Where the local government approves an application for a licence, it shall—
- (a) determine the licence period, not exceeding 21 years from the date of issue; and
  - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (5) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, as determined by the local government from time to time in accordance with section 6.16 to 6.19 of the Act;
  - (b) payment of the secured sum if any, imposed under clause 5.1;
  - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
  - (d) a copy of the public liability insurance policy required under clause 7.1(1)
- shall issue the licence to the applicant.
- (6) Without limiting sub clause (3), the local government may impose conditions in respect of the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
  - (b) the appropriate siting of access thoroughfares, buildings and plant;
  - (c) the stockpiling of material;
  - (d) the hours during which any excavation work may be carried out;
  - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
  - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
  - (g) the depths below which a person shall not excavate;
  - (h) distances from adjoining land or thoroughfares within which a person must not excavate;
  - (i) the safety of persons employed at or visiting the excavation site;
  - (j) the control of dust and wind-blown material;
  - (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
  - (l) the prevention of the spread of dieback or other disease;
  - (m) the drainage of the excavation site and the disposal of water;
  - (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
  - (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
  - (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
  - (q) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in the upgrade, repair or damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
  - (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
  - (s) any other matter for properly regulating the carrying on of an extractive industry.

### 3.2 Payment of Annual Licence Fee

On or before 30 June each year, a licensee shall pay to the local government the annual licence fee determined by the local government from time to time **in accordance with section 6.16 to 6.19 of the Act** for the purpose of annual inspection and monitoring of conditions.

## **PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE**

### **4.1. Transfer of Licence**

- (1) An application for the transfer of a licence shall—
  - (a) be made in writing;
  - (b) be signed by the licensee and the proposed transferee of the licence;
  - (c) be accompanied by the current licence;
  - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
  - (e) include any information that the local government may reasonably require; and
  - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
  - (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

### **4.2. Cancellation of Licence**

- (1) The local government may cancel a licence where the licensee has—
  - (a) been convicted of an offence against—
    - (i) this local law; or
    - (ii) any other law relating to carrying on an extractive industry; or
  - (b) failed to comply with—
    - (i) any conditions of an excavation licence;
    - (ii) any provisions of this local law; or
    - (iii) any provisions of the Local Government's Local Planning Scheme; or
  - (c) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government; or
  - (d) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law; or
  - (e) failed to pay the annual licence fee under clause 3.2; or
  - (f) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause—
  - (a) the local government shall advise the licensee in writing of the cancellation;
  - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
  - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

### **4.3. Renewal of Licence**

- (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal—

- (a) the fee determined by the local government from time to time;
  - (b) a copy of the current licence;
  - (c) a plan showing the contours of the excavation carried out to the date of that application;
  - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.2(1)(c) and (d)"; and
  - (e) any other things referred to in clauses 2.2 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1)(d) or (e) if;
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
  - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application, then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.2 and 3.1.
- (3) Upon receipt of an application for the renewal of a licence, the local government may—
- (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.

## **PART 5—SECURED SUM AND APPLICATION THEREOF**

### **5.1. Security for Restoration and Reinstatement**

- (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—
- (a) as a condition of a licence; or
  - (b) before the issue of a licence, the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.
- (2) A bond required under sub clause (1) is to be paid into a fund established by the local government for the purposes of this clause.

### **5.2. Use by the Local Government of Secured Sum**

- (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—
- (a) within the time specified in those conditions; or
  - (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then; subject to the local government giving the licensee 14 days notice of its intention to do so—
    - (i) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
    - (ii) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.
- (3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

## **PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS**

### **6.1. Limits on Excavation near Boundary**

Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

- (a) 20 metres of the boundary of any land on which the excavation site is located;

- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 50 metres of any thoroughfare;
- (d) 50 metres of any watercourse; or
- (e) 500m of any adjoining residence;

unless approved by Council and adjoining neighbours in writing.

Penalty \$2,000

## 6.2. Obligations of the Licensee

A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
  - (i) is not more than 200 metres apart;
  - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
  - (iii) bears the words “DANGER EXCAVATIONS KEEP OUT”;
- (c) except where the local government approves otherwise, drain and keep drained to the local government’s satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

## 6.3. Prohibitions

A licensee shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;
- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the **Department of Mines, Industry Regulation and Safety**; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

## 6.4. Blasting

(1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless—

- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
- (b) Except where approval is obtained under sub clause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
- (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code as amended from time to time, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
- (d) in compliance with any other conditions imposed by the local government concerning—
  - (i) the time and duration of blasting;
  - (ii) the purposes for which the blasting may be used; and
  - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

(2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or public holiday except with the prior approval of the local government.

Penalty \$2,000

## **PART 7—MISCELLANEOUS PROVISIONS**

### **7.1. Public Liability**

- (1) A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.
- (2) The licensee shall provide to the local government a copy of the policy taken out under sub clause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

### **7.2. Mines Safety and Inspection Act and Environmental Protection Act**

- (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall—
  - (a) comply with all applicable provisions of that Act or those Acts; and
  - (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.
- (2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

### **7.3. Notice of Cessation of Operations**

- (1) Where a licensee intends to cease carrying on an extractive industry—
  - (a) temporarily for a period in excess of 12 months; or
  - (b) permanently,the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 month after those operations have ceased.
- (2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

#### **7.4. Works to be Carried Out on Cessation of Operations**

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
  - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
  - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

### **PART 8—OBJECTIONS AND APPEALS**

#### **8.1. Objections and Appeals**

When the local government makes a decision as to whether it will—

- (a) grant a person a licence under this local law; or
- (b) renew, vary, or cancel a licence that a person has under this local law;

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply to that decision.

### **PART 9—MODIFIED PENALTIES**

#### **9.1. Prescribed Offence**

An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

#### **9.2. Modified Penalty**

The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

#### **9.3. Forms**

For the purposes of this local law—

(a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and

(b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

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**SCHEDULE 1**  
**PRESCRIBED OFFENCES (clause 9.1)**

<b>Item No.</b>	<b>Clause</b>	<b>Nature of Offence</b>	<b>Modified Penalty</b>
1	2.1 (a)	Carry on extractive industry without licence	\$350
2	2.1 (b)	Failure to comply with terms and conditions of licence imposed by the local government	\$350
3	6.1	Excavate without approval	\$200
4	6.2(a)	Failure to securely fence and/or keep gateways locked where required	\$350
5	6.2(b)	Warning signs not erected or maintained as required	\$350
6	6.2(c)	Excavation not drained as required	\$350
7	6.2(d)	Excavation site not restored and reinstated in accordance with terms and conditions	\$500
8	6.2(e)	All reasonable steps not taken to prevent the emission of dust, noise, vibration and other forms of nuisance	\$500
9	6.2(f)	Other conditions not complied with	\$500
10	6.3(a)	Remove trees or shrubs near boundary without approval	\$300
11	6.3(b)	Store without required approval explosives or explosive devices	\$350
12	6.3(c)	Fill or excavate in breach of licence	\$350
13	6.4 (1)(a)	Blasting without approval of the local government	\$200
14	6.4(1)(b)	Blasting outside times authorised	\$200
15	6.4(1)(d)	Blasting in breach of conditions imposed by the local government	\$200
16	6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	\$200

**The Common Seal of the Shire of Mingenew was affixed by authority of a resolution of the Council in the presence of:**

\_\_\_\_\_  
**Cr Michelle BAGLEY**  
Shire President

\_\_\_\_\_  
**Mr M WHITELY**  
Chief Executive Officer

Dated: \_\_\_\_ / \_\_\_\_ /2017



**SHIRE OF MINGENEW**



**PROPOSED EXTRACTIVE INDUSTRIES LOCAL LAW**

**SEPTEMBER 2017**

# LOCAL GOVERNMENT ACT 1995

Shire of Mingenew

## EXTRACTIVE INDUSTRIES LOCAL LAW 2017

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**SCHEDULE 1**

# LOCAL GOVERNMENT ACT 1995

Shire of Mingenew

## EXTRACTIVE INDUSTRIES LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mingenew resolved on **20 September 2017** to make the following local law.

### PART 1—PRELIMINARY

#### 1.1. Citation

This local law may be cited as the *Shire of Mingenew Extractive Industries Local Law 2017*.

#### 1.2. Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

#### 1.3 Definitions

In this local law, unless the context otherwise requires—

**Act** means the *Local Government Act 1995*;

**AS or AS/NZS** means an Australian Standard or Australian/New Zealand Standard published by Standards Australia as amended from time to time that is available at [www.standards.org.au](http://www.standards.org.au) and should be used as the contextual reference;

**Carry on an extractive industry** means quarrying and excavating for stone, gravel, sand, and other material and means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes —

- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration;

**CEO** means the Chief Executive Officer of the local government;

**district** means the district of the local government;

**excavation** includes quarry;

**land**, unless the context otherwise requires, means the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

**licence** means a licence issued under this local law;

**licensee** means the person named in the licence as the licensee;

**local government** means the Shire of Mingenew;

**nuisance** means—

- (a) An activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;
- (b) An unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or
- (c) Interference which causes material damage to land or other property on the land affected by the interference;

**occupier** has the meaning given to it in the Act;

**owner** has the meaning given to it in the Act;

**person** does not include the local government;

**secured sum** means the sum required to be paid or the amount of a bond, guarantee or other security under clause 5.1;

**site** means the land specified by the local government in a licence.

#### **1.4. Application**

(1) The provisions of this local law—

- (a) subject to paragraphs (b), (c), (d) and (e);
  - (i) apply and have force and effect throughout the whole of the district; and
  - (ii) apply to every excavation whether commenced prior to or following the coming into operation of this local law;
- (b) do not apply to the extraction of minerals under the *Mining Act 1978*;
- (c) do not apply to the carrying on of an extractive industry on Crown land;
- (d) do not apply to the carrying on of an extractive industry on land by the owner or occupier of that land for use on that land; and
- (e) do not affect the validity of any licence issued by the local government if that licence is currently in force at the date of gazettal of this local law.

(2) In sub clause (1) (d) land includes adjoining lots or locations in the same occupation or ownership of the owner or occupier referred to in sub clause (1) (d).

### **PART 2—LICENSING REQUIREMENTS FOR AN EXTRACTIVE INDUSTRY**

#### **2.1. Extractive Industries Prohibited Without Licence**

A person must not carry on an extractive industry—

- (a) unless the person is the holder of a valid and current licence; and
- (b) otherwise than in accordance with any terms and conditions set out in, or applying in respect of, the licence.

Penalty \$5,000 and a daily penalty not exceeding a fine of \$500 in respect of each day or part of a day during which an offence has continued.

#### **2.2. Application for Licence**

(1) Subject to sub clause (3), a person seeking the issue of a licence in respect of any land shall apply in the form determined by the local government from time to time and must forward the application duly completed and signed by each of the applicants, the owner of the land and any occupier of the land to the CEO together with—

- (a) three copies of a plan of the excavation site to a scale of between 1:500 and 1:2000 showing—

- (i) the existing and proposed land contours based on the Australian Height Datum and plotted at 1 metre contour intervals;
  - (ii) the land on which the excavation site is to be located;
  - (iii) the external surface dimensions of the land;
  - (iv) the location and depth of the existing and proposed excavation of the land;
  - (v) the location of existing and proposed thoroughfares or other means of vehicle access to and egress from the land and to public thoroughfares in the vicinity of the land;
  - (vi) the location of buildings, treatment plant, tanks and other improvements and developments existing on, approved for or proposed in respect of the land;
  - (vii) the location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
  - (viii) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
  - (ix) the location and description of existing and proposed fences, gates and warning signs around the land; and
  - (x) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (b) three copies of a works and excavation **plan** containing—
- (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
  - (ii) the stages and the timing of the stages in which it is proposed to carry out the excavation;
  - (iii) details of the methods to be employed in the proposed excavation and a description of any on-site processing works;
  - (iv) details of the depth and extent of the existing and proposed excavation of the site;
  - (v) an estimate of the depth of and description of the nature and quantity of the overburden to be removed;
  - (vi) a description of the methods by which existing vegetation is to be cleared and topsoil and overburden removed or stockpiled;
  - (vii) a description of the means of access to the excavation site and the types of thoroughfares to be constructed;
  - (viii) details of the proposed number and size of trucks entering and leaving the site each day and the route or routes to be taken by those vehicles;
  - (ix) a description of any proposed buildings, water supply, treatment plant, tanks and other improvements;
  - (x) details of drainage conditions applicable to the land and methods by which the excavation site is to be kept drained;
  - (xi) a description of the measures to be taken to minimise sand drift, dust nuisance, erosion, watercourse siltation and dangers to the general public;
  - (xii) a description of the measures to be taken to comply with the *Environmental Protection (Noise) Regulations 1997*;
  - (xiii) a description of the existing site environment and a report on the anticipated effect that the proposed excavation will have on the environment in the vicinity of the land;
  - (xiv) details of the nature of existing vegetation, shrubs and trees and a description of measures to be taken to minimise the destruction of existing vegetation; and
  - (xv) a description of the measures to be taken in screening the excavation site, or otherwise minimising adverse visual impacts, from nearby thoroughfares or other areas;
- (c) three copies of a rehabilitation and decommissioning programme indicating—

- (i) the objectives of the programme, having due regard to the nature of the surrounding area and the proposed end-use of the excavation site;
  - (ii) whether restoration and reinstatement of the excavation site is to be undertaken progressively or upon completion of excavation operations;
  - (iii) how any face is to be made safe and batters sloped;
  - (iv) the method by which topsoil is to be replaced and revegetated;
  - (v) the numbers and types of trees and shrubs to be planted and other landscaping features to be developed;
  - (vi) how rehabilitated areas are to be maintained; and
  - (vii) the programme for the removal of buildings, plant, waste and final site clean up;
- (d) evidence that a datum peg has been established on the land related to a point approved by the local government on the surface of a constructed public thoroughfare or such other land in the vicinity;
- (e) a certificate from a licensed surveyor certifying the correctness of—
- (i) the plan referred to in paragraph (b); and
  - (ii) the datum peg and related point referred to in paragraph (d);
- (f) copies of all land use planning approvals required under any planning legislation;
- (g) copies of any environmental approval required under any environmental legislation;
- (h) copies of any geotechnical information relating to the excavation site;
- (i) the consent in writing to the application from the owner of the excavation site;
- (j) the licence application fee specified by the local government from time to time; and
- (k) any other information that the local government may reasonably require.
- (2) All survey data supplied by an applicant for the purpose of sub clause (1) shall comply with Australian Height Datum and Australian Map Grid standards.
- (3) Where in relation to a proposed excavation—
- (a) the surface area is not to exceed 2,000 square metres; and
  - (b) the extracted material is not to exceed 2,000 cubic metres;
- the local government may exempt a person making application for a licence under sub clause (1) from supplying any of the data specified in paragraphs (c), (e) and (f) of sub clause (1).

## **PART 3—DETERMINATION OF APPLICATION**

### **3.1. Determination of Application**

- (1) The local government may refuse to consider an application for a licence that does not comply with the requirements of clause 2.2, and in any event shall refuse an application for a licence where planning approval for an extractive industry use of the land has not first been obtained.
- (2) The local government will notify in writing, unless previously undertaken during the planning application process, all—
- (a) land owners and occupiers of all land adjoining upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence; and
  - (b) referral authorities having control or jurisdiction within an area determined by the local government as likely to be affected by the granting of a licence; and
  - (c) the general public by notice in a newspaper circulating in the local area; advising of the application and specifying that they may, within twenty-one days from the date of the notice, object to or make representations in writing in respect of the issue of a licence by the local government.
- (3) The local government may, in respect of an application for a licence—
- (a) refuse the application; or
  - (b) approve the application—
    - (i) over the whole or part of the land in respect of which the application is made; and

- (ii) on such terms and conditions, if any, as it sees fit.
- (4) Where the local government approves an application for a licence, it shall—
- (a) determine the licence period, not exceeding 21 years from the date of issue; and
  - (b) approve the issue of a licence in the form determined by the local government from time to time.
- (5) Where the local government approves the issue of a licence, the CEO upon receipt by the local government of—
- (a) payment of the annual licence fee, or the relevant proportion of the annual licence fee to 30 June, as determined by the local government from time to time in accordance with section 6.16 to 6.19 of the Act;
  - (b) payment of the secured sum if any, imposed under clause 5.1;
  - (c) the documents, if any, executed to the satisfaction of the CEO, under clause 5.1; and
  - (d) a copy of the public liability insurance policy required under clause 7.1(1)
- shall issue the licence to the applicant.
- (6) Without limiting sub clause (3), the local government may impose conditions in respect of the following matters—
- (a) the orientation of the excavation to reduce visibility from other land;
  - (b) the appropriate siting of access thoroughfares, buildings and plant;
  - (c) the stockpiling of material;
  - (d) the hours during which any excavation work may be carried out;
  - (e) the hours during which any processing plant associated with, or located on, the site may be operated;
  - (f) requiring all crushing and treatment plant to be enclosed within suitable buildings to minimise the emission of noise, dust, vapour and general nuisance to the satisfaction of the local government;
  - (g) the depths below which a person shall not excavate;
  - (h) distances from adjoining land or thoroughfares within which a person must not excavate;
  - (i) the safety of persons employed at or visiting the excavation site;
  - (j) the control of dust and wind-blown material;
  - (k) the planting, care and maintenance of trees, shrubs and other landscaping features during the time in which the extractive industry is carried out in order to effectively screen the area to be excavated and to provide for progressive rehabilitation;
  - (l) the prevention of the spread of dieback or other disease;
  - (m) the drainage of the excavation site and the disposal of water;
  - (n) the restoration and reinstatement of the excavation site, the staging of such works, and the minimising of the destruction of vegetation;
  - (o) the provision of retaining walls to prevent subsidence of any portion of the excavation or of land abutting the excavation;
  - (p) requiring the licensee to furnish to the local government a surveyor's certificate each year, prior to the renewal fee being payable, to certify the quantity of material extracted and that material has not been excavated below the final contour levels outlined within the approved excavation programme;
  - (q) requiring the licensee to enter into an agreement with the local government by which it agrees to pay any extraordinary expenses incurred by the local government in the upgrade, repair or damage caused to thoroughfares in the district by heavy or extraordinary traffic conducted by or on behalf of the licensee under the licence;
  - (r) requiring the licensee to enter into an agreement with the local government in respect of any condition or conditions imposed under this local law; and
  - (s) any other matter for properly regulating the carrying on of an extractive industry.

### 3.2 Payment of Annual Licence Fee



On or before 30 June each year, a licensee shall pay to the local government the annual licence fee determined by the local government from time to time **in accordance with section 6.16 to 6.19 of the Act** for the purpose of annual inspection and monitoring of conditions.

## **PART 4—TRANSFER, CANCELLATION AND RENEWAL OF LICENCE**

### **4.1. Transfer of Licence**

- (1) An application for the transfer of a licence shall—
  - (a) be made in writing;
  - (b) be signed by the licensee and the proposed transferee of the licence;
  - (c) be accompanied by the current licence;
  - (d) be accompanied by the consent in writing to the transfer from the owner of the excavation site;
  - (e) include any information that the local government may reasonably require; and
  - (f) be forwarded to the CEO together with the fee determined by the local government from time to time.
- (2) Upon receipt of any application for the transfer of a licence, the local government may—
  - (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.
- (3) Where the local government approves an application for the transfer of a licence, the local government shall transfer the licence by an endorsement on the licence in the form determined by the local government from time to time, signed by the CEO.
- (4) Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

### **4.2. Cancellation of Licence**

- (1) The local government may cancel a licence where the licensee has—
  - (a) been convicted of an offence against—
    - (i) this local law; or
    - (ii) any other law relating to carrying on an extractive industry; or
  - (b) failed to comply with—
    - (i) any conditions of an excavation licence;
    - (ii) any provisions of this local law; or
    - (iii) any provisions of the Local Government's Local Planning Scheme; or
  - (c) transferred or assigned or attempted to transfer or assign the licence without the consent of the local government; or
  - (d) permitted another person to carry on an extractive industry otherwise than in accordance with the terms and conditions of the licence and of the provisions of this local law; or
  - (e) failed to pay the annual licence fee under clause 3.2; or
  - (f) failed to have a current public liability insurance policy under clause 7.1(1) or failed to provide a copy of the policy or evidence of its renewal as the case may be, under clause 7.1(2).
- (2) Where the local government cancels a licence under this clause—
  - (a) the local government shall advise the licensee in writing of the cancellation;
  - (b) the cancellation takes effect on and from the day on which the licensee is served with the cancellation advice; and
  - (c) the local government shall not be required to refund any part of the fees paid by the licensee in respect of the cancelled licence.

