



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

Wednesday 19 September 2018

PROCEDURE FOR PUBLIC QUESTION TIME, DEPUTATIONS, PRESENTATIONS AND PETITIONS AT COUNCIL MEETINGS

Council thanks you for your participation in Council Meetings and trusts that your input will be beneficial to all parties. Council has a high regard for community input where possible, in its decision making processes.

<p>Petitions A formal process where members of the community present a written request to the Council.</p>	<p>Deputations A formal process where members of the community request permission to address Council or Committee on an issue.</p>	<p>Presentations An occasion where awards/gifts may be accepted by the Council on behalf of the community, when the Council makes a presentation to a worthy recipient or when agencies may present a proposal that will impact on the Local Government</p>
---	---	--

PROCEDURE FOR DEPUTATIONS

The Council allows for members of the public to make a deputation to Council on an issue related to Local Government business. Any person or group wishing to be received as a deputation by the Council shall send to the CEO an application:

- I. Setting out the agenda item to which the deputation relates;
- II. Whether the deputation is supporting or opposing the officer's or Committee's recommendation; and
- III. Include sufficient detail to enable a general understanding of the purpose of the deputation.

Notice of deputations need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281192 or email governance@mingenew.wa.gov.au to arrange your deputation.

Where a deputation has been agreed to, during the meeting the Presiding Member will call upon the relevant person(s) to come forward and address Council.

A Deputation invited to attend a Council meeting:

- I. is not to exceed five (5) persons, only two (2) of whom may address the Council, although others may respond to specific questions from Members;
- II. is not to address the Council for a period exceeding ten (10) minutes without the agreement of the Council; and
- III. additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

Council is unlikely to take any action on the matter discussed during the deputation without first considering an officer's report on that subject in a later Council agenda.

PROCEDURE FOR PRESENTATION

Notice of presentations being accepted by Council on behalf of the community, or agencies presenting a proposal, need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact the Shire via telephone on 99281102 or email governance@mingenew.wa.gov.au to arrange your presentation.

Where the Council is making a presentation to a worthy recipient, the recipient will be advised in advance and asked to attend the Council meeting to receive the award.

All presentations will be received / awarded by the Shire President or an appropriate Councillor.

PROCEDURE FOR PETITIONS

Please note the following protocol for submissions of petitions. Petitions must:

- be addressed to the Shire President.
- be made by electors of the district.
- state the request on each page of the petition.
- contain the names, addresses and signatures of the elector(s) making the request, and the date each elector signed.
- contain a summary of the reasons for the request.
- state the name and address of the person whom arranged the petition for correspondence to be delivered to, as correspondence is not sent to all the signatures on the petition.

Where a petition does not relate to or conform to the above it may be treated as an 'informal' petition and the Chief Executive Officer may at his discretion forward the petition to Council accompanied by an officer report.

PROCEDURE FOR PUBLIC QUESTION TIME

The Council extends a warm welcome to you in attending any meeting of the Council. Council is committed to involving the public in its decision making processes whenever possible, and the ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective.

Council (as required by the Local Government Act 1995) sets aside a period of 'Public Question Time' to enable a member of the public to put up to two (2) questions to Council. Questions should only relate to the business of Council and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Shire President may either answer the question or direct it to a Councillor or an Officer to answer, or it will be taken on notice.

Having regard for the requirements and principles of Council, the following procedures will be applied in accordance with the Shire of Mingenew Standing Orders Local Law 2017:

1. Public Questions Time will be limited to fifteen (15) minutes.
2. Public Question Time will be conducted at an Ordinary Meeting of Council immediately following "Responses to Previous Public Questions Taken on Notice".
3. Each member of the public asking a question will be limited to two (2) minutes to ask their question(s).
4. Questions will be limited to two (2) per person.
5. Please state your name and address, and then ask your question.
6. Questions should be submitted to the Chief Executive Officer in writing by 5pm on the day before the meeting and be signed by the author. This allows for an informed response to be given at the meeting.
7. Questions that have not been submitted in writing by 5pm on the day before the meeting will be responded to if they are straightforward.
8. If any question requires further research prior to an answer being given, the Presiding Member will indicate that the "question will be taken on notice" and a response will be forwarded to the member of the public following the necessary research being undertaken.
9. Where a member of the public provided written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
10. A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

- **During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.**
- **Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.**
- **Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.**