### **4.3. Renewal of Licence**

- (1) A licensee who wishes to renew a licence must apply in writing to the local government at least 45 days before the date of expiry of the licence and shall submit with the application for renewal—

- (a) the fee determined by the local government from time to time;
  - (b) a copy of the current licence;
  - (c) a plan showing the contours of the excavation carried out to the date of that application;
  - (d) details of the works, excavation and rehabilitation stages reached and of any changes or proposed changes with respect to any of the things referred to in clauses 2.2(1)(c) and (d)"; and
  - (e) any other things referred to in clauses 2.2 and 3.1.
- (2) The local government may waive any of the requirements specified in clause 4.3 (1)(d) or (e) if;
- (a) an application to renew a licence is in relation to land in respect of which the current licence was issued less than 12 months prior to the date from which the new licence if granted would apply; and
  - (b) the methods to be employed in the proposed land excavation are identical to those being employed at the date of the application, then the applicant shall not be obliged, unless otherwise required by the local government to submit details of any of the things referred to in clauses 2.2 and 3.1.
- (3) Upon receipt of an application for the renewal of a licence, the local government may—
- (a) refuse the application; or
  - (b) approve the application on such terms and conditions, if any, as it sees fit.

## **PART 5—SECURED SUM AND APPLICATION THEREOF**

### **5.1. Security for Restoration and Reinstatement**

- (1) For the purpose of ensuring that an excavation site is properly restored or reinstated, the local government may require that—
- (a) as a condition of a licence; or
  - (b) before the issue of a licence, the licensee shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government from time to time.
- (2) A bond required under sub clause (1) is to be paid into a fund established by the local government for the purposes of this clause.

### **5.2. Use by the Local Government of Secured Sum**

- (1) If a licensee fails to carry out or complete the restoration and reinstatement works required by the licence conditions either—
- (a) within the time specified in those conditions; or
  - (b) where no such time has been specified, within 60 days of the completion of the excavation or portion of the excavation specified in the licence conditions, then; subject to the local government giving the licensee 14 days notice of its intention to do so—
    - (i) the local government may carry out or cause to be carried out the required restoration and reinstatement work or so much of that work as remains undone; and
    - (ii) the licensee shall pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (2) The local government may apply the proceeds of any bond, bank guarantee or other security provided by the licensee under clause 5.1 towards its costs under this clause.
- (3) The liability of a licensee to pay the local government's costs under this clause is not limited to the amount, if any, secured under clause 5.1.

## **PART 6—LIMITATIONS, OBLIGATIONS OF THE LICENSEE AND PROHIBITIONS**

### **6.1. Limits on Excavation near Boundary**

Subject to any licence conditions imposed by the local government, a person shall not, without the written approval of the local government, excavate within—

- (a) 20 metres of the boundary of any land on which the excavation site is located;

- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 50 metres of any thoroughfare;
- (d) 50 metres of any watercourse; or
- (e) 500m of any adjoining residence;

unless approved by Council and adjoining neighbours in writing.

Penalty \$2,000

## 6.2. Obligations of the Licensee

A licensee shall—

- (a) where the local government so requires, securely fence the excavation to a standard determined by the local government and keep the gateways locked when not actually in use in order to prevent unauthorised entry;
- (b) erect and maintain warning signs along each of the boundaries of the area excavated under the licence so that each sign—
  - (i) is not more than 200 metres apart;
  - (ii) is not less than 1.8 metres high and not less than 1 metre wide; and
  - (iii) bears the words “DANGER EXCAVATIONS KEEP OUT”;
- (c) except where the local government approves otherwise, drain and keep drained to the local government’s satisfaction any excavation to which the licence applies so as to prevent the accumulation of water;
- (d) restore and reinstate the excavation site in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government;
- (e) take all reasonable steps to prevent the emission of dust, noise, vibration and other forms of nuisance from the excavation site; and
- (f) otherwise comply with the conditions imposed by the local government in accordance with clause 3.1.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

## 6.3. Prohibitions

A licensee shall not—

- (a) remove any trees or shrubs within 40 metres (or such lesser distance as may be allowed, in writing, by the local government) of the boundary of any thoroughfare on land in respect of which a licence has been granted, except for the purpose of constructing access thoroughfares, erecting buildings or installing plant for use in connection with the excavation and then only with the express approval of the local government and subject to any conditions which the local government may impose in accordance with clause 3.1;
- (b) store, or permit to be stored, any explosives or explosive devices on the site to which the licence applies other than with the approval of the local government and the **Department of Mines, Industry Regulation and Safety**; or
- (c) fill or excavate, other than in accordance with the terms and conditions of the licence, the site plans and the works and excavation programme approved by the local government.

Penalty \$5,000 for each offence, and if an offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

## 6.4. Blasting

(1) A person shall not carry out or permit to be carried out any blasting in the course of excavating unless—

- (a) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
- (b) Except where approval is obtained under sub clause (2), the blasting takes place only between the hours of 8.00am and 5.00pm, or as determined by the local government, on Mondays to Fridays inclusive;
- (c) the blasting is carried out in strict accordance with the AS2187 SAA Explosives Code as amended from time to time, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986*, and all relevant local laws of the local government; and
- (d) in compliance with any other conditions imposed by the local government concerning—
  - (i) the time and duration of blasting;
  - (ii) the purposes for which the blasting may be used; and
  - (iii) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

(2) A person shall not carry out or permit to be carried out any blasting on a Saturday, Sunday or public holiday except with the prior approval of the local government.

Penalty \$2,000

## **PART 7—MISCELLANEOUS PROVISIONS**

### **7.1. Public Liability**

- (1) A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum of not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.
- (2) The licensee shall provide to the local government a copy of the policy taken out under sub clause (1), within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.

### **7.2. Mines Safety and Inspection Act and Environmental Protection Act**

- (1) In any case where the *Mines Safety and Inspection Act 1994* or the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site shall—
  - (a) comply with all applicable provisions of that Act or those Acts; and
  - (b) provide to the local government within 14 days full particulars of any inspection or report made under that Act or those Acts.
- (2) In this clause, the *Mines Safety and Inspection Act 1994* and the *Environmental Protection Act 1986* include all subsidiary legislation made under those Acts.

### **7.3. Notice of Cessation of Operations**

- (1) Where a licensee intends to cease carrying on an extractive industry—
  - (a) temporarily for a period in excess of 12 months; or
  - (b) permanently,the licensee shall, as well as complying with clause 7.4, give the local government written notice of the cessation not later than 1 month after those operations have ceased.
- (2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence applies the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

#### **7.4. Works to be Carried Out on Cessation of Operations**

Where the carrying on of an extractive industry on the site permanently ceases or on the expiration or cancellation of the licence applicable to the site, whichever first occurs, the licensee shall, as well as complying with the provisions of clause 7.3—

- (a) restore and reinstate the excavated site in accordance with the proposals approved by the local government or in such other manner as the local government may subsequently agree in writing with the licensee;
- (b) ensure that any face permitted to remain upon the excavation site is left safe with all loose materials removed and where the excavation site is—
  - (i) sand, the sides are sloped to a batter of not more than 1:3 (vertical:horizontal); and
  - (ii) limestone or material other than sand, the sides are sloped to a batter which, in the opinion of the local government, would enable the site to be left in a stable condition;
- (c) ensure that the agreed floor level of the excavation is graded to an even surface or is otherwise in accordance with the rehabilitation and decommissioning programme approved by the local government;
- (d) ensure that all stockpiles or dumps of stone, sand or other materials are left so that no portion of that material can escape onto land not owned or occupied by the licensee nor into any stream, watercourse or drain that is not wholly situated within the land owned or occupied by the licensee;
- (e) erect retaining walls where necessary to prevent subsidence of land in the vicinity of any excavation;
- (f) remove from the site all buildings, plant and equipment erected, installed or used for or in relation to the carrying on of an extractive industry on the site and fill all holes remaining after such removal to the level of the surrounding ground and compact such filled holes sufficiently to prevent settling; and
- (g) break up, scarify, cover with topsoil and plant with grass, trees and shrubs all parts of the site where buildings, plant and equipment were erected or installed and all areas which were used for stockpiling unless otherwise specified under this local law.

Penalty \$5,000 for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of \$500.00 in respect of each day or part of a day during which the offence has continued.

### **PART 8—OBJECTIONS AND APPEALS**

#### **8.1. Objections and Appeals**

When the local government makes a decision as to whether it will—

- (a) grant a person a licence under this local law; or
- (b) renew, vary, or cancel a licence that a person has under this local law;

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply to that decision.

### **PART 9—MODIFIED PENALTIES**

#### **9.1. Prescribed Offence**

An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

#### **9.2. Modified Penalty**

The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

#### **9.3. Forms**

For the purposes of this local law—

(a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and

(b) the form of the notice sent under section 9.20 of the Act withdrawing an infringement notice is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

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**SCHEDULE 1**  
**PRESCRIBED OFFENCES (clause 9.1)**

<b>Item No.</b>	<b>Clause</b>	<b>Nature of Offence</b>	<b>Modified Penalty</b>
1	2.1 (a)	Carry on extractive industry without licence	\$350
2	2.1 (b)	Failure to comply with terms and conditions of licence imposed by the local government	\$350
3	6.1	Excavate without approval	\$200
4	6.2(a)	Failure to securely fence and/or keep gateways locked where required	\$350
5	6.2(b)	Warning signs not erected or maintained as required	\$350
6	6.2(c)	Excavation not drained as required	\$350
7	6.2(d)	Excavation site not restored and reinstated in accordance with terms and conditions	\$500
8	6.2(e)	All reasonable steps not taken to prevent the emission of dust, noise, vibration and other forms of nuisance	\$500
9	6.2(f)	Other conditions not complied with	\$500
10	6.3(a)	Remove trees or shrubs near boundary without approval	\$300
11	6.3(b)	Store without required approval explosives or explosive devices	\$350
12	6.3(c)	Fill or excavate in breach of licence	\$350
13	6.4 (1)(a)	Blasting without approval of the local government	\$200
14	6.4(1)(b)	Blasting outside times authorised	\$200
15	6.4(1)(d)	Blasting in breach of conditions imposed by the local government	\$200
16	6.4(2)	Blasting without approval on Saturday, Sunday or public holiday	\$200

**The Common Seal of the Shire of Mingenew was affixed by authority of a resolution of the Council in the presence of:**

\_\_\_\_\_  
**Cr Michelle BAGLEY**  
Shire President

\_\_\_\_\_  
**Mr M WHITELY**  
Chief Executive Officer

Dated: \_\_\_\_ / \_\_\_\_ /2017

# SHIRE OF MINGENEW



## PROPOSED FENCING LOCAL LAW

SEPTEMBER 2017



**LOCAL GOVERNMENT ACT 1995**  
Shire of Mingenew  
**LOCAL LAW RELATING TO FENCING**

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## Local Government Act 1995

Shire of Mingenew

### LOCAL LAW RELATING TO FENCING

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mingenew resolved on **20 September 2017** to make the following local law

#### PART 1 - PRELIMINARY

##### 1. Citation

This local law may be cited as the Shire of Mingenew Local Law Relating to Fencing.

##### 2. Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

##### 3. Repeal

The Shire of Mingenew By-laws Relating to Fencing published in the *Government Gazette* of **27 August 1968** is repealed.

##### 4. Application

This local law applies throughout the district.

##### 5. Interpretation

In this local law, unless the context requires otherwise:

**“Act”** means the *Dividing Fences Act 1961*;

**“AS or AS/NZS”** means an Australian Standard or Australian/New Zealand Standard published by Standards Australia as amended from time to time that is available at [www.standards.org.au](http://www.standards.org.au) and should be used as the contextual reference;

**“boundary fence”** has the meaning given to it for the purposes of the Act;

**“Building Surveyor”** means a Building Surveyor of the local government;

**“CEO”** means the Chief Executive Officer of the local government;

**“Commercial Lot”** means a lot where a commercial use –

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

**“Council”** means the Council of the Shire of Mingenew;

**“dangerous”** in relation to any fence means;

- (a) an electrified fence other than a fence in respect of which a licence under **Part 5 of** this local law has been issued and is current;
- (b) a fence containing barbed wire other than a fence erected and maintained in

- accordance with this Local Law;
- (c) a fence containing exposed broken glass, asbestos fibre, razor wire or any other potentially harmful projection or material; or
  - (d) a fence which is likely to collapse or fall, or part of which is likely to collapse or fall, from any cause;

**“district”** means the district of the local government;

**“dividing fence”** has the meaning given to it in and for the purposes of the Act;

**“electrified fence”** means a fence carrying or designed to carry an electric charge;

**“fence”** means any structure, including a retaining wall, used or functioning as a barrier, irrespective of where it is located and includes any gate;

**“frontage”** means the boundary line between a lot and the thoroughfare upon which that lot abuts;

**“height”** in relation to a fence means the vertical distance between:

- (a) the top of the fence at any point; and
- (b) the ground level or, where the ground levels on each side of the fence are not the same, the higher ground level, immediately below that point;

**“Industrial Lot”** means a lot where an industrial use -

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

**“licence”** means an electrified fence licence or a razor wire fence licence;

**“local government”** means the Shire of Mingenew;

**“lot”** has the meaning given to it in and for the purposes of the *Planning and Development Act 2005*;

**“notice of breach”** means a notice referred to in clause 17(1);

**“Residential Lot”** means a lot where a residential use -

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

**“retaining wall”** means any structure which prevents the movement of soil in order to allow ground levels of different elevations to exist adjacent to one another;

**“Rural Lot”** means a lot where a rural use -

- (a) is or may be permitted under the town planning scheme; and
- (b) is or will be the predominant use of the lot;

**“Schedule”** means a Schedule to this Local Law;

**“setback area”** has the meaning given to it for the purposes of the local governments town planning scheme;

**“Special Rural Lot”** means a lot where a special rural use -

- (a) is or may be permitted under the local governments town planning scheme; and
- (b) is or will be the predominant use of the lot;

**“sufficient fence”** means a fence described in part 2 of these local laws;

**“thoroughfare”** has the meaning given to it in the Act; and

**“town planning scheme”** means a town planning scheme of the local government made under the *Planning and Development Act 2005*.

## 6. Licence Fees and Charges

All licence fees and charges applicable under this Local Law shall be as determined by the local government from time to time in accordance with section 6.16 of the *Local Government Act 1995*.

## PART 2 - SUFFICIENT FENCES

### 7. Sufficient Fences

(1) Unless by agreement between the owners of adjoining properties, a person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.

(2) Subject to sub-clauses (3) and (4), a sufficient fence;

(a) on a Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;

(b) on a Commercial Lot and on an Industrial Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;

(c) on a Rural Lot and on a Rural Residential Lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule.

(3) Where a fence is erected on or near the boundary between;

(a) a Residential Lot and an Industrial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First Schedule;

(b) a Residential Lot and a Commercial Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Second Schedule;

(c) a Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;

(d) a Residential Lot and a Rural Residential Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the First or Third Schedule respectively, and;

(e) a Rural Residential Lot and a Rural Lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of the Third Schedule;

(4) Unless the Building Surveyor specifies otherwise, a sufficient fence on a boundary between lots other than those specified in subclause (1) and (2) is a dividing fence constructed in accordance with the specifications and requirements of the Second Schedule.

(5) Notwithstanding any other provisions in these local laws, a fence constructed of stone or concrete shall be a sufficient fence only if it is designed by a structural engineer where;

- (a) it is greater than 1800mm in height; or
- (b) the Building Surveyor so requires.

(6) The fencing specifications listed in Schedules 1, 2 and 3, are intended to be used in assisting in determining a sufficient fence for the purposes of **the Act only**.

Conditions specific to a locality such as soil types, topography and wind loadings, should be considered when constructing a fence.

### **PART 3 - GENERAL**

#### **8. Fences Within Front Setback Areas**

(1) A person shall not, without the written consent of the Building Surveyor, erect a free-standing fence greater than 1000mm in height, within the front set-back area of a Residential Lot within the district.

(2) The Building Surveyor may approve the erection of a fence of a height greater than 1000mm in the front setback area of a Residential Lot only if the fence on each side of the driveway into the Lot across the front boundary is to be angled into the Lot for a distance of not less than 1500mm. along the frontage to a distance of not less than 1500mm from the frontage in order to provide appropriate splayed lines of vision for a motorist using the driveway for access to a thoroughfare.

(3) The provision of sub-clause (2) shall not apply to a fence of open construction that does not obscure the lines of vision of a motorist using the driveway for access to a thoroughfare.

#### **9. Fences on a Rural Lot**

A person shall not without the written consent of the Building Surveyor, erect a fence on a Rural Lot, within 7.5m of a thoroughfare of a height exceeding 1500mm.

#### **10. Maintenance of Fences**

An owner and occupier of a lot on which a fence is erected shall maintain the fence in good condition and so as to prevent it from becoming dangerous, dilapidated, or unsightly.

#### **11. General Discretion of the Local Government**

(1) Notwithstanding **Part 2**, the local government may consent to the erection or repair of a fence which does not comply with the requirements of these local laws. This sub-clause requires any person, owner or occupier that is erecting or repairing a fence that will not comply with the local law, to apply to the local government for consent.

(2) In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorized to consider, whether the erection or retention of the fence would have an adverse effect on;

- (a) the safe or convenient use of any land; or
- (b) the safety or convenience of any person.

(3) Notwithstanding that these local laws specify a minimum standard for a sufficient fence for the purposes of the Act, Council may adopt guidelines for alternative standards that it will approve. In setting these guidelines, Council shall have regard to acceptable materials and heights.

### **PART 4 - FENCING MATERIALS**

#### **12. Fencing Materials**

(1) A person shall construct a fence on a Residential Lot, a Commercial Lot or an Industrial Lot from only brick, stone, concrete, wrought iron, tubular steel framed, link mesh, timber, plastic coated or

galvanised link mesh, corrugated fibre reinforced cement sheeting, colour bonded metal or a material approved by the Building Surveyor.

(2) Where the Building Surveyor approves the use of pre-used materials in the construction of a fence under sub clause (1), that approval shall be conditional on the applicant for approval painting or treating the pre-used material as directed by the Building Surveyor.

### **13. Barbed Wire and Broken Glass Fences**

(1) This clause does not apply to a fence constructed wholly or partly of razor wire.

(2) An owner or occupier of a Residential Lot or a Commercial Lot shall not erect or affix to any fence on such a lot any barbed wire or other material with spiked or jagged projections, unless the prior written approval of the Building Surveyor has been obtained.

(3) An owner or occupier of an Industrial Lot shall not erect or affix on any fence bounding that Lot any barbed wire or other materials with spiked or jagged projections unless the wire or materials are carried on posts at an angle of 45 degrees, and unless the bottom row of wire or other materials is set back 150mm. from the face of the fence and is not nearer than 2000mm from the ground level.

(4) If the posts which carry the barbed wire or other materials referred to in sub clause (3) are angled towards the outside of the lot bounded by the fence the face of the fence must be set back from the lot boundary a sufficient distance to ensure that the angled posts, barbed wire or other materials do not encroach on adjoining land.

(5) An owner or occupier of a lot shall not affix or allow to remain as part of any fence or wall, whether internal or external, on that lot any broken glass.

(6) An owner or occupier of a Rural Lot or a Rural Residential Lot shall not place or affix barbed wire upon a fence on that Lot where the fence is adjacent to a thoroughfare or other public place unless the barbed wire is fixed to the side of the fence posts furthest from the thoroughfare or other public place.

## **PART 5 - ELECTRIFIED AND RAZOR WIRE FENCES**

### **14. Requirements for a Licence**

(1) An owner or occupier of a lot, other than a Rural Lot, shall not;

(a) have and use an electrified fence on that lot without first obtaining a licence under sub clause (2); or

(b) construct a fence wholly or partly of razor wire on that lot without first obtaining a licence under sub clause (3).

(2) A licence to have and use an electrified fence shall not be issued;

(a) in respect of a lot which is or which abuts a Residential Lot;

(b) unless the fence complies with AS/NZS 3016:1994; and

(c) unless provision is made so as to enable the fence to be rendered inoperable during the hours of business operations, if any, on the lot where it is erected.

(3) A licence to have a fence constructed wholly or partly of razor wire shall not be issued;

(a) if the fence is within 3m of the boundary of the lot;

(b) where any razor wire used in the construction of the fence is less than 2000mm or more than 2400mm above the ground level.

(4) An application for a licence referred to in sub clauses (2) or (3) shall be made by the owner of the lot on which the fence is or is to be erected, or by the occupier of the lot with the written consent of the owner.

(5) An application for a licence referred to in sub clauses (2) or (3) may be;

(a) approved by the local government;

(b) approved by the local government subject to such conditions as it thinks fit; or

(c) refused by the local government.

- (6) An application for a licence under this clause must also –
- (a) be in the form determined by the local government;
  - (b) be accompanied by any fee imposed by the local government under Part 6 of the *Local Government Act 1995*; and
  - (c) include –
    - (i) a written consent signed by the owner of the land on which the fence is located or proposed to be located – unless the applicant is the owner of that land; and
    - (ii) any further information which may be required by the local government.

(7) Where the local government approves an application for a licence under this clause, it shall issue a licence to the applicant in the form determined by the local government.

### **15. Transfer of a Licence**

A licence referred to in clause 14 shall transfer with the land to any new occupier or owner of the lot.

### **16. Cancellation of a Licence**

Subject to Division 1 Part 9 of the *Local Government Act 1995*, the local government may cancel a licence issued under this Part if-

- (a) the fence no longer satisfies the requirements specified in clause 13(2) or 13(3) as the case may be; or
- (b) the licence holder breaches any condition upon which the licence has been issued.

## **PART 6 - NOTICES OF BREACH**

### **17. Notices of Breach**

(1) Where a breach of any provision of this local law has occurred in relation to a fence on a lot, the local government may give a notice in writing to the owner or occupier of that lot ('notice of breach').

(2) Any such notice of breach shall;

- (a) specify the provision of these Local Laws which has been breached;
- (b) specify the particulars of the breach; and
- (c) state that the owner or occupier of the lot is required to remedy the breach within 28 days from the giving of the notice.

(3) Should an owner or occupier fail to comply with a notice of breach, the local government may by its employees, agents or contractors enter upon the lot to which the notice relates and remedy the breach, and may recover the expenses of so doing from the owner or occupier of the lot, as the case may be, in a court of competent jurisdiction.

(4) The provisions of this clause are subject to section 3.25 and item 12 of Division 1 of Schedule 3.1 of the *Local Government Act 1995* and any power of entry exercised by the local government under this local law is subject to Part 3, Division 3 of the *Local Government Act 1995*.

## **PART 7 - OFFENCES**

### **18. Offences and Penalties**

(1) An owner or occupier who fails to comply with a notice of breach commits an offence and is liable upon conviction to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

(2) A person who fails to comply with or who contravenes any provision of these local laws commits an offence and is liable to a maximum penalty of \$5000 and, if the offence is a continuing offence, a maximum daily penalty of \$500.

## 19. Modified Penalties

(1) An offence against any provision of these local laws is a prescribed offence for the purposes of section 9.16 (1) of the *Local Government Act 1995*.

(2) Unless otherwise specified, the amount of the modified penalty for an offence against any provision of this local law is \$100.

## 20. Form of Notices

For the purposes of this local law;

- (a) the form of the infringement notice referred to in section 9.17 of the *Local Government Act 1995* is to be in or substantially in the form of Form 2 of Schedule 1 of the Local Government (Functions and General) Regulations 1996;
- (b) the form of the notice referred to in section 9.20 of the *Local Government Act 1995* is to be in or substantially in the form of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

### **Schedule 1 – Specifications for a sufficient fence on a residential lot**

Each of the following is defined as a "sufficient fence" on a Residential Lot;

**A.** A picket timber fence which satisfies the following specifications:

- (a) corner posts to be 125mm x 125mm x 2400mm. and intermediate posts to be 125mm x 75mm x 2400mm spaced at 2400mm centres;
- (b) corner posts to be strutted two ways with 100mm x 50mm x 450mm sole plates and 75mm x 50mm struts;
- (c) intermediate posts to be doubled yankee strutted with 150mm x 25mm x 450mm struts;
- (d) all posts to have tops with a 60mm weather cut and to be sunk at least 600mm into the ground;
- (e) rails to be 75mm. x 50mm with each rail spanning two bays of fencing double railed or bolted to each post with joints staggered;
- (f) the fence to be covered with 75mm x 20mm sawn pickets, 1800mm in height placed 75mm apart and affixed securely to each rail; and
- (g) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

**B.** A fence constructed of corrugated fibre reinforced pressed cement or steel sheeting erected to manufacturer's specifications or which otherwise satisfies the following specifications;

- (a) a minimum in-ground length of 25 per cent of the total length of the sheet, but in any case shall have a minimum in-ground depth of 600mm (applicable to corrugated fibre reinforced pressed cement fencing only);
- (b) the total height and depth of the fence to consist of a single continuous fibre reinforced cement or steel sheet;
- (c) the sheets to be lapped and capped with extruded "snap fit" type capping in accordance with the manufacturers written instructions (applicable to corrugated fibre reinforced pressed cement fencing only); and
- (d) the height of the fence to be 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to Clause 7.



C. A fence constructed of brick, stone or concrete, which satisfies the following specifications and **AS/NZS 3700** where applicable;

- (a) footings of minimum 225mm x 150mm concrete 15MPa or 300mm x 175mm brick laid in cement mortar;
- (c) fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
- (c) expansion joints in accordance with the manufacturer's written instructions; and
- (d) the height of the fence to be 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7.

D. A composite fence having a minimum overall height of 1800mm except with respect to the front set back area for which there is no minimum height but which is subject to clause 7, which satisfies the following specifications for the brick construction and complies with **AS/NZS 3700** Standards;

- (1) (a) brick piers of minimum 345mm x 345mm at 1800mm centres bonded to a minimum height base wall of 514mm;
- (b) each pier shall be reinforced with one R10 galvanised starting rod 1500mm high with a 250mm horizontal leg bedded into a 500mm x 200mm concrete footing and set 65mm above the base of the footing. The top of the footing shall be 1 course (85mm) below ground level;
- (c) the minimum ultimate strength of brickwork shall be 20MPa. Mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
- (d) the ground under the footings is to be compacted to 6 blows per 300mm and checked with a standard falling weight penetrometer; and
- (e) control joints in brickwork shall be provided with double piers at a maximum of 6 metre centres; or
- (2) (a) brick piers of a minimum 345mm x 345mm x 2700mm centres bonded to the base wall; and
- (b) each pier shall be reinforced with two R10 galvanised starting rods as previously specified;

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### **Schedule 2 – Specifications for a sufficient fence on a commercial lot and an industrial lot**

Each of the following is defined as a “sufficient fence” on a Commercial Lot and an Industrial Lot;

**A.** A fence constructed of galvanised or PVC coated rail-less link mesh, chain mesh or steel mesh which satisfies the following specifications:

- (a) corner posts to be minimum 75 mm nominal bore x 3.5mm and with footings of a 225mm diameter x 900mm;
- (b) intermediate posts to be minimum 37mm nominal bore x 3.15mm at maximum 3.5mm centres and with footings of a 225mm diameter x 600mm;
- (c) struts to be minimum 30mm nominal bore x 3.15mm fitted at each gate and two at each corner post and with footings 225mm x 600mm;
- (d) cables to be affixed to the top, centre and bottom of all posts and to consist of two or more 3.15mm wires twisted together or single 4mm wire;
- (e) rail-less link, chain or steel mesh is to be to a height of 2000mm on top of which are to be three strands of barbed wire carrying the fence to a height of 2400mm in accordance with clause 12(3) of these Local Laws; and
- (f) Galvanised link mesh wire to be 2000mm in height and constructed of 50mm mesh 2.5mm galvanised iron wire and to be strained, neatly secured and laced to the posts and affixed to cables. Vehicle entry gates shall provide an opening of not less than

3.6m and shall be constructed of 25mm tubular framework with one horizontal and one vertical stay constructed of 20mm piping and shall be covered with 50mm x 2.5mm galvanised link mesh strained to framework. Gates shall be fixed with a drop bolt and locking attachment.

**B.** A fence of fibre reinforced cement sheet or steel sheeting constructed to the minimum specifications referred to in Item B of the First Schedule.

**C.** A fence constructed of aluminium sheeting when supported on posts and rails provided that it is used behind a building line and is of a minimum height of 1800mm but no greater than 2400mm.

**D.** Fences of timber, brick, stone or concrete constructed to the minimum specifications referred to in the First Schedule.

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### **Schedule 3 – Specifications for a sufficient fence on a rural lot and a rural residential lot**

In the case of a non-electrified fence, a “sufficient fence” on a Rural Lot and a Rural Residential Lot is a fence of posts and wire construction, the minimum specifications for the following purposes which are;

**A.** A fence to contain cattle and horses, which satisfies the following specifications:

(a) wire shall not be of a standard less than 2.5mm high tensile wire. A minimum of five wires shall be used, generally with the lower wires spaced closer together than the higher wires so as to prevent smaller stock passing through, and connected to posts in all cases;

(b) posts shall be of indigenous timber or other suitable material including-

- timber impregnated with a termite or fungicidal preservative;
- standard iron star pickets; or
- concrete;

cut not less than 1.8m long x 100mm diameter at small end if round or 125mm x 60mm if split or sawn. Posts to be set minimum of 600mm in the ground and 1.2m above the ground spaced at 10m maximum centres; and

(c) strainer posts shall not be less than 2.25m long and 150mm diameter at the small end (tubular steel to be 90mm in diameter) and shall be cut from indigenous timber or other suitable material. These shall be placed a minimum of 1.0m in the ground and set at all corners, gateways and fence line angles.

**B.** A mesh fence to contain sheep and goats which satisfies the following specifications;

(a) wire shall be hinge joint or ringlock with two plain high tensile wires of not less than 2.5mm located above the mesh and connected to posts in all cases. The mesh wire shall be clipped to the lower of the two plain wires at 3m centres;

(b) posts shall be spaced at 6m maximum centres in accordance with the construction standards in A(b) above; and

(c) strainer posts shall be in accordance with the construction standards in A(c) above.

**C.** An electrified fence having four wires only is a sufficient fence if constructed generally in accordance with A.

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The Common Seal of the Shire of Mingenew was affixed by authority of a resolution of the Council in the presence of:

---

**Cr Michelle BAGLEY**  
Shire President

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**Mr M WHITELY**  
Chief Executive Officer

Dated: \_\_\_\_ / \_\_\_\_ /2017

# **SHIRE OF MINGENEW**



## **PROPOSED STANDING ORDERS LOCAL LAW**

**SEPTEMBER 2017**

# LOCAL GOVERNMENT ACT 1995

Shire of Mingenew

## STANDING ORDERS LOCAL LAW 2017

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# LOCAL GOVERNMENT ACT 1995

Shire of Mingenew

## STANDING ORDERS LOCAL LAW 2017

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Mingenew resolved on **20 September 2017** to make the following local law.

### Part 1—Preliminary

#### 1.1 Citation

This local law may be cited as the *Shire of Mingenew Standing Orders Local Law 2017*.

#### 1.2 Commencement

#### 1.3 Definitions

(1) In this local law unless the context requires otherwise—

“**Act**” means the *Local Government Act 1995*;

“**absolute majority**” means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council;

“**CEO**” means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the Shire of Mingenew;

“**Committee**” means any Committee or Subcommittee appointed in accordance with the Act;

“**committee member**” means an Elected Member and/or any other person serving on a Committee;

“**Council**” means the Council of the Shire of Mingenew;

“**Criminal Code**” means the Western Australian Criminal Code Act Compilation Act 1913 as amended from time to time;

“**district**” means the district of the Shire of Mingenew;

“**Elected Member**” means a person who holds the office of Shire President or Councillor on the Council;

“**meeting room**” means the room in which a Committee or Council meeting is being conducted;

“**officer**” means an employed member of the staff of the Shire of Mingenew;

“**Presiding Member**” means the person presiding at the meeting of the Council or a Committee, as prescribed by the Act;

“**quorum**” for a meeting of a council or committee means at least 50% of the number of offices (whether vacant or not) of member of the council or the committee.

“**Regulations**” means the *Local Government (Administration) Regulations 1996*;

“**simple majority**” is more than 50% of the members present and voting; and

“**substantive motion**” means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

(2) Unless otherwise defined herein the terms and expressions used in this local law are to have the meaning given to them in the Act and Regulations.

#### **1.4 Repeal**

The *Shire of Mingenew Standing Orders Local Law 1965* published in the *Government Gazette* on 10 June 1965 is repealed.

#### **1.5 Application**

All meetings of the Council or a Committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and this local law.

#### **1.6 Intent**

This local law is intended to result in—

- (a) better decision making by the Council;
- (b) orderly conduct of meetings dealing with Council business;
- (c) better community understanding of the process of conducting meetings dealing with Council business; and
- (d) more efficient and effective use of time at meetings.

#### **1.7 Local Government (Rules of Conduct) Regulations 2007**

To the extent that this local law is inconsistent with the Local Government (Rules of Conduct) Regulations 2007, the Local Government (Rules of Conduct) Regulations 2007 prevail to the extent of that inconsistency.

#### **1.8 Reference to Time**

Any reference to time in this local law means western standard time or western daylight time if western daylight time is enforced on that day in the State of Western Australia.

### **Part 2—Calling meetings**

#### **2.1 Calling Committee Meetings**

A meeting of a Committee is to be held—

- (a) if called for in a verbal or written request to the CEO by the Presiding Member of the Committee, setting out the date and purpose of the proposed meeting;
- (b) if called for by at least 1/3 (one third) of the committee members in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) if so decided by the Committee or the Council.

#### **2.2 Notice of Special Council Meetings**

(1) Subject to subclause 2.2(2), the CEO is to convene a special meeting of the Council by giving each Elected Member at least 72 hours' notice of the date, time, place and purpose of the meeting.

(2) Where there is a need to meet urgently, in the opinion of the Shire President, the CEO may give a lesser period of notice of a special meeting than mentioned in subclause 2.2(1).

#### **2.3 Notice of Ordinary and Special Committee Meetings**

(1) The CEO is to convene an ordinary meeting of a Committee pursuant to clause 2.1 by giving each committee member at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting.

(2) The CEO is to convene a special meeting of a Committee by giving each committee member at least 72 hours' notice of the date, time, place and purpose of the meeting.

(3) The CEO is to give notice of meetings referred to in subclauses 2.3(1) and 2.3(2) to every Elected Member.

### **Part 3—Business of the meeting**

#### **3.1 Business to be Specified on Notice Paper**

(1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the Presiding Member or a decision of the Council.

(2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.

(3) No business is to be transacted at a Committee meeting other than that specified in the agenda or given in the notice as the purpose of the meeting, without the approval of the Presiding Member or a decision of the Committee.

(4) No business is to be transacted at an adjourned meeting of the Council or a Committee other than that—

(a) specified in the notice of the meeting which had been adjourned; and

(b) which remains unresolved;

except in the case of an adjournment to the next ordinary meeting of the Council or the Committee, when the business unresolved at the adjourned meeting is to have precedence at that ordinary meeting.

#### **3.2 Order of Business**

(1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows—

(a) Opening and announcement of visitors

(b) Attendance and apologies

(c) Answers to questions which were taken on notice

(d) Public question time

(e) Public statement time

(f) Leave of absence

(g) Petitions, Presentations and Deputations

(i) Petitions

(ii) Presentations

(iii) Deputations

(h) Confirmation of minutes

(i) Announcements by the Presiding Member without discussion

(j) Declarations of Interest (Financial, Proximity, Impartiality—both real and perceived)

(k) Elected Members' questions of which due notice has been given without discussion

(l) Elected Members' questions of which notice has not been given without discussion

(m) Any business left over from previous meeting

- (n) Recommendations of committees
- (o) Adoption of recommendations contained in items withdrawn
- (p) Reports
- (q) Motions of which previous notice has been given
- (r) Notice of motions for consideration at the following meeting if given during the meeting
- (s) Late and urgent business
- (t) Confidential items
- (u) Close of meeting

(2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a Committee meeting is to be the order in which that business stands in the agenda of the meeting.

(3) Notwithstanding subclause (1), the CEO may include on the agenda of a Council or Committee meeting in an appropriate place within the order of business any matter which must be decided, or which the CEO considers is appropriately decided, by that meeting.

### **3.3 Public Question Time**

(1) A member of the public who raises a question during question time is to state his or her name and address.

(2) A question may be taken on notice by the Council or Committee for later response.

(3) When a question is taken on notice under subclause (2) a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next meeting of the Council or Committee as the case requires.

(4) Questions asked by members of the public and answers—

(a) are to be brief and concise; and

(b) are not to be accompanied by—

(i) any argument, expression of opinion or statement of facts, except so far as may be necessary to explain the question or answer; or

(ii) any statement reflecting adversely on the integrity of any member, officer or other party; or

(iii) any discussion.

(5) Public Question Time will be conducted in accordance with the Act and Regulations.

### **3.4 Public Statement Time**

(1) Any person or group wishing to be received as a public statement by the Council at an ordinary meeting of the Council shall send to the CEO an application setting out the subject matter, which must be a matter concerning local government, for their statement in sufficient detail to enable a general understanding of the purpose of the statement.

(2) Where the CEO receives the request in terms of the preceding clause the CEO shall refer it to the Presiding Member.

(3) Public statements shall not—

(a) involve any language considered offensive by the Presiding Member;

(b) contain any statement reflecting adversely on the integrity of any elected member, officer or other; or

(c) exceed 2 minutes.

(4) The Presiding Member may determine that a statement is out of order where the Statement;

(a) is the same or similar in content to a statement made at a previous meeting;

(b) a response was provided or council action was taken; and

(c) the person is directed to the minutes of the meeting at which the response was provided or the action was determined.

### **3.5 Petitions**

(1) A petition in the form prescribed by the Act and *Local Government (Constitution) Regulations 1998* for—

(a) a proposal to change the method of filling the office of Shire President;

(b) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward, in order to be effective, is to—

(i) be a formal written request;

(ii) be signed by not less than three people;

(iii) be addressed to the Shire President;

(iv) be made by electors of the district;

(v) state the request on each page of the petition;

(vi) contain the names, addresses and signatures of the electors of the Shire of Mingenew making the request, and the date each elector signed;

(vii) contain a summary of the reasons for the request; and

(viii) state the name of the person upon whom, and an address at which, notice to the petitioners can be given.

(2) Any other petition, in order to be effective, is to—

(a) be a formal written request;

(b) be signed by not less than three people;

(c) state the request on each page of the petition;

(d) contain the names, addresses and signatures of persons making the request, and the date each person signed;

(e) contain a summary of the reasons for the request; and

(f) state the name of the person upon whom, and an address at which, notice to the petitioners can be given.

(3) The only question which shall be considered by the Council on the presentation of any petition shall be (a motion to the effect) that the petition be received and forwarded to officers for further action.

### **3.6 Presentations and Announcements**

(1) At any meeting of Council or Committee the Presiding Member may announce or raise any matter of interest or relevance to the Council or the Committee as the case may be.

(2) The Presiding Member may allow in his or her absolute discretion a presentation or announcement to the Council or Committee by an Elected Member.

(3) Any external organisation wishing to make a presentation to the Council or a Committee meeting shall send to the CEO a written request, setting out the subject matter (which

must be a matter concerning local government) in sufficient detail to enable a general understanding of the purpose and benefits of the presentation.

(4) Where the CEO receives the request in terms of the preceding clause, the CEO may refer it to the Presiding Member.

(5) Any presentation from an external organisation shall not exceed 15 minutes.

### **3.7 Deputations**

(1) Any person or group wishing to be received as a deputation by the Council or a Committee shall send to the CEO an application—

(a) setting out the agenda item to which the deputation relates;

(b) whether the deputation is supporting or opposing the officer's or Committee's recommendation; and

(c) include sufficient detail to enable a general understanding of the purpose of the deputation.

(2) Where the CEO receives a request in terms of the preceding clause the CEO shall refer it to the presiding member of the Council or appropriate Committee who shall determine whether the deputation should be received.

(3) A deputation approved to attend a Council or Committee meeting is not to—

(a) exceed five persons, only two of whom may address the Council or Committee, although others may respond to questions from members; and

(b) address the Council or Committee for a period exceeding five minutes without the agreement of the Council or the Committee as the case requires.

(4) Where a deputation has been made at a Committee meeting, a further deputation will not be permitted at a successive Council meeting by the same person or persons, or a directly related party, on the same matter unless it is demonstrated there is new, relevant material which may impact upon the Council's understanding of the facts of the matter.