Table of Contents

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS5

2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE5

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE5

4.0 PUBLIC QUESTION TIME/PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS5

5.0 APPLICATIONS FOR LEAVE OF ABSENCE5

6.0 DECLARATIONS OF INTEREST5

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES5

7.1.1 ORDINARY MEETING HELD 22 AUGUST 2018..... 5

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION6

9.0 OFFICERS REPORTS6

9.1 CHIEF EXECUTIVE OFFICER.....6

9.1.1 COUNCIL DELEGATION- AMENDMENT TO ‘CD13 DELEGATIONS UNDER THE BUSH FIRE ACT 1954’ DELEGATION..... 6

9.1.2 APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER POLICY 9

9.1.3 LEASE ASSIGNMENT - PART LOT 303, ELEANOR STREET, MINGENEW 12

9.2 FINANCE 14

9.2.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 31 AUGUST 2018 14

9.2.2 ACCOUNTS FOR PAYMENT – MONTH ENDING 31 AUGUST 2018..... 17

9.4 TOWN PLANNING 19

9.4.1 GERALDTON ALTERNATIVE SETTLEMENT AGREEMENT..... 19

9.5 BUILDING23

10.0 ELECTED MEMBERS/MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN23

11.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING23

11.1 ELECTED MEMBERS23

11.2 STAFF23

11.2.1 DESIGN AND CONTRUCT NETBALL TENDER..... 23

12.0 CONFIDENTIAL ITEMS.....24

12.1 ENDORSEMENT OF STAFF TO SERVE AS ACTING CHIEF EXECUTIVE OFFICER 24

13.0 TIME AND DATE OF NEXT MEETING24

14.0 CLOSURE.....24

SHIRE OF MINGENEW

MINUTES FOR THE ORDINARY MEETING OF COUNCIL HELD IN COUNCIL CHAMBERS ON 19 SEPTEMBER 2018 COMMENCING AT 4.30pm

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The President H Newton declared the meeting open at 4.30pm and welcomed all in attendance.

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

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

STAFF

N Hay	Chief Executive Officer
B Bow	Governance Officer
E Budrikis	Community Development Officer

APOLOGIES

CR Lucken	Deputy President	Town Ward
-----------	------------------	-----------

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

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

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

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6.0 DECLARATIONS OF INTEREST

Nil

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

7.1.1 ORDINARY MEETING HELD 22 AUGUST 2018

OFFICER RECOMMENDATION AND COUNCIL DECISION– Resolution 19091801

Moved: Cr McGlinn

Seconded: Cr Bagley

That the minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 22 August 2018 be confirmed as a true and accurate record of proceedings.

VOTING DETAILS

CARRIED 6/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil

9.0 OFFICERS REPORTS

9.1 CHIEF EXECUTIVE OFFICER

9.1.1 COUNCIL DELEGATION- AMENDMENT TO 'CD13 DELEGATIONS UNDER THE BUSH FIRE ACT 1954' DELEGATION

Location/Address: 22 Victoria St Mingenew
Name of Applicant: Not Applicable
Disclosure of Interest: Nil
File Reference: ADM0342
Date: 12 September 2018
Author: Belinda Bow, GO

Summary

To empower the Chief Executive Officer and the Chief Bush Fire Control Officer in being able to implement changes quickly and efficiently in response to seasonal conditions, it is recommended that Council delegate s18(5) to the aforementioned officers as per Attachment 1.

Attachment

Attachment 1- Proposed CD13 Delegations under the Bush Fires Act 1954

Background

Council reviewed its delegations under the Bush Fire Act 1954 "the Act" in June 2018, however additional powers are proposed to be delegated to increase administrative efficiency for the management of the upcoming fire season.

Comment

It has been noted that Council have not delegated the power of section 18(5) of the Bush Fire Act 1954 to an officer/s when the Delegation Register was last reviewed in June 2018. This section of the Act if delegated, allows the delegate to vary the restricted burning time for the district without a Council resolution, subject to the provisions of the Act such as public notice, length of extension/shortening and DPAW consultation (Department of Parks and Wildlife). Currently there is delegation in place for variation to the Prohibited Burning Period but due to oversight on behalf of the administration, not the Restricted Burning Time.

The proposed delegation in full is presented as Attachment 1.

Please note that under the proposed delegation the Chief Bush Fire Control Officer is delegated s18 (5) *jointly* with the President (see the conditions). The CEO would be able to exercise the power exclusively.

The condition which excludes the CEO from exercising s17 (vary the prohibited burning time) has also been removed in line with WALGA recommendations to allow the CEO to be able to exercise the power exclusively, in case either of the joint delegates, being the Chief Bush Fire Control Officer and the President, are unavailable.

Consultation

Nil

Statutory Environment

Bush Fire Act 1954

Section 18- Restricted burning times may be declared by FES Commissioner

- (5) Subject to subsection (5B) in any year in which a local government considers that seasonal conditions so warrant the local government may, after consultation with an authorised CALM Act officer if forest land is situated in its district —
- (a) vary the restricted burning times in respect of that year in the district or a part of the district by —
 - (i) shortening, extending, suspending or reimposing a period of restricted burning times; or
 - (ii) imposing a further period of restricted burning times;
 - or
 - (b) vary the prescribed conditions by modifying or suspending all or any of those conditions.
- (5B) A variation shall not be made under subsection (5) if that variation would have the effect of —
- (a) shortening the restricted burning times by; or
 - (b) suspending the restricted burning times, or any prescribed condition, for, more than 14 successive days during a period that would, in the absence of the variation under subsection (5), be part of the restricted burning times for that zone in that year.
- (5C) The provisions of section 17(8), (9), (10) and (11), with the necessary adaptations and modifications, apply to and in relation to the variation of restricted burning times or prescribed conditions by a local government, as if those provisions were expressly incorporated in this section.....

Section 48- Delegation by local governments

- (1) A local government may, in writing, delegate to its chief executive officer the performance of any of its functions under this Act.

Section 17- Prohibited burning times may be declared by Minister

- (7) Subject to subsection (7B), in any year in which a local government considers that seasonal conditions warrant a variation of the prohibited burning times in its district the local government may, after consultation with an authorised CALM Act officer if forest land is situated in the district, vary the prohibited burning times in respect of that year in the district or a part of the district by —
- (a) shortening, extending, suspending or reimposing a period of prohibited burning times; or
 - (b) imposing a further period of prohibited burning times....

... (10) A local government may by resolution delegate to its mayor, or president, and its Chief Bush Fire Control Officer, jointly its powers and duties under subsections (7) and (8).

Financial Implications

No direct financial implications.

Policy Implications

No implications to Shire policies- the legislation provides for the varying of the Burning times.

Voting Requirements

Absolute Majority

Moved: Cr Bagley

Seconded: Cr Cosgrove

That Council amend the delegation titled 'CD13 Delegations under the Bush Fire Act 1954' to read as presented in Attachment 1.

VOTING DETAILS:

CARRIED BY ABSOLUTE MAJORITY 6/0

9.1.2 APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER POLICY

Location/Address:	Shire of Mingenew
Name of Applicant:	Nils Hay, Chief Executive Officer
Disclosure of Interest:	Nil
File Reference:	ADM0489
Date:	9 September 2018
Author:	Nils Hay, Chief Executive Officer

Summary

This report introduces a policy to guide Council and the Chief Executive Officer (CEO) for the appointment of an Acting Chief Executive Officer (ACEO).

Attachment

1.3.5 Appointment of Acting Chief Executive Officer Policy.

Background

At present, Council has no formal policy in this area. Previous appointments of an ACEO have been by Council resolution.

Comment

The introduction of this policy provides clarity for CEO and Council regarding the circumstances in which an ACEO appointment is required, and the general process through which that appointment will take place.

It provides Council with the opportunity to pre-endorse existing Shire staff to serve as ACEO, and gives the CEO the flexibility to make those appointments (for periods of up to four weeks) as needed without requiring a specific Council resolution to do so for each instance.

Consultation

Lynn Fogg, WALGA

Statutory Environment

Local Government Act 1995

5.36 *Local government employees*

- (1) A local government is to employ —
 - (a) a person to be the CEO of the local government; and
 - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied* with the provisions of the proposed employment contract.

* *Absolute majority required.*

- (3) A person is not to be employed by a local government in any other position unless the CEO —
 - (a) believes that the person is suitably qualified for the position; and
 - (b) is satisfied with the proposed arrangements relating to the person's employment.