(5)

(a) deputations are to be presented in the order of which the item they relate to sits on the agenda.

(b) where there are deputations both for and against an agenda item the person wishing to make a deputation against the matter is to present first, followed by a deputation in favour.

(c) deputations will then continue in alternating order until there are no persons wishing to speak to the opposite view of the last preceding speaker.

(6) Members of a Committee (or other Elected Members) to which the deputation is presented may ask a question or questions of persons of the deputation group and any person of the deputation group may respond to such questions.

(7) Deputations—

(a) shall not involve any language considered offensive by the Presiding Member; and

(b) shall not contain any statement knowingly incorrect, knowingly misleading or reflecting adversely on the integrity of any member, officer or other party.

### **3.8 Confirmation of Minutes**

- (1) When minutes of a meeting are submitted to an ordinary meeting of the Council or Committee for confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to—
  - (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (2) Discussion of any minutes, other than discussion as to their accuracy as a record of the proceedings, is not permitted.

### **3.9 Questions from Members**

- (1) An Elected Member who wishes to ask a question with notice at a Committee meeting of the Council is to—
  - (a) give reasonable written notice of the question wherever possible to the CEO before the scheduled commencement of the meeting; and
  - (b) direct the question through the presiding member.
- (2) An Elected Member may ask a question without notice at a Committee meeting provided that any such question is relevant to the purpose of the meeting.
- (3) If the question referred to in clause 3.9(1) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (4) An Elected Member who wishes to ask a question with notice at a Council meeting is to—
  - (a) give reasonable written notice of the question wherever possible to the CEO before the scheduled commencement of the meeting; and
  - (b) direct the question through the Presiding Member.
- (5) An Elected Member may ask a question without notice at a Council Meeting.
- (6) If the question referred to in subclause (4) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (7) Questions asked by Elected Members and answers—
  - (a) are to be brief and concise; and
  - (b) are not to be accompanied by—
    - (i) any argument, expression of opinion or statement of facts, except so far as may be necessary to explain the question or answer;
    - (ii) any statement reflecting adversely on the integrity of any Elected Member; or
    - (iii) any discussion.

### **3.10 Notices of Motion**

- (1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.
- (2) A notice of motion under subclause (1) is to be given to the CEO at **least 5 clear** business days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good government of persons in the district.
- (4) The CEO—
  - (a) with the concurrence of the Shire President, may exclude from the notice paper any

notice of motion deemed to be out of order; or

(b) may on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and

(c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.

(5) A motion of which notice has been given is to lapse unless—

(a) the Elected Member who gave notice thereof, or some other Elected Member authorised by him or her in writing moves the motion when called on; or

(b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.

(6) If a notice of motion is given and lapses in the circumstances referred to in subclause

(5) (a) above or is defeated, a notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse or defeat.

(7) Motions are to be dealt with in the order they are received.

### **3.11 Distribution of Reports to the Members**

(1) Subject to clause 3.12 the CEO is to provide each member of the Council or Committee as the case may be with a copy of any report, which is to be presented to any Council or Committee meeting.

(2) The report is to be provided to each member at least 24 hours before the commencement of the meeting.

### **3.12 Late Reports**

In cases of urgency or other special circumstances a report by the CEO may, with the consent of the presiding member, be read or otherwise given to members at the meeting if it has not previously been sent to members in accordance with clause 3.11.

### **3.13 Urgent Business Approved by the Presiding Member or by Decision**

In cases of extreme urgency or other special circumstance, matters may, with the consent of the Presiding Member, or by decision of the members present, be raised without notice and decided by the meeting.

### **3.14 Reports or Advice by the CEO**

(1) The CEO may prepare for presentation to any meeting a report dealing with any matter which in the opinion of the CEO should be drawn to the attention of the meeting.

(2) The CEO may advise the Council or Committee on any matter which he or she considers appropriate.

## **Part 4—Public access to agenda material**

### **4.1 Confidentiality of Information Withheld**

Information withheld by the CEO from members of the public under regulation 14.2 of the Regulations is to be—

(a) identified in the agenda of a Council or Committee meeting under the item “Confidential Items”; and



(b) marked “confidential” in the agenda.

## **Part 5—Disclosure of interests**

### **5.1 Disclosure of Interest**

Disclosure of interests is dealt with in the Act.

## **Part 6—Quorum**

### **6.1 Quorum to be Present**

The Council or a Committee is not to transact business at a meeting unless a quorum is present.

### **6.2 Loss of Quorum During a Meeting**

(1) If at any time during the course of a meeting of the Council or a Committee a quorum is not present—

(a) in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest, the matter is adjourned until either—

(i) a quorum is present to decide the matter; or

(ii) the Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under the Act; or

(b) because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the presiding member is to suspend the proceedings of the meeting for a period of 5 minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the presiding member is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations, or this local law when calling a meeting of that type.

(2) Where debate on a motion is interrupted by an adjournment under subclause (1)(b)—

(a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and

(b) in the case of a Council meeting—

(i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and

(ii) the provisions of clause 8.5 apply when the debate is resumed.

## **Part 7—Conduct of persons at council and committee meetings**

### **7.1 Official Titles to be Used**

Elected Members are to speak of each other in the Council or Committee by their respective titles of Shire President or Councillor. Members, in speaking of or addressing officers, are to designate them by their respective official titles.

### **7.2 Members to Occupy Own Seats**

When present in the meeting room, a member will occupy the seating position allocated to him or her for each specific Council or Committee meeting.

### **7.3 Leaving Meetings**

During the course of a meeting of the Council or a Committee no member is to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure.

#### **7.4 Adverse Reflection**

(1) No member is to reflect adversely upon a decision of the Council or Committee except on a motion that the decision be revoked or amended.

(2) No member is to—

(a) reflect adversely on the character or actions of another member or any other person;

or

(b) impute any motive to another member or any other person;

the Council resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.

(3) No member is to use offensive **or insulting** expressions in reference to any member or any other person.

#### **7.5 Withdrawal of Offensive Language**

(1) A member who, in the opinion of the Presiding Member, uses an expression which—

(a) in the absence of a resolution under clause 7.4(2)—

(i) reflects adversely on the character or actions of another member; or

(ii) imputes any motive to a member; or

(b) is offensive or insulting, must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.

(2) If a member fails to comply with a direction of the Presiding Member under the above subclause (1), the Presiding Member may refuse to hear the member further on the matter then under discussion and call on the next speaker.

#### **7.6 Disturbance by Members**

While another person is addressing the Council or a Committee, a member is not—

(a) to make any noise or disturbance; or

(b) to converse aloud;

except to raise a point of order, to interrupt.

#### **7.7 Continued Irrelevance**

(1) The Presiding Member, at any time, may—

(a) call the attention of the meeting to—

(i) any irrelevant, repetitious, offensive or insulting language by a member; or

(ii) any breach of order by a member; and

(b) direct that member, if speaking, to discontinue his or her speech.

(2) A member is to comply with a direction of the Presiding Member under subclause (1) by immediately ceasing to speak and resuming his or her seat.

#### **7.8 Recording of Proceedings**

(1) A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the Council.

(2) If the Council gives permission under subclause (1), the Presiding Member must advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

### **7.9 Prevention of Disturbance**

(1) Any member of the public addressing the Council or a Committee is to extend due courtesy and respect to the Council or Committee and the processes under which they operate and must take direction from the presiding member whenever called upon to do so.

(2) Members of the public are admitted to Council and Committee meetings upon the understanding that no expression of dissent or approval, conversational or interruption to the proceedings shall take place—

(a) For the purpose of this clause any expression of dissent or interruption to proceedings shall include a person who interrupts the proceedings of a meeting, whether by expressing approval or dissent, by conversing or by other means—

(i) enters or remains in any part of the room where the meeting is taking place reserved for members and officers;

(ii) misconducts himself or herself;

(iii) fails to withdraw when members of the public are directed to withdraw;

(iv) obstructs the approaches to the room where the meeting is taking place; or

(v) creates a disturbance within the precincts of the room where the meeting is taking place.

(b) In the event of any such interruption, the Presiding Member may exercise his or her discretion and require those interrupting to withdraw. The Presiding Member's ruling in this regard is final and cannot be challenged by moving dissent with the ruling or otherwise.

(c) Any person who does not withdraw when called upon by the Presiding Member to do so may by order of the Presiding Member be removed from the room.

(3) If an Elected Member or the CEO specifically requests, immediately after their use, that any particular words used by a person be recorded, the Presiding Member is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in a file note of the meeting, unless the presiding member in any case decides otherwise.

(4) If a person or persons have been ordered by the Presiding Member to desist from such behaviour, but fails to do so, the Presiding Member can immediately adjourn the meeting in accordance with clause 14.9.

(5) The CEO shall be the designated person in charge of the premises for the purposes of section 5.41(d) of the Act and is the "person in authority" in relation to section 70A of the Criminal Code and shall advise such person or persons during the period that the meeting is adjourned to behave in an appropriate manner or to immediately leave the premises.

(6) Where a person or persons have been required to leave the room where the meeting is taking place and have been advised in accordance with subclause 7.9(3) but continue to remain in the room where the meeting is taking place, the CEO may instigate legal action against such person or persons.

(7) If a person ordered by the CEO to leave the premises cannot be removed without the application of physical force then a member or members of the police force shall be called to the room where the

meeting is taking place to effect the removal of the person and the meeting may be adjourned until the person has been removed.

#### **7.10 Prevention of Disturbance Generally**

No electronic or other device shall be used in a manner that creates a disturbance or leads to a disturbance at the meeting.

#### **7.11 Distinguished Visitors**

If a distinguished visitor is present at a meeting of the Council or a Committee, the presiding member may make special arrangement for the seating of the person.

### **Part 8—Conduct of members during debate**

#### **8.1 Speaking at Council or Committee Meetings**

- (1) Every member wishing to speak is to indicate by show of hands or other method agreed upon by the Council or Committee.
- (2) When a member or officer has been chosen to speak by the presiding member the member or officer must address the Council or Committee through the Presiding Member.
- (3) Any member moving a motion or amendment, or taking part in the discussion thereon, shall address the presiding member and may rise if the member so desires, or shall do so when requested by the presiding member except when prevented from doing so by sickness or physical disability.
- (4) When invited by the Presiding Member to speak, such member or officer may remain seated whilst speaking unless the Presiding Member rises, upon which such member or officer will cease speaking immediately so the presiding member can be heard.

#### **8.2 Priority**

In the event of two or more members wishing to speak at the same time, the Presiding Member is to decide which member is entitled to be heard first. The decision is not open to discussion or dissent.

#### **8.3 The Presiding Member May Take Part in Debates**

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in this local law, the Presiding Member may take part in a discussion of any matter before the Council or Committee as the case may be.

#### **8.4 Relevance**

Every member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

#### **8.5 Limitation of Number of Speeches**

No member is to address the Council or Committee more than once on any motion or amendment before the Council or Committee except the mover of a substantive motion, in reply, or to a point of order, or in explanation.

#### **8.6 Limitation of Duration of Speeches**

All addresses are to be limited to a maximum of five minutes. Extension of time is permissible only with the agreement of a simple majority of members present.

### **8.7 Questions During Debate or Points of Clarification**

With the approval of the Presiding Member, a member may ask a question or seek clarification of any matter relevant to a motion at any time during the debate on the motion before it is put, but no discussion thereon is permitted.

### **8.8 Members Not to Speak After Conclusion of Debate**

No member is to speak to any motion after the mover has concluded his or her right of reply and/or after it has been put by the Presiding Member.

### **8.9 Members Not to Interrupt**

No member is to interrupt another member or an officer whilst speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum; or
- (c) to move a motion under clause 10.1(1)(c).

### **8.10 Re-Opening Discussion on Decisions**

No member is to re-open discussion on any decision of the Council or Committee, except for the purpose of moving that the decision be revoked or amended.

## **Part 9—General conduct of debate**

### **9.1 Motions to be Stated**

Any member who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion and obtain a seconder before speaking to it.

### **9.2 Motions to be Supported**

(1) No motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or amend the decision made at a Council or a Committee meeting, unless the motion has the support required under Regulation 10 of the Regulations.

(2) Subject to clause 9.13 the seconder cannot subsequently withdraw his or her seconding of the motion.

### **9.3 Unopposed Business**

(1) Upon a motion being moved and seconded, the Presiding Member may ask the meeting if any member opposes it.

(2) If no member signifies opposition to the motion the Presiding Member may declare the motion in subclause (1) carried without debate and without taking a vote on it.

(3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or Committee.

(4) If a member signifies opposition to a motion the motion is to be dealt with according to this Part.

(5) This clause does not apply to any motion or decision to revoke or amend a decision which has been made at a Council or Committee meeting.

#### **9.4 Only One Substantive Motion Considered**

When a substantive motion is under debate at any meeting of the Council or a Committee, no further substantive motion is to be accepted.

#### **9.5 Breaking Down of Complex Motions**

The Presiding Member may order a complex motion to be broken down and put in the form of several motions, which are to be put in sequence.

#### **9.6 Order of Call in Debate**

Unless dealt with in accordance with clause 9.3, the Presiding Member is to call speakers to a substantive motion in the following order—

- (a) The mover to state the motion;
- (b) A seconder to the motion;
- (c) The mover to speak to the motion;
- (d) The seconder to speak to the motion;
- (e) A speaker against the motion;
- (f) A speaker for the motion;
- (g) Other speakers against and for the motion in alternating order until there is no member (excluding the mover) wishing to speak who is of the opposite view than the last preceding speaker; and
- (h) The mover has the right of reply which closes debate.

#### **9.7 Limit of Debate**

The Presiding Member may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

#### **9.8 Member May Require Motion to be Read**

Any member may require the motion or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member whilst speaking.

#### **9.9 Consent of Secunder Required to Accept Alteration of Wording**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

#### **9.10 Order of Amendments**

Any number of amendments may be proposed to a motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been carried, withdrawn or lost.

#### **9.11 Amendments Must Not Negate Original Motion**

No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

### **9.12 Substantive Motion**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and any further amendment may be moved.

### **9.13 Withdrawal of Motion and Amendments**

Council or a Committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

### **9.14 Limitation of Withdrawal**

Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

### **9.15 Foreshadowed Motion**

(1) In speaking upon a motion a member—

(a) may give notice to the meeting of the member's intention to move a different motion on the same subject matter, being a motion which cannot practically be moved by an amendment to the motion under consideration; and

(b) shall provide to the Presiding Member the terms of the foreshadowed motion.

(2) If two or more members pursuant to subclause (1) foreshadow motions on the same subject, then the Presiding Member shall take note of the order in which the foreshadowed motions are raised and the terms of each foreshadowed motion.

(3) If the motion under consideration is lost, then the foreshadowed motions may be brought forward **without delay.**

(4) The foreshadowed motions shall be considered by the Council in succession, until one of the motions is passed, whereupon there shall be no further consideration of any other foreshadowed motion on that subject.

### **9.16 Personal Explanation**

(1) No member is to speak at any meeting of the Council or a Committee, except upon the matter before the Council or Committee, unless it is to make a personal explanation.

(2) A member wishing to make a personal explanation may do so at the conclusion of that speech.

(3) Any member or an officer who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood.

(4) When a member or an officer proceeds to explain, no reference is to be made to matters unnecessary for that purpose.

### **9.17 Ruling on Questions of Personal Explanation**

The ruling of the Presiding Member on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

### **9.18 Right of Reply**

- (1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the motion.
- (2) The right of reply is to be confined to matters raised by previous speakers and no new matter is to be introduced or expansion on the substantive motion is to take place.

### **9.19 Right of Reply Provisions**

- (1) The right of reply is governed by the following provisions—
  - (a) If no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
  - (b) If an amendment is moved to the substantive motion the mover of the substantive motion is to take the right of reply at the conclusion of the vote on any amendments;
  - (c) The mover of any amendment does not have a right of reply; and
  - (d) Once the right of reply has been taken, there can be no further discussion, nor any other amendment and the original motion or the original motion as amended is immediately put to the vote.

## **Part 10—Procedural Motions**

### **10.1 Permissible Procedural Motions**

- (1) In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member (at any time) to move the following procedural motions—
  - (a) the Council (or Committee) meeting now adjourn;
  - (b) the debate be adjourned;
  - (c) the motion now be put;
  - (d) the motion not now be put;
  - (e) the motion (or communication) lie on the table;
  - (f) the meeting proceed to the next item of business;
  - (g) that the ruling of the Presiding Member be disagreed by a motion of dissent; or
  - (h) the Council (or Committee) meet behind closed doors as the matter to be discussed is of a confidential nature in respect of which the meeting may be closed to members of the public under the Act.
- (2) Subject to subclause (1), when a recommendation of a Committee is being debated by the Council, the only motions which may be considered by the Council are that—
  - (a) the recommendation be adopted;
  - (b) the recommendation not be adopted;
  - (c) the recommendation be referred back to the responsible Committee for further consideration; or
  - (d) the recommendation be amended.
- (3) A permissible procedural motion pursuant to subclause (1) can only be brought forward by a person who has not already spoken on the matter.
- (4) A member may request that the names of some or all of those who voted in the negative be recorded in the minutes.

### **10.2 No Debate on Procedural Motions**



(1) The mover of a motion stated in each of paragraphs (a), (b), (e), (g) and (h) of clause 10.1(1) may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion stated in each of paragraphs (c), (d) and (f) of clause 10.1(1) may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

### **10.3 Procedural Motions - Closing Debate - Who May Move**

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

### **10.4 Procedural Motions—Right of Reply on Substantive Motion**

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

## **Part 11—Effect of procedural motions**

### **11.1 Motion be Amended—Effect of Motion**

(1) An amendment to a motion must be relevant to that motion.

(2) An amendment to a motion must be read or stated before being moved.

(3) Only one amendment is to be discussed at a time, but as often as an amendment is lost, another amendment may be moved, before the original motion is put to the vote.

(4) In speaking to an amendment, a member may give notice of his or her intention to move a further amendment or another motion.

(5) Where an amendment is carried—

(a) the original motion as amended becomes the substantive motion;

(b) it must be relevant to the motion and not be of such a nature that the original motion loses its identity; and

(c) for all purposes subsequent debate, is only to be on the substantive motion.

### **11.2 Council (or Committee) Meeting to Now Adjourn—Effect of Motion**

(1) The motion “that the Council (or Committee) now adjourn”, if carried, shall result in the meeting being adjourned until it is re-opened at which time the meeting will continue from the point at which it was adjourned, unless the Presiding Member or a simple majority or members determine otherwise, by vote..

(2) Where debate on a motion is interrupted by an adjournment under subclause (1)—

(a) The debate is to be resumed at the next meeting at the point where it was so interrupted; and

(b) In the case of the Council meeting—

(i) The names of Elected Member(s) who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and

(ii) The provisions of clause 8.5 apply when the debate is resumed.

### **11.3 The Motion be Adjourned—Effect of Motion**

- (1) The motion “that the motion be adjourned”, if carried, shall result in all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.
- (2) If the motion is carried at a meeting of the Council—
  - (a) the names of Elected Member(s) who have spoken on the matter are to be recorded in the minutes; and
  - (b) the provisions of clause 8.5 apply when the debate is resumed.

### **11.4 The Motion be Now Put—Effect of Motion**

- (1) The motion “that the motion be now put”, if carried during discussion of a substantive motion without amendment, shall result in the Presiding Member offering the right of reply and then immediately put the matter under consideration without further debate.
- (2) This motion, if carried during discussion of an amendment, shall result in the Presiding Member putting the amendment to the vote without further debate.
- (3) This motion, if lost, shall result in the continuation of the debate.

### **11.5 Ruling of the Presiding Member Disagreed with—Effect of Motion**

The motion “that the ruling of the Presiding Member be disagreed with”, if carried, shall result in the ruling of the presiding member about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

### **11.6 The Motion (or Communication) Lie on the Table—Effect of Motion**

- (1) If moved in respect of a motion or an amendment to a motion, this motion takes the form “that the motion lie on the table”.
- (2) If moved in respect of a letter, report or other document, its form is “that the communication lie on the table”.
- (3) A motion that “the motion lie on the table” or that “a communication lie on the table”—
  - (a) may be moved by a member to adjourn the debate if further information is needed from the Council’s records;
  - (b) cannot be moved by a member who has moved, seconded or spoken to the question then before the meeting;
  - (c) cannot be amended; and
  - (d) does not give the mover a right of reply.
- (4) If a motion that “the motion lie on the table” or “the communication lie on the table” is carried then—
  - (a) in respect of a document or a motion, further debate on the matter is adjourned until the meeting resolves to take the document or motion from the table; and
  - (b) in respect of an amendment, both the amendment and the substantive motion to which it relates are adjourned until the meeting resolves to take the motion from the table.
- (5) If a motion that “the motion be taken from the table” or “the communication be taken from the table” is carried then—
  - (a) in respect to a document or a motion, debate resumes until the matter is determined;
  - (b) in respect to an amendment, debate resumes on the amendment until the matter is

determined.