5.40 *Principles affecting employment by local governments*

The following principles apply to a local government in respect of its employees —

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity; and
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage; and
- (c) employees are to be treated fairly and consistently; and
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the *Equal Opportunity Act 1984* or on any other ground; and
- (e) employees are to be provided with safe and healthy working conditions in accordance with the *Occupational Safety and Health Act 1984*; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

5.41 *Functions of CEO*

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and
- (c) cause council decisions to be implemented; and
- (d) manage the day to day operations of the local government; and
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and
- (f) speak on behalf of the local government if the mayor or president agrees; and
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

Policy Implications

This report seeks to introduce a formal policy into this space. At present, none exists and Council relies upon the provision of the Local Government Act 1995.

Financial Implications

There will be an increase to the remuneration of the elevated staff member while they are serving as ACEO, with the salary to be in line with the Salaries and Allowances Tribunal determination, which is published in the Government Gazette from time to time.

Strategic Implications

Community Strategic Plan

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

Outcome 4.2.3 – Provide long term strategic leadership

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

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION– Resolution 19091803

Moved: Cr McGlinn

Seconded: Cr Eardley

That Council:

- 1. Note the contents of the report; and**
- 2. Adopt 1.3.5 Appointment of Acting Chief Executive Officer Policy**

VOTING DETAILS

CARRIED 6/0

9.1.3 LEASE ASSIGNMENT - PART LOT 303, ELEANOR STREET, MINGENEW

Location/Address: Part Lot 303, Eleanor Street, Mingenew
Name of Applicant: Centrel Pty Ltd
Disclosure of Interest: Nil
File Reference: ADM0274
Date: 9 September 2018
Author: Nils Hay, Chief Executive Officer

Summary

This report seeks further Council consideration to the assignment of the existing lease for the fuel supply service at Part Lot 303, Eleanor Street, Mingenew. from Centrel Pty Ltd, to Gradow Pty Ltd as trustee for AG & PF McWhirter Family Trust.

Attachments

Updated Deed of Assignment.

Background

The Shire of Mingenew has an existing lease with Centrel Pty Ltd for a fuel supply service at Part Lot 303, Eleanor Street, Mingenew. The lease initially commenced on 1 July 2012 and has three 3-year extension options in favour of the Lessee and at the Lessee's sole discretion. The Lessee has recently advised of its decision to take up the second of those extensions, so the lease will now be extended to conclude on 30 June 2021, noting that there is a further three year option beyond that point if the Lessee chooses to take it up.

Centrel Pty Ltd also sought to assign this lease to Gradow Pty Ltd. Gradow is more commonly known under its trading name of Great Southern Fuels. The lease wording for the assignment is consistent with general lease wording, namely, that a Lessee should not unreasonably be denied a transfer, and that any reasonable Lessor expenses of the assignment are met by the Lessee.

At the May 2018 Ordinary Council Meeting, the following decision was made:

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 9.1.5

Moved: Cr GJ Cosgrove

Seconded: Cr CR Lucken

That Council:

- 1. Note that the second Lease extension (from 1 July 2018 to 30 June 2021) has been taken up by the Lessee; and**
- 2. Acknowledges that legal advice is being sought on the need for any wording improvements of the proposed Deed of Assignment, to ensure the Shire's best interests are secured; and**
- 3. Conditionally endorses the assignment of the existing lease to Gradow Pty Ltd (trading as Great Southern Fuels) subject to all legal and other transfer costs being met by the Lessee, and delegates to the CEO the authority to negotiate a suitably worded Deed of Assignment, ensuring that the best interests of the Shire of Mingenew are maintained.**

VOTING DETAILS:

CARRIED 7/0 BY ABSOLUTE MAJORITY

Following this decision, the Shire has been in contact with Gradow's legal representatives to seek amendments to the Deed of Extension and Assignment to maintain the interests of the Shire.

The updated document is attached, and it is noted that the Shire's requested amendments have generally been incorporated. During this process however, the name of the Assignee has changed from "Gradow Pty Ltd" to "Gradow Pty Ltd as trustee for AG & PF McWhirter Family Trust". Given that Council's initial conditional

endorsement, outlined above, did not specifically endorse this assignee, the matter has been returned for further Council consideration.

Comment

The Shire has sought legal advice regarding this matter, attached. In summary, the risk profile of assignment to “Gradow Pty Ltd as trustee for AG & PF McWhirter Family Trust” is slightly higher than that of assignment to “Gradow Pty Ltd”, however there are existing provisions in the deed of assignment to manage this risk, and our advice includes additional clauses which may be added to augment this.