### **11.7 The Meeting Proceed to the Next Item of Business—Effect of Motion**

The motion “that the Council (or Committee) proceed to the next item of business”, if carried, shall cause the debate to cease immediately and for the Council (or Committee) to move to the next business of the meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

### **11.8 The Council (or Committee) to Meet Behind Closed Doors—Effect of Motion**

- (1) Subject to any decision of the Council or Committee, this motion, if carried, shall result in the general public and any officer the Council or Committee determines, to leave the room.
- (2) While a decision made under this clause is in force the operation of clause 8.5 limiting the number of speeches continues to apply unless the Council decides otherwise.
- (3) Upon the public again being admitted to the meeting the Presiding Member, unless the Council or Committee decides otherwise, is to cause the resolution of the Council or Committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes under section 5.21 of the Act.

## **Part 12—Revoking or changing decisions**

### **12.1 Motion—When Put**

When the debate upon any motion is concluded and the right of reply has been exercised the Presiding Member shall immediately put the motion to the Council or the Committee, and, if so desired by any member, shall again state it.

### **12.2 Motion—Method of Putting**

If a decision of the Council or a Committee is unclear or in doubt, the presiding member shall put the motion or amendment as often as necessary to determine the decision from a show of hands or other method agreed upon so that no voter’s vote is secret, before declaring the decision.

### **12.3 Revocation Motion at the Same Meeting—Procedures**

- (1) If the CEO receives a notice of motion, which complies with the requirements of this local law, to revoke a decision made at a meeting before the close of that meeting, **then the CEO is to immediately advise the Presiding Member of the notice of motion.**
- (2) Where the Presiding Member is advised of a notice of motion under subclause (1), he or she at the first available opportunity and before the end of the meeting is to—
  - (a) advise the meeting of the notice;
  - (b) bring on the revocation motion;
  - (c) determine whether there is sufficient support (under Regulation 10) for the motion;and
  - (d) deal with the motion, if there is sufficient support.

## **Part 13—Implementing Decisions**

### **13.1 Implementation of a Decision**

(1) Neither the CEO nor an officer or an Elected Member shall take any step to implement or otherwise give effect to a resolution until 2pm on the following Council office working day after the close of the meeting at which the resolution was passed.

(2) If a notice of motion to revoke or change a decision of the Council or a Committee is received before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with, except that—

(a) If a notice of motion to revoke or change a decision of the Council or a Committee is given during the same meeting at which the decision was made, the notice of motion is of no effect unless the number of members required to support the motion under the Regulations indicate their support for the notice of motion at that meeting; and

(b) If a notice of motion to revoke or change a decision of the Council or Committee is received after the closure of the meeting at which the decision was made implementation of the decision is not to be withheld unless the notice of motion has the support in writing, of the number of members required to support the motion under the Regulations.

(3) Implementation of a decision is only to be withheld under subclause (2) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.

(4) The Council or a Committee shall not vote on a motion to revoke or change a decision of the Council or Committee whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given—

(a) action has been taken to implement the decision; or

(b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put in to effect by the Council in writing to the applicant or the applicant's agent by an officer of the Council authorised to do so; without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

## **Part 14—Preserving order**

### **14.1 The Presiding Member to Preserve Order**

The Presiding Member is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for doing so.

### **14.2 Demand for Withdrawal**

A member may be required by the Presiding Member, or by a decision of the Council or Committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an officer, and if the member declines or neglects to do so, the Presiding Member may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

### **14.3 Points of Order—When to Raise—Procedure**

Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member, who is speaking when a point of order is raised, is to immediately stop speaking and be seated while the presiding member listens to the point of order.

#### **14.4 Points of Order—When Valid**

Expressing a difference of opinion or the contradiction of a speaker shall not be recognised as a valid point of order.

The following will be recognised as the only valid points of order—

- (a) that the discussion is of a matter not before the Council or Committee;
- (b) that offensive or insulting language is being used;
- (c) drawing attention to the violation of any written law, the relevant provisions of this local law or policy of the Council, provided that the member making the point of order states the written law or policy believed to be breached; and
- (d) that insinuations have been made as to the character, morality, honesty or motives of a member or an officer.

#### **14.5 Points of Order—Ruling**

The Presiding Member is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.

#### **14.6 Points of Order—Ruling Conclusive, Unless Dissent Motion is Moved**

The ruling of the Presiding Member upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.

#### **14.7 Points of Order Take Precedence**

Notwithstanding anything contained in this local law to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

#### **14.8 Precedence of Presiding Member**

(1) When the Presiding Member rises during the progress of a debate, any member then speaking, or offering to speak, is to immediately sit down and every member of the Council or Committee present shall be silent so that the Presiding Member may be heard without interruption.

(2) Subclause (1) is not to be used by the presiding member to exercise the right provided in clause 8.3, but to preserve order.

#### **14.9 Right of the Presiding Member to Adjourn Without Explanation to Regain Order**

(1) If a meeting ceases to operate in an orderly manner, the Presiding Member may use discretion to adjourn the meeting for a period of up to fifteen minutes without explanation, for the purpose of regaining order. Upon resumption, debate is to continue at the point at which the meeting was adjourned.

If, at any one meeting, the Presiding Member has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.

(2) Where debate of a motion is interrupted by an adjournment under subclause (1), in the case of a Council meeting—

- (a) the names of Elected Member(s) who have spoken in the matter prior to the adjournment are to be recorded; and
- (b) the provisions of clause 8.5 apply when the debate is resumed.

## **Part 15—Adjournment of meeting**

### **15.1 Meeting May be Adjourned**

The Council or a Committee may decide to adjourn any meeting to a later time on the same day, or to any other day.

### **15.2 Limit to Moving Adjournment**

No member is to move or second more than one motion of adjournment during the same sitting of the Council or Committee.

### **15.3 Unopposed Business—Motion for Adjournment**

On a motion for the adjournment of the Council or Committee, the Presiding Member, before putting the motion, may seek leave of the Council or Committee to proceed to the transaction of unopposed business.

### **15.4 Withdrawal of Motion for Adjournment**

A motion or an amendment relating to the adjournment of the Council or a Committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion is to continue.

### **15.5 Time to Which Adjourned**

The time to which a meeting is adjourned for want of a quorum, by the Presiding Member to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.

## **Part 16—Committees of the council**

### **16.1 Establishment and Appointment of Committees**

A Committee is to be established on a motion setting out the proposed purpose and functions of the Committee and either—

- (a) the names of the Elected Members, officers and other persons to be appointed to the Committee; or
- (b) the number of Elected Members, officers and other persons to be appointed to the Committee and a provision that they be appointed by a separate motion.

### **16.2 Appointment of Deputy Committee Members**

(1) The Council may appoint one or more persons to be the deputy or deputies, as the case may be, to act on behalf of a committee member whenever that committee member is unable to be present at a meeting thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council.

(2) Where a committee member does not attend a meeting thereof a deputy of that committee member, selected according to seniority, is entitled to attend that meeting in place of the committee member and act for the committee member, and while so acting has all the powers of that committee member.

(3) If a deputy has commenced to act in place of a committee member at a Committee meeting and the committee member attends the meeting, the committee member will not assume the seat and the deputy will continue to act as the committee member for the duration of that meeting

(4) Once a committee meeting has commenced a deputy member cannot assume the seat of a committee member who leaves the meeting.

(5) A deputy who is one of two or more deputies of a committee member is not entitled to attend a meeting of the Committee in place of that committee member if the meeting is attended by another deputy of that committee member who has precedence over that deputy in the order of seniority determined under subclause (1).

(6) A person who is a committee member is not eligible to be appointed a deputy for another committee member.

### **16.3 Presentation of Committee Reports**

When the report or recommendations of a Committee are placed before the Council, the adoption of recommendations of the Committee is to be moved by—

(a) the Presiding Member of the Committee if the presiding member is an Elected Member and is in attendance;

(b) an Elected Member who is a member of the Committee, if the Presiding Member of the Committee is not an elected member, or is absent; or

(c) otherwise, by an Elected Member who is not a committee member.

### **16.4 Reports of Committees—Questions**

When a recommendation of any Committee is submitted for adoption by the Council, any Elected Member may direct questions specifically relating to the recommendation through the Presiding Member to the Presiding Member, any committee member or the CEO.

### **16.5 Permissible Motions on Recommendation From Committee**

A recommendation made by or contained in the minutes of a Committee may be adopted by the Council without amendment or modification, failing which, it may be—

(a) rejected by the Council and replaced by an alternative decision; or

(b) amended or modified and adopted with such amendment or modification; or

(c) referred back to the Committee for further consideration.

### **16.6 Standing Orders Apply to Committees**

Where not otherwise specifically provided, this local law applies generally to the proceedings of Committees, except clause 8.1, in respect of the requirement to rise.

### **16.7 Observers at Committee Meetings**

(1) For the purposes of this part an observer is an Elected Member attending a committee meeting of which they are not a member and choosing to sit in their allocated seat in the meeting room.

(2) Observers may occupy their allocated seat in the meeting room. Should an observer choose to sit in their allocated seat in the meeting room they are subject to the obligations on all Elected Members under the Act and all associated regulations including the *Local Government (Rules of Conduct) Regulations 2007*.

(3) Observers choosing to sit in their allocated seat in the meeting room may not participate in debate. Questions and discussion of committee members take priority over questions from observers.

## **Part 17—General administrative matters**

### **17.1 Suspension of Standing Orders**

(1) The Council or a Committee may decide, by simple majority vote, to suspend temporarily one or more clause(s) of this local law.

(2) The mover of a motion to suspend temporarily any one or more clause(s) of this local law shall either—

(a) State the specific clause or clauses of this local law to be suspended; or

(b) State clearly and concisely the reason for or purpose of the proposed suspension in a motion prefaced by the words “I move that such clause(s) of the Shire of Mingenew Standing Orders be suspended as will allow...”.

(3) Only the operation of the clauses so nominated or otherwise affected by any resolution to suspend this local law shall be suspended.

### **17.2 Cases not Provided for in Standing Orders**

The Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where this local law and the Act and Regulations are silent. The decision of the Presiding Member in these cases is final, except where a motion referred to in clause 14.6 is moved and carried.

### **17.3 Enforcement**

(1) The provisions of this local law shall be enforced by the Presiding Member of any Council or Committee but only following the specific direction of the Council or Committee by resolution by a simple majority.

(2) A breach of a provision of this local law by an Elected Member is dealt with in the Act and *Local Government (Rules of Conduct) Regulations 2007*.

(3) A person who breaches a provision of this local law commits an offence.

Penalty—\$1,000.00 and a daily penalty of \$100.00.

## **Part 18—Common Seal**

### **18.1 The Council’s Common Seal**

(1) The CEO is to have charge of the Common Seal of the Council, and is responsible for the safe custody and proper use of it.

(2) The Common Seal of the Council may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the Shire President and the CEO or a senior officer authorised by him or her.

(3) The Common Seal of the Council is to be affixed to any local law which is made by the Council.



(4) The CEO is to record in a register each date on which the Common Seal of the Council was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed.

(5) Any person who uses the Common Seal of the Council or a replica thereof without authority commits an offence.

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**The Common Seal of the Shire of Mingenew was affixed by authority of a resolution of the Council in the presence of:**

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**Cr Michelle BAGLEY**  
Shire President

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**Mr M WHITELY**  
Chief Executive Officer

Dated: \_\_\_\_ / \_\_\_\_ /2017

# SHIRE OF MINGENEW



## PROPOSED REPEAL LOCAL LAW

SEPTEMBER 2017

# LOCAL GOVERNMENT ACT 1995

Shire of Mingenew

## REPEAL LOCAL LAW 2017

### Preamble

Under the powers conferred by the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Mingenew resolved on **20 September 2017** to make the following local law.

### Part 1—Introducing Matters

#### 1.1 Title

This local law may be cited as the *Shire of Mingenew Repeal Local Law 2017*.

#### 1.2. Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

#### 1.3 Content and Intent

(1) This local law—

- (a) Provides for the repeal of obsolete local laws;
- (b) Identifies the obsolete local laws by giving their names, date they were first published in the *Gazette* and any date of subsequent amendments.

(2) This local law is intended to result in —

- (a) More efficient and effective Local Government, by removing obsolete local laws.

### Part 2 - Substance of this Law

#### 2.1 Repeal

The following local laws **and all subsequent amendments** are hereby repealed -

- (a) Reserve Common 9694 Local Law published in the *Government Gazette* on 15 August 1919.
- (b) Mingenew Road Board *Poundage Fees and Substance Charges* published in the *Government Gazette* on 20 December 1946.
- (c) Legal Proceedings Local Law published in the *Government Gazette* on 27 June 1924.
- (d) Mingenew Road Board *By-law No.21 Depositing of Rubbish* published in the *Government Gazette* on 22 July 1927.
- (e) By-laws Relating to the Manner and Mode of Keeping Dogs published in the *Government Gazette* on 28 September 1979 and amended in the *Government Gazette* on 5 February 1988 and 19 January 1996.
- (f) Mingenew Road Board *General By-laws* published in the *Government Gazette* on 10 February 1933.
- (g) Mingenew Road Board *General By-laws* published in the *Government Gazette* on 17 April 1936.
- (h) Mingenew Road Board *By-law re Appointment of Employees* published in the *Government Gazette* on 12 December 1941.
- (i) Mingenew Road Board *By-laws governing long service leave* published in the *Government Gazette* on 23 July 1954.
- (j) Shire of Mingenew *By-laws Relating to Old Refrigerators and Cabinets* published in the *Government Gazette* on 22 December 1964 and all amendments.
- (k) Shire of Mingenew *By-law Relating to Prevention of Damage to Streets* published in the *Government Gazette* on 22 December 1964.

- (l) Shire of Mingenew *By-law Relating to Removal and Disposal of Obstructing Animals or Vehicles* published in the *Government Gazette* on 22 December 1964.
- (m) Shire of Mingenew *By-law Relating to Signs, Hoardings and Billpostings* published in the *Government Gazette* on 22 December 1964 and amended in the *Government Gazette* on 30 May 1975.
- (n) Shire of Mingenew *By-law Relating to Storage of Inflammable Liquid) No. 12* published in the *Government Gazette* on 10 June 1965.
- (o) Shire of Mingenew *By-law Relating to Control of Hawkers* published in the *Government Gazette* on 10 June 1965 and all amendments.
- (p) Shire of Mingenew *By-law Relating to Standing Orders* published in the *Government Gazette* on 10 June 1965.
- (q) Shire of Mingenew *By-laws Relating to Clearing of Land and Removal of Refuse, Rubbish and Disused Material* published in the *Government Gazette* on 17 August 1966.
- (r) Shire of Mingenew *By-laws Relating to Noxious Weeds* published in the *Government Gazette* on 16 November 1966.
- (s) Shire of Mingenew *By-laws Relating to Fencing* published in the *Government Gazette* on 27 August 1968.
- (t) Shire of Mingenew *By-laws Relating to Erection of Verandahs* published in the *Government Gazette* on 6 February 1969 and amended in the *Government Gazette* on 25 January 1974.
- (u) Shire of Mingenew *By-laws Relating to the Control of Vehicles Driven on Land with is Vested in or under Care, Control or Management of the Shire of Mingenew* published in the *Government Gazette* on 19 February 1969 and amended in the *Government Gazette* on 25 January 1974.
- (v) Shire of Mingenew *By-laws of the Mingenew Public Cemetery* published in the *Government Gazette* on 27 November 1953 and amended in the *Government Gazette* on 25 January 1974 and 2 June 1978.

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The Common Seal of the Shire of Mingenew was affixed by authority of a resolution of the Council in the presence of:

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**Cr Michelle BAGLEY**  
Shire President

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**Mr M WHITELY**  
Chief Executive Office

Dated: \_\_\_\_ / \_\_\_\_ /2017

## 9.4 TOWN PLANNING

### 9.4.1 PROPOSED STATE HERITAGE REGISTER LISTING - MINGENEW POLICE GROUP SITE

**Location/Address:** Reserves 7422 & 24354 William Street, Mingenew  
**Name of Applicant:** State Heritage Council  
**Disclosure of Interest:** Nil  
**File Reference:** ADM0199  
**Date:** 11 September 2017  
**Author:** Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley  
**Senior Officer:** Martin Whitely, Chief Executive Officer

#### Summary

The State Heritage Council has written to Council seeking its comment on the proposed listing of the Mingenew Police Group site on the State Register of Heritage Places. This report recommends that Council advise it has no objection to the listing subject to the management authority's agreeance.

#### Attachment

Copy of State Heritage Council submitted information (provided as separate attachment due to its size)

#### Background/Comment

Reserve 7422 on the corner of William Street and Phillip Street is a 2,067m<sup>2</sup> property that contains the former Mingenew Police Station and Residence built in 1897.

Reserve 24354 on the corner of Moore Street and William Street is a 1,014m<sup>2</sup> property that contains the Mingenew Police Station and former Courthouse built in 1964.

**Figure 9.4.1(a) – Aerial Photograph of Reserves 7422 & 24354 William Street, Mingenew**





## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 September 2017

In 1992 the State Heritage Council entered the former Mingenew Police Station and Residence on the State Register of Heritage Places on an interim basis. In its consideration in 2015 on entering the site permanently onto the State Register, the State Heritage Council resolved to expand the site under consideration to include the current Mingenew Police Station and former Courthouse site to the north within the listing.

The State Heritage Council is inviting the Shire's comment upon this expanded site area prior to making its determination on this matter. The State Heritage Council's background information has been provided as **Attachment 9.1.1** (provided separately to the agenda due to its size).

**Figure 9.4.1(b) – View of former Mingenew Police Station upon Reserve 7422 looking north-west from William Street with subsequent Mingenew Police Station in background**



**Figure 9.4.1(c) – View of Mingenew Police Station upon Reserve 24354 looking south-west from William Street with former Mingenew Police Station in background**



### **Consultation**

The State Heritage Office have sought the comment of the Shire of Mingenew, being the local government, and the WA Police, being the management authority for Reserves 7422 & 24354, in relation to this matter. The State Heritage Office advised the Shire on 16 August 2017 that it “*can now also confirm that WA Police has no objection to the proposed registration of Mingenew Police Group*” and prior to that had advised that the Housing Authority, which manages the residence on behalf of WA Police, supported the registration.

### **Statutory Environment**

Reserves 7422 & 24354 are zoned ‘Public Purposes’ under the Shire of Mingenew Local Planning Scheme No.3.

The Shire of Mingenew Municipal Inventory of Heritage Places was prepared in 1995 as a requirement of the *Heritage of Western Australia Act 1990* to record buildings within the district of heritage significance. The Inventory lists the former Mingenew Police Station and Residence as ‘Category 2 - High Level of High level of protection appropriate: provide maximum encouragement to the owner under the town planning scheme to conserve the significance of the place’. The Inventory does not include the existing Mingenew Police Station and former Courthouse.

The *Heritage of Western Australia Act 1990* makes separate provision for the protection of places listed on the State Register of Heritage Places. Entry of a place in the State Register of Heritage Places is official recognition by the State of its significance to the heritage of Western Australia and means that any changes or works proposed for the place need to be referred, usually by the responsible local government, to the State Heritage Office. At present the Mingenew Police Group is listed on the State Register on an interim basis, and there are no permanent entries in the Shire of Mingenew on the State Register.