Council has also sought and received a Letter of Comfort from the McWhirter family’s accountant (Abbotts Chartered Accountants), dated 28 June 2018, which gave the opinion that “Gradow in its capacity as trustee as of the date of this correspondence has the financial capacity to comply with the terms of the assigned lease.”

Consultation

Civic Legal

Neil Hartley, Casual Project Officer

Statutory Environment

The Local Government Act has references to leases, but they are not relevant on this occasion, being an existing lease. The existing Lease provides for both the right of the Lessee to extend the lease, and the opportunity (with the Lessor’s consent) to assign it.

Policy Implications

Nil

Financial Implications

Other than in-house administrative expenses, the costs of legal advice, company searches etc., will be at the Lessee’s expense up to \$3,000 excluding GST.

Strategic Implications

The Corporate Business Plan 2011-21 does not include a specific reference to this type of activity, but it does clearly outline that the Shire will work towards maintaining or increasing number of local businesses, industries or services. That is seen as being consistent with supporting the proposal from Centrel Pty Ltd and Gradow Pty Ltd.

Voting Requirements

Absolute Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION- Resolution 19091804

Moved: Cr Newton

Seconded: Cr Eardley

- 1. Notes the contents of this report;**
- 2. Acknowledges that legal advice is being sought on the need for any wording improvements of the proposed Deed of Assignment, to ensure the Shire’s best interests are secured;**
- 3. Conditionally endorses the assignment of the existing lease to Gradow Pty Ltd as trustee for AG & PF McWhirter Family Trust; and**
- 4. Delegates to the CEO the authority to negotiate and enter into a suitably worded Deed of Assignment, ensuring that the best interests of the Shire of Mingenew are maintained.**

VOTING DETAILS:

CARRIED BY ABSOLUTE MAJORITY 6/0

9.2 FINANCE

Cherie Delmage entered the room at 4.47 pm.

9.2.1 FINANCIAL STATEMENTS FOR PERIOD ENDING 31 AUGUST 2018

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0304
Date: 12 September 2018
Author: Martin Whitely, Consultant

Summary

This report recommends that the Monthly Statement of Financial Activity report for the period ending 31 August 2018 is presented to Council for adoption.

Attachment

Finance Report for period ending 31 August 2018

Background

The Monthly Financial Report to 31 August 2018 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

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

Comment

SUMMARY OF FUNDS – SHIRE OF MINGENEW	
Municipal Fund & Cash on Hand	\$171,232
Restricted Funds (Unspent Grants) – 3 Month Term Deposit @ 2.50%	\$708,000
3 Month Term Deposit @ 2.50%	\$321,519
Trust Fund	\$21,292
Reserve fund (6 Month Term Deposit) @ 2.50%	\$406,162

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 19 September 2018

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 2018;

Amount	Current	Credit	30+ Days	60+ Days	90+ Days	TOTAL
	(\$4,333)	\$3,531	\$45,420	\$1,969	\$6,054	\$53,091

Rates Outstanding at 31 August 2018 were:

	August 2018	July 2018
Rates	\$1,807,770	\$29,839
Rubbish	\$55,926	\$3,422
ESL	\$27,318	\$1,670
TOTAL	\$1,891,014	\$34,931

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2018/19 financial year.

Consultation

Nil

Statutory Environment

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

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

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —

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

(2) Each statement of financial activity is to be accompanied by documents containing —

- (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
- (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
- (c) such other supporting information as is considered relevant by the local government.

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 19 September 2018

- (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 AND COUNCIL DECISION– Resolution 19091805

Moved: Cr Eardley

Seconded: Cr McGlinn

That the Monthly Statement of Financial Activity for the period 1 July 2018 to 31 August 2018 be received.

VOTING DETAILS:

CARRIED 6/0

9.2.2 ACCOUNTS FOR PAYMENT – MONTH ENDING 31 AUGUST 2018

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: ADM0042
Disclosure of Interest: Nil
Date: 11 September 2018
Author: Martin Whitely, Consultant

Summary

This report recommends that Council confirm the payment of creditors for the month of August 2018 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
Payroll, Licensing & Credit Card

Background

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

Comment

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

Consultation

Nil

Statutory Environment

Local Government Act 1996, Section 6.4
Local Government (Financial Management) Regulations 1996, Sections 12, 13 and 15

Policy Implications

Payments have been made under delegation.