### **Policy Implications**

Nil

### **Financial Implications**

Nil

### **Strategic Implications**

Section 4.2.5 of the Shire of Mingenew Townsite Local Planning Strategy (2006) notes the following in relation to ‘Architectural Heritage’:

*“Mingenew has a large number of important and picturesque heritage buildings. These buildings span various eras and styles and reflect the local building materials for this region. The buildings accommodate a range of uses from civic, retail and tourism, for example, Mingenew Commercial Hotel and the Shire Administration Office.*

*There is currently one building in Mingenew that is registered on the State Heritage Office’s State Register of Heritage Places – the Police Residence at 31 William Street. There are also numerous places of local significance which have been recognised through the Shire’s Heritage Inventory, with several of these also listed on the State Heritage Office’s InHerit database.*

*The Local Planning Strategy lists the following buildings as having State heritage significance (although with the exception of the Police Residence none of these are included on the State Register):*

- *Commercial Hotel - Railway Street;*
- *Post Office Quarters - Railway Street;*
- *Church of the Resurrection - Victoria/Irwin Street;*

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 September 2017

- *St Joseph's Presbytery – William Street/Irwin Street;*
- *Shire Office and Former Hall – Victoria Road;*
- *Old Roads Board Office – Victoria Road; and*
- *Police Residence – William Street.*

*The above-mentioned places are identified on Figure 6 which show that the majority are located in and around the historic centre of the town being Victoria Road and Midlands Road. These heritage places are extremely important as they provide a reference to the historic development of the town over time. The buildings are central to Mingenew's identity, are an integral part of the townscape and crucial to its sense of place and history. Regard to State Planning Policy 3.5 Historic Heritage Conservation should be given when making planning decisions that may affect heritage places.*

*Many of the most significant historic buildings are located on Victoria Road and visitors passing through Mingenew via the Midlands Road would generally not be aware of their presence. There is an opportunity to improve advertising along Midland Road as part of a tourism strategy for the town."*

### **Voting Requirements**

Simple Majority

<b>OFFICER RECOMMENDATION – ITEM 9.4.1</b>
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**That Council advise the State Heritage Council that it has no objection to the inclusion of the Mingenew Police Group upon the State Register of Heritage Places, inclusive of both Reserve 7422 (former Mingenew Police Station and Residence) and Reserve 24354 (Mingenew Police Station and former Courthouse) providing that this is supported by the relevant management authorities, these being the WA Police and Government Regional Officer Housing.**



**DOCUMENTATION OF PLACES  
FOR ENTRY IN THE  
REGISTER OF HERITAGE PLACES**

1. **DATA BASE No.** 1589
2. **NAME** Mingenew Police Group (1897, 1964)  
**FORMER NAME (or OTHER NAMES)** Police Residence; Mingenev Police Station & Quarters (fmr); Mingenev Police Station & Courthouse
3. **LOCATION** 31 William Street and 8 Moore Street, Mingenev
4. **DESCRIPTION OF PLACE INCLUDED IN THIS ENTRY**  
Reserve 7422 being Lot 44 on Deposited Plan 573 and being the whole of the land in Crown Land Title Volume 3022 Folio 890; Reserve 24354 being Lot 62 on Deposited Plan 573 and being the whole of the land in Crown Land Title Volume 3022 Folio 903
5. **LOCAL GOVERNMENT AREA** Shire of Mingenev
6. **CURRENT OWNER**  
State of Western Australia (Responsible Agency: WA Police; Management Order Holder: Commissioner of Police)
7. **HERITAGE LISTINGS**
- |                                    |                  |            |
|------------------------------------|------------------|------------|
| • Register of Heritage Places:     | Interim          | 18/09/1992 |
| • National Trust Classification:   | Classified       | 02/03/1982 |
| • Town Planning Scheme:            | Yes              | 13/09/1994 |
| • Municipal Inventory:             | Adopted          | 31/10/1996 |
| • Register of the National Estate: | Indicative Place |            |
8. **ORDERS UNDER SECTION 38 OR 59 OF THE ACT**  
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9. **HERITAGE AGREEMENT**  
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10. **STATEMENT OF SIGNIFICANCE**  
Mingenew Police Group, comprising Mingenev Police Station and Residence fmr (1897), a stone and iron building, and Mingenev Police Station (1964), a brick and tile combined police station and courthouse building in the Post-War International Style, has cultural significance for the following reasons:
- the place is associated with the mid-nineteenth century introduction and continued enforcement and policing of British law in regional Western Australia;

the place demonstrates the way in which the Western Australian Police Force responded to population expansion and settlement into regional areas, during boom periods in the nineteenth century, and again in the mid-twentieth century;

the place comprises representative examples of late nineteenth century and mid-twentieth century police stations, both of which demonstrate operational and other changes in the provision of police services in Western Australia.

Mingenew Police Station and Residence fmr (1897) is representative of integrated police stations and quarters constructed in regional Western Australia in the late 19th century;

Mingenew Police Station (1964) is an excellent representative example of a regional Police Station designed and built in the 1960s in order to upgrade the existing police facility, and reflects the proliferation of public buildings and police stations constructed across the state during the mineral boom of the mid to late twentieth century;

Mingenew Police Station (1964) is associated with significant Western Australian architect, Raymond Jones who was responsible for a number of government buildings in the 1960s.

## 11. ASSESSMENT OF CULTURAL HERITAGE SIGNIFICANCE

The criteria adopted by the Heritage Council in November 1996 have been used to determine the cultural heritage significance of the place.

### PRINCIPAL AUSTRALIAN HISTORIC THEME(S)

- 7.2 Developing institutions of self-government and democracy
- 7.6.3 Policing Australia
- 7.6.4 Dispensing justice

### HERITAGE COUNCIL OF WESTERN AUSTRALIA THEME(S)

- 108 Government Policy
- 403 Law and order
- 408 Institutions

#### 11.1 AESTHETIC VALUE\*

Mingenew Police Station and Residence fmr (1897) is a good, nicely proportioned, modest example of a brick and tile police station designed in the Federation Arts and Crafts style. (Criterion 1.3)

Mingenew Police Station (1964) is a good example of the functional public buildings designed by Raymond Jones in the Post-War International style in the 1960s. (Criterion 1.3)

#### 11.2 HISTORIC VALUE

*Mingenew Police Group* is associated with the introduction and enforcement of British law to regional Western Australia, a process which began in Mingeneew in 1863. Both Mingeneew Police Station and Residence fmr (1897) and Mingeneew Police Station (1964) encompassed police stations as well as serving as regional court facilities and administering the justice system. (Criterion 2.1)

Mingenew Police Station (1964), designed by significant Western Australian architect Raymond Jones, reflects the practice of the Architectural Division of the Public Works Department of Western Australia in the 1960s of commissioning private architects to design government buildings in response to the large workload associated with the post-war mineral boom era during which over 100 police stations were constructed across Western Australia. (Criterion 2.2)

Mingenew Police Station and Residence fmr (1897) is one of the oldest surviving government buildings in the town of Mingeneew. (Criterion 2.2)

Mingenew Police Station (1964) is a good representative example of the work of significant Western Australian architect Raymond Jones. (Criterion 2.3)

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\* For consistency, all references to architectural style are taken from Apperly, R., Irving, R., Reynolds, P. *A Pictorial Guide to Identifying Australian Architecture. Styles and Terms from 1788 to the Present*, Angus and Robertson, North Ryde, 1989.  
For consistency, all references to garden and landscape types and styles are taken from Ramsay, J. *Parks, Gardens and Special Trees: A Classification and Assessment Method for the Register of the National Estate*, Australian Government Publishing Service, Canberra, 1991, with additional reference to Richards, O. *Theoretical Framework for Designed Landscapes in WA*, unpublished report, 1997.

Mingenew Police Station and Residence fmr (1897) is associated with the work of significant Western Australian architect Alfred Robert Linus Wright (ARL Wright), who was an influential figure of the Royal Institute of Architects of Western Australia. (Criterion 2.3)

### 11.3. SCIENTIFIC VALUE

The archaeological deposits associated with the former Lock-up and Stables buildings (1897) and the Mingenev Police Station and Residence fmr (1897) have the potential to yield information contributing to a wider understanding of law enforcement in the nineteenth and twentieth centuries in rural Western Australia. (Criterion 3.2)

The archaeological deposits associated with the former Lock-up and Stables buildings (1897) and the Mingenev Police Station and Residence fmr (1897) have the potential to provide information regarding the individual internees and police officers who have worked at the Station between 1897 and the present. (Criterion 3.2)

### 11.4. SOCIAL VALUE

The construction of Mingenev Police Station (1964) as a combined police station and courthouse, adjacent to the Mingenev Police Station and Residence fmr (1897) reflects improvements in the living and working conditions of the police force across Western Australia as infrastructure was replaced or renovated. (Criterion 4.1)

*Mingenew Police Group* is valued by the people of Mingenev, where few remaining buildings date from the 19th century (Criterion 4.1)

*Mingenew Police Group* has social value deriving from the interaction, both voluntary and involuntary, between the local community and the police officers who have worked at the Station, both of which have included Aboriginal and non-Aboriginal people. (Criterion 4.1)

## 12. DEGREE OF SIGNIFICANCE

### 12.1. RARITY

The integration of a police station and quarters within Mingenev Police Station and Residence fmr (1897) demonstrates a way of life no longer practiced, in a time before telephone communication was commonplace, and the local community required ready access to the police. (Criterion 5.2).

### 12.2 REPRESENTATIVENESS

*Mingenew Police Group* is a representative example of a place where the Police Station, Quarters, Courthouse and Lock-up were located in close proximity, as was typically the case for State facilities constructed in the late nineteenth and early twentieth century in Western Australia. (Criterion 6.1)

Mingenew Police Station and Residence fmr (1897) is a good example of the provision of residences for police officers in regional areas, and the integration of police station and quarters in the nineteenth century, demonstrating the importance of ready access to the police in a time before telephone communication was commonplace. (Criterion 6.2)

Mingenew Police Station (1964) is an excellent representative example of a 1960s regional Police Station, many of which replaced earlier buildings. (Criterion 6.2)

### 12.3 CONDITION

Generally the buildings of *Mingenew Police Group* are in good condition. The interior and exteriors of Mingenew Police Station and Residence fmr (1897) and Mingenew Police Station (1964) were inspected in 2016 and appear to be in good condition.

It is likely that intact sub-surface archaeological deposits and artefacts associated with the former Lock-up and Stables buildings (1897) and the Mingenew Police Station and Residence fmr (1897) are present in Lot 44.

### 12.4 INTEGRITY

*Mingenew Police Group* has a high level of integrity in that the buildings are still primarily used for their original purposes and therefore the character of the group has remained relatively intact. The precinct has been used principally for police, court and residential purposes from the 1890s.

Mingenew Police Station and Residence fmr (1897) is no longer used as the police station, since the construction of the adjacent Mingenew Police Station (1964). The building is still used as a residence for government employees, including but not limited to police employees.

The Mingenew Police Station (1964) has continued to operate as a police station and courthouse since its construction.

### 12.5 AUTHENTICITY

*Mingenew Police Group* is largely intact although changes to the precinct that occurred since the 1960s have reduced the authenticity of the group. Major changes include the demolition of the 1898 Lock-up building, and the replacement of the police station function with the construction of the Mingenew Police Station and courthouse in 1964.

Renovations were undertaken in the Mingenew Police Station and Residence fmr (1897) in the early twentieth century, including the installation of electric lighting and other services, but these have not affected the authenticity of the building. Mingenew Police Station and Residence fmr (1897) has moderate authenticity.

Mingenew Police Station (1964) has high authenticity, demonstrating its 1960s design.

### 13. SUPPORTING EVIDENCE

The documentary evidence was prepared by Eddie Marcus, Historian in May 2016, with amendments and additions by the State Heritage Office and the Register Committee.

The physical evidence was prepared by David Crudeli, Eastman Poletti Sherwood Architects in June 2016, with the archaeological assessment and other amendments and/or additions prepared by the State Heritage Office and the Register Committee.

#### 13.1 DOCUMENTARY EVIDENCE

*Mingenew Police Group* comprises *Mingenew Police Station and Residence* (1897), a stone and iron building which has served as residence, police station and court house, with a (now demolished) lock-up and stables, and *Mingenew Police Station* (1964), a brick and tile police station which also served as a courthouse, and had a lock-up added 1980.

The town site of *Mingenew* is located approximately 380 kilometres north of Perth. Although the area was first explored in the late 1830s, it was not until the late 1840s that pastoralists began to settle in the northern areas and in the vicinity of Geraldton. The Cattle Company, a pastoral company comprising four pastoralists, established two 20,000 acre leases in the Irwin district, which incorporated the *Mingenew Spring*. New land regulations in the 1870s allowed the proliferation of tenant farmers and share-farms in the area, as well as the continuation of pastoral leases.<sup>1</sup>

From 1863, a policeman was stationed at Strawberry, a small settlement west of *Mingenew Spring*, with control over a large area.<sup>2</sup> In the 1890s the railway from Walkaway to *Mingenew Spring* was established, providing access between *Mingenew* and Arrino (Three Springs) and later to Perth. The privately owned town of *Mingenew Springs* was surveyed in 1891,<sup>3</sup> and became the centre of supply for the surrounding pastoral areas.<sup>4</sup>

The new *Police Act 1892* retained aspects of the 1849 and 1861 Ordinances. The organisational structure did not change, with the Governor appointing the Commissioner, who in turn appointed all commissioned and non-commissioned officers. Police powers were detailed in Part V, while Parts VI and VII vastly expanded the range of summary offences the police were to deal with. These were mostly 'moral' offences, particularly gambling, which had been preoccupying the media and elite of society, but included: begging, public nuisance, use of carts and horses, public sanitation, obscenity, bathing

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1 Gray, L. & Sauman, I. 'Conservation Plan—*Mingenew School* (former) currently known as *Mingenew Museum*', (March 2003, prepared for Shire of *Mingenew*), pp. 1, 5-8.

2 *Mingenew Historical Society*, 1988, *Mingenew 1846-1986*, Hesperian Press, Carlisle, p. 54

3 In 1905 an additional 50 lots were surveyed on Crown Land and the subdivision named *Mingenew*. However, the privately-owned town continued to be known as *Mingenew Springs* until 1912 when the town of *Mingenew* was officially recognised by the State Government. See: Gray & Sauman, op cit., p. 8; *Mingenew Historical Society*, 1988, *Mingenew 1846-1986*, Hesperian Press, Carlisle, p. 42

4 Gray & Sauman, op cit., p. 7.

costumes, and gaming on certain holy days. With subsequent amendments, this 1892 Act forms the basis for policing in Western Australia in 2016.<sup>5</sup>

Gold was at the centre of a dramatic increase in the colony's population, with the Kimberley goldfield proclaimed in 1886, followed by Yilgarn and Pilbara (1888), Ashburton (1890), Murchison (1891), Dundas (1893) and, most importantly, Coolgardie and Kalgoorlie in 1894. The number of people in Western Australia rose from 59,000 in 1892 to 212,000 in 1902.<sup>6</sup>

Mingenew catered to prospectors travelling through the Murchison to access the goldfields. By early 1893 there were two hotels in Mingeneu, trains running twice a week, and "people of many dispositions coming and going". The local community recognised a need for a local police station and a magistrate to hold court once a month, since they only saw a policeman from Dongara, Constable Frederick C. Pollard, once a week.<sup>7</sup> In the absence of a police station, prisoners had to be chained to a tree, which was also the case in some other regional areas.<sup>8</sup> In 1893 a resident police constable, Louis Simpson formerly of the Water Police, was assigned to Mingeneu Springs, accommodated in a one-room former pastoral outstation.<sup>9</sup>

Although a native tracker was also transferred to Mingeneu in 1893 with Constable Simpson<sup>10</sup>, his name is not recorded, nor his place of residence during or after the construction of the new police station. The duties of Constable Simpson and the tracker included visiting settlers and investigating complaints, caring for the police horse David, and searching for "native offenders" as required.<sup>11</sup> In 1895 two Aboriginal men were held briefly in Mingeneu before boarding the train for Dongara for holding in the police station lockup there. They had been had been apprehended further down south and one was charged with larceny of rations and the other for deserting while under an unexpired agreement.<sup>12</sup>

In 1895 plans were prepared for the construction of a new police station, Mingeneu Police Station and Residence fmr (1897), which was estimated to cost £775.<sup>13</sup> A copy of the plans indicates that the design work was undertaken by J.G. Taylor and A.R.L. Wright.<sup>14</sup> The tender for the construction was awarded to W. H. Linthorne.<sup>15</sup> By September 1897 a stone

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5 Conole, Peter, *Protect & Serve: A History of Policing in Western Australia* (Western Australian Police Historical Society, 2002), p. 98

6 Conole, *Protect & Serve*, p. 101

7 'Establishments/Localities—Mingeneu Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1; 'Mingeneu,' *W.A. Record*, 19 January 1893, p. 8; Pashley, A.R., 2000, *Policing Our State. A History of Police Stations and Police Officers in Western Australia 1829-1945*, Optima Press, Perth, p. 331.

8 'Mingeneu,' *W.A. Record*, 14 March 1896, p. 11.

9 'Establishments/Localities—Mingeneu Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1; Stephens, Robert, *The Mingeneu Story* (1960)

10 Pashley, op cit., p. 331.

11 Pashley, op cit., p. 331.

12 Pashley, op cit., p. 331-332.

13 'Legislative Assembly,' *West Australian*, 23 August 1895, p. 3; 'The Estimates—1896-7,' *West Australian*, 29 August 1896, p. 6

14 PWD Plan 1250 (Drawing No. 2).

15 'Mingeneu,' *W.A. Record*, 14 March 1896, p. 11.

police station and quarters had been constructed on William Street.<sup>16</sup> The quarters were accessed via the William Street (eastern) entrance and comprised three bedrooms, living room, lobby and kitchen.<sup>17</sup> The police station office and a fourth bedroom were accessed from the northern entrance.<sup>18</sup> The construction of the police station and quarters facilities within the one building was a common feature of the time. The arrangement allowed the community to easily reach police officers, even after working hours, in a time before telephone communication and motor transportation was commonplace.<sup>19</sup>

The following year a two cell Lock-up and stables, later the police store and garage, were constructed in the adjacent southern lot, the contract being awarded to C. F. Jesumann.<sup>20</sup> A wood pile for the stove and fireplace was located directly behind the residence, and was supplied by prisoner labour.<sup>21</sup>

In 1908, E. Jewell was awarded the tender, for £51 10s, to renovate Mingenew Police Station and Residence fmr (1897).<sup>22</sup> The nature of these renovations is currently unknown. In 1911, it was noted that Mingenew needed a purpose-built courthouse. At that time, the Police Court was held in a tiny room in Mingenew Police Station and Residence fmr (1897), which was so small that 'a table and a couple of chairs practically fill it'. It was also said that some witnesses had to be interrogated through the window.<sup>23</sup> Further renovations were carried out later in 1911 by H. E. Haurahan, but the nature of these is again unknown.<sup>24</sup>

Renovations in 1912 saw the installation of electric lighting, the replacement of the floor of the 'lobby', and the construction of a laundry and bathroom addition to the western wall of Mingenew Police Station and Residence fmr (1897).<sup>25</sup> Two separate earth closets were also constructed south of the Lock-up and west of Mingenew Police Station and Residence fmr.<sup>26</sup> The contract was again won by C. F. Jesumann.<sup>27</sup>

Following the renovations, Mingenew Police Court continued to be heard in the Mingenew Police Station and Residence fmr (1897). Cases included

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- 16 'The Governor on Tour,' *Inquirer*, 3 September 1897, p. 14; *West Australian*, 17 November 1897, 'The Estimates 1897-98'. Source: [trove.nla.gov.au/ndp/del/article/3188117](http://trove.nla.gov.au/ndp/del/article/3188117). Accessed 11 September 2015.
- 17 SRO Item No. 05829 — Mingenew Police Station & Quarters, PWD Plans.
- 18 SRO Item No. 05829 — Mingenew Police Station & Quarters, PWD Plans.
- 19 Edwards, L. Gill, A & Gregory, J., May 1998, Western Australia Police Service Thematic Study, prepared for Department of Contract and Management Services on behalf of the Western Australian Police Stations, p 56.
- 20 Shire of Mingenew Municipal Inventory—P1589 Police Residence; 'Government Notices,' *West Australian*, 29 January 1898, p. 2; 'News and Notes,' *West Australian*, 23 February 1898, p. 4
- 21 Shire of Mingenew Municipal Inventory—P1589 Police Residence
- 22 'Upper Irwin Road Board,' *Midlands Advertiser*, 27 November 1908, p. 3
- 23 'Local Court Wanted at Mingenew,' *Midlands Advertiser*, 24 March 1911, p. 4
- 24 'Tenders for Public Works,' *Daily News*, 15 November 1911, p. 4
- 25 SRO Item No. 05829 — Mingenew Police Station & Quarters, PWD Plans (1912).
- 26 SRO Item No. 05829 — Mingenew Police Station & Quarters, PWD Plans. It appears that toilet facilities were installed within both the *Mingenew Police Station & Quarters (fmr)* and the Lock Up at a later date. An existing water closet within the Lock Up facility is noted on a 1962 plan of the building.
- 27 *Geraldton Guardian*, 17 September 1912, p. 2



charges of disorderly conduct, larceny and assault.<sup>28</sup> Non-Aboriginal and Aboriginal offenders of both sexes were held and charged by the Court.<sup>29</sup> A 'native police tracker', Sam, was also in employment at the station at least until 1908.<sup>30</sup>

In the early half of the twentieth century the Western Australian Police Force<sup>31</sup> responded to the rising population and prosperity of the state with a corresponding expansion. Natural growth and immigration increased the population of Western Australia from just under 230,000 in 1911 to over 438,000 in 1933.<sup>32</sup> The Police Force followed the expanding population into newly settled areas, and consolidated around more isolated settlements.<sup>33</sup> Police officers at this time, especially those in regional areas such as Mingenew, performed a range of duties in addition to policing of the local area, including first aid, locating debtors, inspection of timber reserves, traffic control and enquiries for a range of other government departments, including taxation matters, lunacy cases, immigration, and child welfare.<sup>34</sup>

The upheavals of the two World Wars and the Depression presented a number of challenges for the Police Force in Western Australia, including the rise of a black market in response to rationing, increased civil unrest and cutbacks in staff and resources.<sup>35</sup> Even after World War II, shortages in materials made much needed repairs and building works untenable, particularly in regional areas.<sup>36</sup>

It was not until the 1950s that Western Australia returned to peace-time conditions.<sup>37</sup> The growth of primary production and industrial development stimulated the economy and the State Government embarked on a series of public works programs. During this period, the Police Force was led by a reforming Commissioner, James Murray O'Brien, who paid particular attention to the working conditions and training standards of his officers. In 1958 his cordial dealings with the Police Union culminated in an agreement to

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28 *Geraldton Express*, 9 November 1908, 'A Mingenew Charge', Source: <http://trove.nla.gov.au/newspaper/article/210744677>; *The Midlands Advertiser*, 24 December 1909, 'News and Notes', Source: <http://trove.nla.gov.au/newspaper/article/156506492>; *The Moora Herald and Midland Districts Advocate*, 5 June 1914, 'Local and General', Source: <http://trove.nla.gov.au/newspaper/article/203560197>, Accessed 9 September 2016.

29 *Sunday Times*, 15 November 1903, 'A Mingenew Magistrate', Source: <http://trove.nla.gov.au/newspaper/article/57187989>; *Geraldton Express*, 9 November 1908, 'A Mingenew Charge', Source: <http://trove.nla.gov.au/newspaper/article/210744677>, Accessed 9 September 2016.

30 It is not clear in the account if Sam, for whom no surname is provided, was the tracker that arrived in Mingenew with Constable Simpson in 1893.

*Geraldton Express*, 9 November 1908, 'A Mingenew Charge', Source: <http://trove.nla.gov.au/newspaper/article/210744677>, Accessed 9 September 2016.

31 The Western Australia Police Force became the Western Australia Police Service, as it is currently known, in 1994.

Western Australia Police, 2016, 'Our History', Source: <https://www.police.wa.gov.au/About-Us/Our-history>, Accessed 10 August 2016.

32 Edwards, op cit., p. 25.

33 Edwards, op cit., p. 25.

34 Edwards, op cit., pp. 25-27.

35 Edwards, op cit., pp. 28-29.

36 Edwards, op cit., pp. 51-52.

37 Edwards, op cit., p. 31.

introduce a 40-hour working week. In addition, plans were made to develop in-service training and development courses and, by 1963 police officers were sent to training institutions for specialised instruction.<sup>38</sup> These improvements reflected the operational and other changes of the Police Force resulting from the increased prosperity of the state.<sup>39</sup> In 1960 Western Australia entered a period of prosperity now referred to as the mineral boom era, driven by rapid mining expansion across the state, including the Pilbara and Eastern Goldfields, exploration and exploitation of offshore petroleum resources along the north west coast, and the opening up of the Kimberley region by the Ord River project and Lake Argyle project. The corresponding population expansion into the Pilbara and other regional areas was accompanied by a similar expansion by the Police Force (and other government departments).<sup>40</sup>

In 1961, the constable in charge at Mingenew Police Station requested an Exercise Yard be attached to the two-cell Lock-up, since there had never been facilities of that type for prisoners in Mingenew. The same year a new Court House was proposed for the town, and Claremont architect Raymond Jones was commissioned to design the building. Prior to this, designs for police buildings were prepared by the Architectural Division of the Department of Public Works.<sup>41</sup> However, increased resources as a result of the mineral boom, coupled with longstanding requirements for new and expanded public buildings across the state, led to an unprecedented demand for new government buildings.<sup>42</sup> The Department was unable to recruit adequate staff and the State Government decided to allocate a certain proportion of design work to private architects to lessen the load.<sup>43</sup>

The plans for 'Mingenew Court House & Police Offices' were presented in March 1963.<sup>44</sup> The former police station and quarters were to be retained as a police residence. The decision to retain the Courthouse, Police Station and residence in the same vicinity reflects the strong relationship between police forces and the justice system, particularly in the regional areas.<sup>45</sup> Throughout the 1960s, numerous police facilities, including new police stations, quarters, lock-ups and court facilities were constructed in metropolitan and regional areas, in both areas of new growth, but also where existing buildings required replacement.<sup>46</sup> Examples of combined police station and courthouse buildings constructed during this time include Boyup Brook, Harvey, Yarloop and Meekatharra.<sup>47</sup>

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38 Conole, *Protect & Serve*, pp. 280-81.

39 Edwards, L, *op cit.*, pp. 33-35.

40 Edwards, L, *op cit.*, pp. 33-35.

41 Edwards, L, *op cit.*, p. 90.

42 Edwards, L, *op cit.*, p. 52.

43 Edwards, L, *op cit.*, pp. 48, 90.

44 'Establishments/Localities—Mingenew Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1.

45 Edwards, L, *op cit.*, pp. 45-46.

46 Edwards, L, *op cit.*, p. 53.

47 P17358 Boyup Brook Police Station & Courthouse — Does not warrant Assessment; P17380 Meekatharra Police Station & Courthouse — Does not warrant Assessment; P17382 Yarloop Police Station & Courthouse — Does not warrant Assessment.

In 1964 the new police station and courthouse (Mingenew Police Station (1963)) was erected to Jones' design by Britannic Building Co. for the sum of £13,257.<sup>48</sup> Although the building was located in the northern lot, adjacent to Mingenev Police Station and Residence fmr (1897) and fronting William Street, it was oriented to face Moore Street.<sup>49</sup>

By 1964 the old quarters (Mingenew Police Station and Residence fmr (1897)) were reportedly in a dreadful state of disrepair, with holes in the floors, only an external toilet, and the whole place was cockroach infested.<sup>50</sup> In separate works, a new driveway and garage was constructed along the southern side of the building, demonstrating the increased commonality and importance of motor vehicles in the Police Force. Additional works to the rear included the construction of a new bathroom off the lounge room, installation of a new floor and ceiling to the vestibule, and the creation of a new enclosed west verandah.<sup>51</sup>

Despite the erection of Mingenev Police Station (1963), the Lock-up continued to be the old simple stone building with two cells and a toilet, lacking washing and showering facilities. In addition, it was open to the public gaze and some 57 yards from Mingenev Police Station (1963), which was both inconvenient and a security risk. The Public Works Department (PWD) stated that it was not practical to move the block, so instead, in September 1964, called for tenders to provide an Exercise Yard, and to repair and renovate the Lock-up. The contract was won by C. Scalise & Son of Alfred Cove for £4,700.<sup>52</sup> Other works included the repair of the fence between Mingenev Police Station and Residence fmr (1897) and the Lock-up, and the demolition of the store and stables/garage building located west of the Lock-up.<sup>53</sup>

In 1971 a report noted that Mingenev Police Station (1963) was staffed by two officers, with the Officer-In-Charge (OIC) doubling up as the Clerk of Courts. The OIC Quarters, Mingenev Police Station and Residence fmr (1897), were said to be very old but sound and in good condition, implying renovations since 1964. The report emphasised that new cells were required with the old stone Lock-up being inappropriate, even with the addition of an Exercise Yard. However, nothing was done about the Lock-up at this stage. A new Lock-up was proposed in 1977, and a transportable 'Type 1 Cell Block' should be used if new cells were not constructed. The local officers repeated that the Lock-up was a security risk and in extremely poor condition.<sup>54</sup>

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48 'Establishments/Localities—Mingenew Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1.

49 Mingenev Historical Society, *op cit.*, p. 54; SRO Item No. 05829 — Mingenev Police Station & Quarters, PWD Plans (1964)

50 'Establishments/Localities—Mingenew Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1.

51 SRO Item No. 05829 — Mingenev Police Station & Quarters, PWD Plans (1964)

52 'Establishments/Localities—Mingenew Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1.

53 SRO Item No. 05829 — Mingenev Police Station & Quarters, PWD Plans (1964)

54 'Establishments/Localities—Mingenew Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1.

Rumours in 1979 led to a coordinated letter writing campaign by members of the Mingenew Historical Society protesting the proposed demolition of Mingenew Police Station and Residence fmr (1897). Each letter was answered with a statement that there were no such plans in place, even though records show the whole site was scheduled for redevelopment at some point in the future.<sup>55</sup>

However, as the population of Mingenew was declining at this point, it was decided that no new offices for the police were required, but that a new Cell Block should be constructed, attached to the 1964 Police Station and Courthouse. Tenders were called in 1979, and the contract awarded to D. Duvnjak for \$95,360. By May 1980 the new Cell Block was nearing completion.<sup>56</sup>

Once the new Cell Block was opened, it was proposed to demolish the old Lock-up, and Senior Inspector Lawrence wrote to head office to request its doors and windows 'for historical purposes'. The old Lock-up was demolished in January 1981 by local contractor J. H. Bursford & Co.<sup>57</sup>

Again fearing its demolition, the Mingenew Historical Society campaigned to save Mingenew Police Station and Residence fmr (1897) and to have it listed with the National Trust. 'Police Residence, Mingenew' was Classified by the National Trust in 1982. Despite this, the Historical Society campaigned in late 1983 against another proposal to replace Mingenew Police Station and Residence fmr (1897).<sup>58</sup> Employees of the WA Police occupied the place until at least 1999, and it continued to be used as a residence for government employees after that time.

In 1998, a new air conditioning system was installed in Mingenew Police Station and Residence fmr (1897). At the time, it was noted that all the ceilings in the building were new and the air conditioning installation works involved the drilling through stone for piping access and installation of ducts along the interior and exterior walls.

In 2000, the original coloured plans for Mingenew Police Station and Residence fmr (1897) were identified during a scanning project undertaken by the Geraldton Branch of the Department of Contract and Management Services. The plans, now held at the State Records Office in Perth, were thought to be the oldest drawing on record from the region.<sup>59</sup>

Although Lot 44 (Mingenew Police Station and Residence fmr (1897)) and Lot 62 (Mingenew Police Station (1963)) remain the property of the WA Police, Mingenew Police Station and Residence fmr (1897) is managed as an asset

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55 'Establishments/Localities—Mingenew Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1

56 'Establishments/Localities—Mingenew Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1

57 'Establishments/Localities—Mingenew Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1

58 'Establishments/Localities—Mingenew Police—Buildings General', SRO Cons 5531 Item 045138-2 v. 1

59 *Midwest Times*, 24 May 2000, 'Station given memories', Government Media Office Clipping Service. These plans are not available at the State Records Office in Perth.

by Government Regional Officer Housing (GROH).<sup>60</sup> The building was in use as a residence for employees of the Education Department from at least 2008. In 2016 it was in use as a residence for police employees.

In November 2015 the court facility at Mingenew Police Station (1964) was formally closed. In 2016, the place is now solely used for police purposes.<sup>61</sup>

### 13.2 PHYSICAL EVIDENCE

*Mingenew Police Group* comprises the Mingenew Police Station & Residence (fmr) (1897) and the Mingenew Police Station and former Courthouse (1963). These buildings are located within a triangular lot bounded by William, Moore and Phillip Streets within the Mingenew town site. The Mingenew Police Station and Residence (fmr) (1897) faces east onto William Street, adjacent to the more modern Mingenew Police Station and former Courthouse (1963) building which faces north at the corner of William and Moore Streets. The vacant area to the south of the Mingenew Police Station and Residence (fmr) (1897) includes the area formerly occupied by the stables and two-cell Lock-up, and a fenced vacant area. The former rear (west) yard of the building has been partially subsumed for use as a secure police vehicle parking area and garage. A St John Ambulance Vehicle Shed and parking area is located in the adjacent lot to the southwest of the yard, facing west towards the corner of Moore Street and Phillip Street.

A number of mature gum trees stand around the buildings and along the Moore Street verge.

The site generally falls from south to north so that pedestrian entrance to the newer building is from the lower section of the site. Vehicle entrance is from William Street at the higher level of the site.

#### **Mingenew Police Station and Residence (fmr) (1897)**

Mingenew Police Station and Residence (fmr) (1897) is of stone construction with pointed joints and a pre-painted corrugated iron roof with vented Dutch gables. The stonework to the south elevation has been painted. The roof surface was replaced between 2010 and 2011. Painted timber battens line the eaves of the original building. Verandahs were originally located on the eastern (front) and northern elevations. The original verandahs are painted timber framed construction with an unlined soffit. Painted timber framed lattices enclose the verandah gable ends. None of the roof rainwater is currently collected or stored on-site. A pointed joint brickwork chimney penetrates the roof to the south elevation of the residence. A solar hot water system, TV aerial and dish have been installed onto the roof surface.

An additional lean-to verandah with cement floor was added to the western (rear) elevation in 1965. The lean-to has since been modified and external timber framed walls clad in fibre cement weatherboards have been added to enclose a Toilet, Laundry and Back Room. An additional covered verandah structure had been added to the rear of the building by 2016.

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<sup>60</sup> Mick McCutcheon, pers comm email to Karina Williams, 28 November 2016.

<sup>61</sup> Mick McCutcheon, pers comm email to Kelly Fleming, 5 April 2015.

The garage on the southern side of the building was constructed in 1965 during the construction of the Mingenew Police Station and former Courthouse (1963), located in the northern adjacent lot. A concrete driveway leads to the metal clad garage from the street for vehicle parking.

A white PVC picket fence separates the driveway and street from the front yard. Pedestrian access to the front door is via a clay brick paved footpath from the street footpath through a gate in the picket fence with a step up onto the concrete verandah. The north verandah and back yard can be accessed via a concrete footpath running from the front verandah along the north side of the residence and through a pre-painted corrugated iron personnel gate into the back yard. A steel framed metal clad personnel gate between the shed and the south side of the residence provides access from the driveway to the rear yard. The boundary fencing is constructed from a pre-painted corrugated iron fence.

Garden beds have been defined with a concrete kerb and are mulched. A section of the front yard has had artificial lawn installed. The south side of the building is covered with gravel.

Circulation from the front entry door through the residence is via a central hallway. The hallway links all four bedrooms; two on the south and two on the north and the lounge room at the west end of the hallway. The bathroom, kitchen/dining and laundry toilet are accessible from the back room via the lounge room.

The internal layout of the building has been modified over time to suit changes in use. The north-west bedroom previously had a door to the now dining room. This door is no longer apparent, and the room is accessed from the hallway. Elements of the original police station office are now part of the kitchen. The dining room and kitchen were separated by a wall with a back-to-back fireplace. The fireplace has been removed and only a nib wall to each side of the room remains. The bathroom previously had a door from the lounge room. This door is no longer apparent, and the room is accessed from the backroom. The lean-to structure to the rear of the building was an addition to the original building and has been modified at various stages. Currently it is an enclosed structure housing the laundry, toilet and a back room. The internal walls and ceiling of the lean-to are lined with fibre cement/asbestos wall linings.

Internally, the building includes some original features including high ceilings, tall double hung timber sash windows and a French window in the original drawing room, which is now a bedroom. The front entry door and the drawing room door feature a transom window above. The head of the transom window finishes to the same height as the head of the tall windows. The ceilings had been replaced by 1998. New light fixtures were installed at this time.

The internal walls to the original building are painted hard plaster/glass faced cement render with cast metal vents at high level. The skirtings, architraves, sills and picture rails throughout the original building are painted period hardwood mouldings. The internal doors are painted panelled hardwood doors. The door to the kitchen is a flush finished door with a high level clear glazed panel.

The original back-to-back fireplaces remain in one of the south bedrooms and the south east corner of the lounge room. The bedroom fireplace has been boarded up and the Lounge fireplace has a new potbelly installed within the existing fireplace. Vinyl tiles are installed over the existing floorboards in the kitchen/dining. There is evidence that repair work has been done to the existing floorboards in the kitchen. Carpet has been installed over the existing floorboards in all four bedrooms, the hallway and the lounge room. The back room, laundry, toilet and bathroom floors are tiled. The floor to the lean-to structure falls to the West.

The kitchen cabinetry and in-built wardrobes to each bedroom are recent additions and are of laminated/melamine particleboard construction. The kitchen cabinetry includes new inbuilt oven and stovetop appliances and kitchen sink. Modern split-system air-conditioning has been installed into each of the four bedrooms, the lounge room and the kitchen. Aluminium framed stainless steel mesh security screens have been installed to all external windows and doors.

The tile and concrete floor of the lean-to and the concrete verandahs has been bored at regular intervals to the perimeter of the original stone wall to install termite treatment.

### **Mingenew Police Station (1963)**

The Mingenev Police Station (1963) is a split level building adapted to meet the requirements of a sloping site.

The plan form of the original building is almost square. Formal entry into the building is through doors in the north elevation. The north elevation includes a verandah under the main roof line for the full width of the elevation. The verandah area is concrete paved with a footpath extending east to the street footpath. A lit Police sign stand at the end of the footpath. A small bituminised carpark is located to the north of the entry for visitor parking. The area surrounding the carpark and approaching the building entrance is turfed. A steel framed aerial tower stands to the North West side of the building.

Authorised access is achieved through a door in the south elevation. Male and female toilet facilities are also accessed from the south of the building. The area to the south of the building is concrete paved to allow pedestrian access with face brick retaining wall to the boundary to address the sloping site.

The Police Station entry is at the left of the front elevation and accesses a foyer and office and file room. This space connects via stairs to a rear common service area housing a store, lobby/kitchenette area and toilet.

The Court House entry is central in the north elevation and accesses directly into the Court Room. The Magistrate's desk and court officer positions are at the south of the room. There is a door to the Police office in the south-east corner of the room and a door to the Witness Room in the north-west corner of the room. In the south-west corner is a door leading out to the common service area and a Magistrates Room to the west of the Court Room.

At right of the north elevation is a door allowing access to the Witness Room. This room also provides access into the Court Room.

The floor level of the Police office and foyer and Witness Room are one half step higher than that of the Court House. There is a half-step up to the Court Officer position from the main Court House floor and the Magistrate sits at the same raised level as the Magistrates Room and rear service areas.

The primary roof structure is of steel construction supported on concrete or brick corner piers and connected to a steel ring beam which creates a central feature within the Courthouse. The roof is of steel and timber construction and the roofing is clay tiles. Walls are of double clay brick construction (face brick externally) and the floor is concrete. A later cell addition constructed in 1980 is of similar brick and tile construction and connects off the south west corner of the original building.

The primary elevation of the original Courthouse building (north elevation) which addresses the street corner of Moore and William Street is symmetrical and features the public entrances to the building; the double doors to the courtroom at centre, the single police station entry door at left and the Witness Room entry door at right. This elevation is predominantly of timber framed construction with fixed infill panels of glazing, glazed doors and solid panels, with only the corner constructed from face brick. The doors to the courthouse feature a cast bronze door handle set.

The original Courthouse roof is of steel framed construction in the form of a pyramid roof form with the peak truncated by a square box structure clad in metal louvre blades and Brownbuilt roof sheeting which conceals the feature roof of the courtroom. The steel structure is visible externally at each corner of the building where a painted rendered brick/concrete pier supports the roof structure and to the steel verandah posts.

Internally the walls are painted hard plastered/glass faced rendered brick walls, asbestos vinyl tiles over concrete floor slab with a coved vinyl skirting, tiled floors to the wet areas and platerglass ceilings with a square edged cornice throughout; fibre cement/asbestos ceiling to the secure store. Some original Bakelite electrical outlets and switches remain. Fluorescent tube lighting is used throughout.

The Court House room retains much of the original features. The floor is asbestos vinyl tiles, although some sections have been renewed, and the floor level is split from the Magistrates Bench to the Court Officers level and then again to the public entrance. The ceiling is lined with a painted acoustic tile. At the centre of the room the level ceiling opens up to a double height volume, the walls of which are lined with lapped clear finish timber boards. Within the double height volume the apex of the steel roof structure is visible as is the painted perforated board ceiling. The Magistrates Bench and Court House Docks still remain. They are constructed from black powdercoated steel frame with laminated board in a timber grain. The magistrate's desk is secured either side by inclusion of painted steel frames with fixed obscure glass infills.

The later 1980 addition houses the Charge Room and Cells for the complex. The internal toilet space was modified to accommodate the Passage extension into the new addition. The Passage links the existing building to the Charge Room. The Cells, Store Room and an additional external access to the Police secure parking area are all accessible from the Charge Room.



The Cells are finished with unpainted cement render walls, asbestos sheet ceilings and concrete floors with steel framed steel bar doors. The Charge Room is finished with painted hard plastered/glass faced rendered brick walls, asbestos vinyl tiles over concrete floor slab with a coved vinyl skirting and plaster glass ceilings with a square edged cornice. The desk station cabinetry is a panelled hard wood timber clad desk with a raised platform.

Some rooms have been refurbished to meet the requirements of the Police Station. A reception counter has been installed between the Reception and the Office. The Reception and Office has carpet tiles to the floors. The existing ceilings appear to be replaced with a plasterboard ceiling and a coved cornice in the Magistrate's Room, Police Office and Reception. The original Kitchenette remains. Modern split-system air-conditioning has been installed into the Witness Room, Magistrate's Room and the Police Office to maintain occupant comfort levels.

### **Archaeological Assessment**

In 1897 a two cell Lock-up and a stables building were constructed in the adjacent lot south of Mingenew Police Station and Residence (fmr) (1897). Later used as a police store and garage, the Lock-up was a simple stone building with two cells and a toilet. It underwent some modifications during its occupation but was demolished in 1981. No new structures have been erected on the site since that time, although it appears to have been used as a car parking area, and there has been some level of ground disturbance in the area directly south of the Mingenew Police Station and Residence (fmr).

Although it is expected that the demolition of both the Lock-up and the Stables buildings are likely to have removed the majority of structural elements, it is likely that subsurface archaeological remnants of both buildings are present in the area. There is moderate potential for archaeological deposits or artefacts to be present in the vicinity of the former Lock-up and Stables buildings. Any artefacts associated with the two buildings might provide information regarding both the local community and the police officers who have worked at the Station between 1898 and 1980s, and potentially provide an insight into the operation of the Lock-up and Stables in the context of a precinct comprising a Police Residence, Police Station and Courthouse.

Mingenew Police Station and Residence (fmr) (1897) has undergone some modifications since its 1897 construction, including the construction of additions and internal changes. There is moderate potential for below ground deposits comprising archaeological artefacts associated with multiple phases of occupation to be present in the vicinity of the building, or in sub-floorboard deposits.

Given the relatively recent construction date and sloping incline of the site, there is low potential for archaeological artefacts or deposits to be present in the vicinity of Mingenew Police Station (1963) that is likely to provide any additional information regarding this building that is not available from other existing sources.

### 13.3 COMPARATIVE INFORMATION

*Mingenew Police Group* comprises *Mingenew Police Station and Residence fmr (1897)* and *Mingenew Police Station (1964)*. *Mingenew Police Station and Residence fmr (1897)* was constructed in the late 19th century. In 1964, a replacement police station and courthouse was constructed, and the building continued to be utilised as a police residence until recently (2008).

#### Police Station, Courthouse and Residence

A search of the State Heritage Office database for places used as a Police Station or Quarters in a regional area returns 253 entries, including 25 places on the State Register of Heritage Places, nine child records and 43 on the Assessment Program.

A refined search of the 253 Police Stations and Quarters located in regional areas returned a total of 29 places that were constructed between 1890 and 1910. The following list includes a number of comparable places.

- J P3229 *Police Quarters, Lockup & Service Building (Child Record of Cossack Town Site Precinct (RHP))*: A single storey building constructed of stone with metal roof including the Police Quarters, Lock-up and Service buildings constructed between 1890 and 1900.
- J P2770 *Yalgoo Justice Precinct, Yalgoo (RHP)*: a group of single-storey corrugated iron clad buildings constructed between 1896 and 1921, including the Courthouse (fmr) and Gaol (fmr), Museum and Police Quarters (fmr).
- J P1450 *Old Police Complex, Laverton (Assessment Program)*: Constructed in 1901 and comprises lock-up, police station/office and timber clad police quarters.
- J P209 *Boulder Police Station (fmr) (Assessment Program)*: Constructed in 1898 and comprises timber building, with little evidence of original use remaining.
- J P1470 *Leonora Police Station Group (fmr) (Assessment Program)*: A group of single storey weatherboard and corrugated iron clad buildings constructed between 1899 and 1911, the former Sergeant's Quarters; Quarters No. 2 and one two-room and three one-room Flats (former Station Building); the single-cell Female Lock-up, including exercise yard; four-cell Male Lock-up, including exercise yard; and Stable (fmr).
- J P4980 *Margaret River Police Residence*: erected in 1928, along with a police station. (Augusta/Margaret River MI)

The above list illustrates that *Mingenew Police Station and Residence fmr (1897)* is one of several early examples of integrated police station and residences present on the Register and the Assessment Program. It also demonstrates the common practice of constructing the police station and associated buildings, such as quarters, lock-ups or gaols, and courthouses in close proximity to each other.<sup>62</sup> The change in occupation from police

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<sup>62</sup> The construction of the quarters and police station in the same building was convenient and provided security for the on duty policeman and his colleagues, as well as privacy and security for his family.

residence to government housing, including but is not limited to police employee housing, has compromised the continuity of use of the building. However Mingenew Police Station and Residence fmr (1897) is still associated with the adjacent Mingenew Police Station (1964) and retains a physical and visible link between the quarters, police station, lock-up and courthouse.

Mingenew Police Station (1964) is situated in the MidWest/Gascoyne region. It was constructed in 1964 during the mineral boom era in the Post-War International style. During this period over 100 police stations were constructed across the state, 80 of which are included in the State Heritage Office database. The most comparable to Mingenew Police Station (1964), are listed below. None are entered in the State Register of Heritage Places, but a thematic review of late 20<sup>th</sup> century police stations has identified several that have been added to the Assessment Program:

- J P17451 Margaret River Police Station (1965) (Assessment Program): Brick and tile Courthouse, Police Station and Quarters to replace the original (1929) Police Station, which was then relocated to Augusta. In 2015 Margaret River Police Station was substantially renovated and refurbished.
- J P17438 Kojonup Police Station (1965) (Assessment Program): Perth Regional style concrete and brick complex.
- J P17380 Meekatharra Police Station & Courthouse (1965): Brick and iron building. In 1962 the existing station and cells were considered sub-standard and Geraldton Building Co. won the contract for a new police complex for £42,210. (RHP - Does not warrant assessment)
- J P17324 Toodyay Police Station & Courthouse (1966): Brick and tile building with prominent brick pillars to form a front verandah. (RHP - Does not warrant assessment)
- J P17414 Wongan Hills Police Station (1964): Brick and tile building. (RHP - Does not warrant assessment)
- J P17412 Corrigin Police Station (1961): Brick and tile building.
- J P17413 Merredin Police Station (1962): Brick and tile building. (RHP - Does not warrant assessment)
- J P17358 Boyup Brook Police Station & Courthouse (1964): Brick building. (RHP - Does not warrant assessment)
- J P17429 Northampton Police Station (1963): Modernist, salmon coloured brick building with shallow pitched metal deck roof. Replaced earlier Police Station (1889).
- J P17321 Pinjarra Police Station (1962): Late Twentieth Century Perth Regional style, with low pitched roof, and a feature panel with cast aluminium letters. Replaced 1897 Police Station. (RHP - Does not warrant assessment)
- J P17348 Dalwallinu Police Station, Courthouse & Quarters (1966): Flat roof brick building. (RHP - Does not warrant assessment)

- J P17347 Goomalling Police Station (1967): Flat roof brick building. (RHP - Does not warrant assessment)
- J P18988 Esperance Police Station, Quarters & Courthouse (1966): Perth Regional style concrete complex. (RHP - Does not warrant assessment)
- J P17339 Exmouth Police Station, Lockup & Quarters (1969): Perth Regional style concrete complex. (RHP - Does not warrant assessment)
- J P17335 Narrogin Police Station (1968): Flat roof brick building. (RHP - Does not warrant assessment)
- J P17416 Quairading Police Station (1961): Flat roof brick complex. (RHP - Does not warrant assessment)
- J P17417 Ravensthorpe Police Station & Courthouse (1968): Brick and iron building. (RHP - Does not warrant assessment)
- J P17333 Three Springs Police Station (1964): Flat roof brick building. (RHP - Does not warrant assessment)
- J P17382 Yarloop Police Station (1965): Flat roof brick building. (RHP - Does not warrant assessment)
- J P17322 Moora Police Station (1963): Flat roof brick building. (RHP - Does not warrant assessment)
- J P17354 Morawa Police Station (1966): Flat roof brick building. (RHP - Does not warrant assessment)

The above list demonstrates the major expansion of regional police stations across Western Australia in the 1960s. The commissioning of a private architect such as Jones to undertake the design of the Mingenew Police Station (1964) represents the change in government policy at the time, when the PWD was required to outsource design work for a considerable proportion of new buildings to cope with the increased demand for new or upgraded public buildings.

The stations listed above include examples and characteristics of both the Late Twentieth Century Perth Regional Style and the Post-War International Style, although each seems to be designed to fit local needs, and some have since been updated or renovated in response to operational requirements.

As a brick and tile building designed and built in the 1960s in order to upgrade the existing police facility, Mingenew Police Station (1964) is an excellent representative example of a regional Police Station in Western Australia. The fact that the adjacent Mingenew Police Station and Residence fmr (1897) is still physically, visibility and operationally associated with the building demonstrates the integrity of the place.

*Mingenew Police Group* comprises representative examples of late nineteenth century and mid-twentieth century police stations, both of which demonstrate operational and other changes in the Police Service in Western Australia.

## Archaeology

A search for police stations and gaols with comparable archaeology is difficult using the search functions available in the State Heritage Office database. However the following relevant examples include:

- ) P2319 *Roebourne Police Station, Gaol & Court House Precinct* (RHP) (1886-1980s): the place is a rare example of a complex embracing the functions of Police Station, Court House, and formerly those of the Gaol. The place also comprises areas of archaeological potential that may provide more information regarding its operation.
- ) P2558 *Newcastle Gaol, Lock-up and Stables Group, Toodyay* (RHP): comprising a Gaol (1862-65), Stables (1891) and Lock-up (1907), which through its buildings and archaeological remains of earlier structures has potential to yield information regarding law enforcement in the nineteenth century.
- ) P254 *Old Gaol and Police Quarters, Bridgetown* (RHP) (1880-1996): the 2011 updated Conservation Plan for the place identifies considerable potential for archaeological deposits likely to reveal information regarding the material working and living conditions of police officers and their families, as well as those detained at the station.<sup>63</sup> Evidence associated with the 1880 police station building, demolished in 1907, as well as the former stables building is likely to be present.
- ) P1906 *Northampton Police Station, Quarters and Court House (fmr)* (RHP) (1884; 1911; 1923; c.1950; 1966; 1985; 1990s): the site of the Northampton police station and local court house for over 80 years, the police station, quarters and courthouse building is the only extant building, although further research and archaeological investigation may identify archaeological deposits associated with the former lock-up, kitchens and other demolished outbuildings and structures.<sup>64</sup>

## Raymond Jones

Raymond Jones (b. 1925) is a Modernist architect, who studied under Robin Boyd, and whose work includes residential, ecclesiastical, educational, commercial, sporting and prefabricated kit buildings.<sup>65</sup> He was the principal architect for the City of Fremantle, the Commonwealth Bank and the Royal

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<sup>63</sup> Stephen Carrick Architects & Earth Imprints Consulting, 2011, *Bridgetown Police Station (known as the Old Gaol) & Quarters (fmr) Conservation Plan Update*, prepared for The Shire of Bridgetown-Greenbushes, p. 78.

<sup>64</sup> Considine and Griffiths Architects, March 1998, *Former Northampton Police Station and Courthouse Conservation Plan*, prepared for Northampton Shire Council, p. 41.

<sup>65</sup> Anderson, Simon, *Architectural Projects: Experiments in Space, Structure and Environmental Design: The Life and Architecture of Raymond Jones*, (Vanguard Press, 2011); Sumner, J, September 2013, 'Raymond Jones' Architecture: Part 1 - An Overview', prepared as part of the Public Service Commission Government Internship (Jorja Sumner, Third Year Bachelor of Arts Student (Modern History and English and Cultural Studies), The University of Western Australia, p. 5

Automotive Club (RAC) and since the 1950s has produced a significant body of work.<sup>66</sup>

In 1962 Raymond Jones completed the design for Mingenew Police Station for the Public Works Department (PWD). Throughout the 1960s he designed a number of buildings for the Public Works Department (PWD) in addition to the Mingenew Police Station. The majority were primary schools in metropolitan and regional areas, although he also designed hospital buildings in Beverley and Cunderdin.<sup>67</sup>

The diversity of Jones' work in this period makes it difficult to identify common factors, or key points of difference, with Mingenew Police Station (1964). Jones himself has noted that although commercial and residential designs are functionally different, he applied the same 'space and structural philosophy' to both in his work.<sup>68</sup> An analysis of Raymond Jones' commercial designs notes that he created a series of similar, small iconic buildings in his work for the RAC and the Commonwealth Bank,<sup>69</sup> the characteristics of which are also present in his work for the PWD.

Resolutely prevalent in Western Australia's civic areas, Jones' commercial works are consistent for their consideration of their unique context and the robust nature of their execution. Implementing a commitment to functionalism, economic and sustainable construction technology, they present an aesthetic that benefits the clients and reflects their aspirations. Distinctive to a number of Jones commercial designs are perspectives of sharply defined planes seen to regulate the interior into horizontally proportioned rectilinear shafts of space.<sup>70</sup>

No buildings by Jones have been entered in the State Register of Heritage Places. However the following examples of his work in the 1960s are identified in the State Heritage Office database:

- ) P8896 Church of St Cecilia, Kenmore Crescent, Floreat (1960)
- ) P13030 Church of St Peter, Wood Street, Bedford (1962)
- ) P25101 Lisle House, 9 Pindari Road, City Beach (1964)
- ) P4646 WWF Point Peron Camp, Point Peron (1964)
- ) P13078 Our Lady of Lourdes Memorial Church, Flinders Street, Nollamara (1964)
- ) P25353 Carbon Duplex, Point Walter Road/Beach Street, Bicton (1966)

Other examples of commercial and residential buildings designed in the 1960s by Jones, which have not been included in the database, are:

- ) Cunderdin District Hospital, Cubbine Street, Cunderdin (1962)
- ) Premier Motors, Elder Street/Hay Street, Perth (1969, demolished)

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66 Sumner, op cit., p. 8.

67 Anderson, op cit., pp. 134-137.

68 Sumner, op cit., p. 8.

69 Sumner, op cit., p. 8.

70 Sumner, op cit., p. 8.

- J East Hamilton Hill Primary School, Redmond Hill, Hamilton Hill (1964-1967)
- J New Day Nursery, High Street/Parry Street, Fremantle (1965)
- J CIL Offices, Clontarf Road, Hamilton Hill (1968)
- J Lysaght Offices, Norma Road/McCoy Street, Myaree (1962)
- J Rankine-Wilson House, The Boulevard, Floreat (1963)
- J Hubbard House, Oceanic Drive, Floreat (1963)
- J Commonwealth Bank, Bates Street, Merridin (1969)
- J Shell Australia Laboratory, Bracks Street, Fremantle (1969+)

Mingenew Police Station (1964) has a more traditional/functional design than Jones' ecclesiastical buildings, and has similar characteristics with other functional examples of his work such as Premier Motors and the Commonwealth bank designs also from this decade.

Although the only example of a police station/courthouse known to have been designed by Jones, Mingenew Police Station (1964) is nevertheless a good representative example of Raymond Jones' 1960s functional designs.

#### ARL Wright

Alfred Robert Linus Wright was an architect with a distinguished career and long association with the Royal Institute of Architects of Western Australia (RIAWA). Wright was a member of the first council of the Institute in 1896, and subsequently served an unbroken term of office as a member of council from 1911 until his death in April 1939, including terms as president.<sup>71</sup> Wright worked as a draftsman and later architect in government service for nearly 30 years, as well as a considerable time in private practice.<sup>72</sup>

After joining the Public Works Department, under Chief Architect George Temple Poole, as a draftsman in 1894, Wright was promoted to chief draftsman by 1895, and chief assistant architect in 1896.<sup>73</sup> His work on Mingenew Police Station and Residence fmr (1897), possibly in his role as draftsman, was undertaken in the very early stages of his Western Australian career, shortly after he moved to the state from Brisbane.

<sup>71</sup> Taylor, John, June 2013, 'Alfred Robert Linus Wright' in Western Australian architect biographies, Australian Institute of Architects, Source: <http://www.architecture.com.au/docs/default-source/wa-notable-buildings/wright-alfred-robert-linus.pdf?sfvrsn=0>, Accessed 21 September 2016.

<sup>72</sup> Taylor, John, June 2013, 'Alfred Robert Linus Wright' in Western Australian architect biographies, Australian Institute of Architects, Source: <http://www.architecture.com.au/docs/default-source/wa-notable-buildings/wright-alfred-robert-linus.pdf?sfvrsn=0>, Accessed 21 September 2016.

<sup>73</sup> Taylor, John, June 2013, 'Alfred Robert Linus Wright' in Western Australian architect biographies, Australian Institute of Architects, Source: <http://www.architecture.com.au/docs/default-source/wa-notable-buildings/wright-alfred-robert-linus.pdf?sfvrsn=0>, Accessed 21 September 2016.

During his time with the PWD, Wright designed numerous Water Supply, Sewerage and Drainage Department pumping stations and valve houses which were built in the metropolitan area in the early twentieth century.<sup>74</sup>

A search of the State Heritage Office database for places associated with ARL Wright returns the following examples:

- J P3298 *Low Level Sewage Pumping Stations 1& 2* (RHP): two combined sewage pumping stations and men's toilets blocks in the Federation Free Classical style, designed by ARL Wright, Architect (PWD).
- J P4210 Perth Low Level Sewage Pumping Station 3 (Demolished 2003): ARL Wright, Architect (PWD)
- J P5478 *Subiaco Oval Gates* (RHP): a small scale well executed Inter War Art Deco style building at the main entrance to Subiaco Oval, erected in 1935, to commemorate the Jubilee of King George V, to the design of Architect ARL Wright. The oval became the headquarters for the Western Australian National Football League the following year.

### Mingenew

A search of the State Heritage Office database for places in the Midwest region constructed between 1890 and 1905 returns 292 entries, including eight located in Mingeneu. *Mingenew Police Group* is the only place listed on the State Register of Heritage Places. Mingeneu Railway Station, constructed in 1894, but now substantially demolished, was assessed as Below Threshold in 2002.

A number of other places are located within the town that are contemporaneous with Mingeneu Police Station and Residence fmr (1897):

- J P3621 S F Moore Store (fmr): General Store constructed in 1893, with an interior retaining the sense of the traditional country store.
- J P1595 Mingeneu Post Office & Quarters: single storey building constructed in 1894 occupying a spacious site in a prominent position in the main street of Mingeneu.
- J P5758 School House (fmr), Mingeneu: constructed in 1894, the stone and iron building has a gable roof with a central chimney and verandahs. The original school room now contains two spacious classrooms, a store room and scullery—all opening onto a north facing verandah, used for storage and display by the Historical Society

Although Mingeneu Police Station and Residence fmr (1897) is likely to still be held in high esteem by the local community, the above list indicates that there are other earlier buildings in Mingeneu that also demonstrate the early phase of the townsite. The place appears to be one of the oldest surviving government buildings within the town.

## 13.4 KEY REFERENCES

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<sup>74</sup> P3298 *Low Level Sewage Pumping Stations 1& 2* (RHP) Assessment Documentation, p. 15



## 13.5 FURTHER RESEARCH

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**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 18 October 2017 commencing at 4.30pm.

**14.0 CLOSURE**