Financial Implications

Funds available to meet expenditure.

Strategic Implications

Nil

Voting Requirements

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL DECISION– Resolution 19091806

Moved: Cr Bagley

Seconded: Cr Newton

That Council confirm the accounts as presented for August 2018 from the Municipal & Trust Fund totalling \$290,032.92 represented by Electronic Funds Transfers of EFT 11720 to 11788, Direct Deduction DD 8527.1, 2, 3, 4, 5, & 6 and Municipal Cheque numbers 8563 to 8566.

VOTING DETAILS:

CARRIED 6/0

9.3 ADMINISTRATION

Nil

9.4 TOWN PLANNING

9.4.1 GERALDTON ALTERNATIVE SETTLEMENT AGREEMENT

Location/Address: Reserve 24083 Midlands Road, Mingenew
Name of Applicant: Department of Planning, Lands & Heritage
Disclosure of Interest: Nil
File Reference: ADM0491
Date: 10 September 2018
Author: Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer: Nils Hay, Chief Executive Officer

Summary

Council is in receipt of correspondence from the Department of Planning, Lands & Heritage seeking its comment in relation to a Crown Reserve within the Shire of Mingenew that has been identified as an area of interest for the native title claimants and is currently being considered for inclusion into the Indigenous Land Use Agreements.

Attachment

Attachment 9.4.1(a) - Land Identification, Assessment & Selection Flowchart

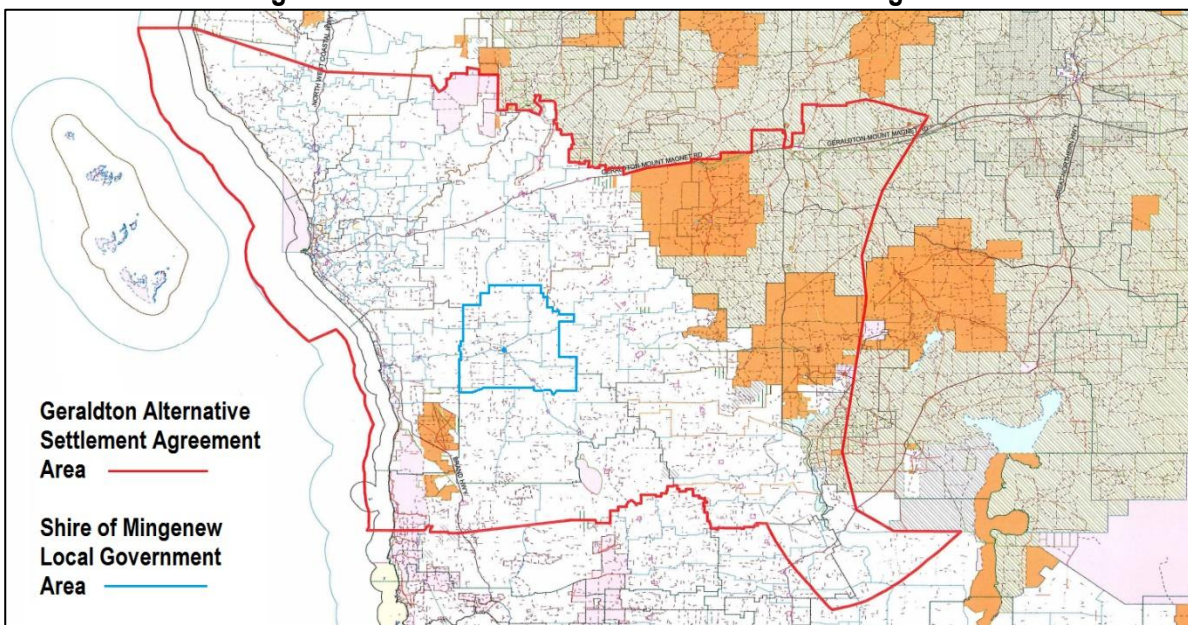
Attachment 9.4.1(b) - draft Shire Response – provided as separate CONFIDENTIAL Attachment

Background

The State of Western Australia is currently negotiating an alternative native title settlement in the greater Geraldton region with four native title claimant groups (Southern Yamatji, Hutt River, Widi Mob and Mullewa Wadjari).

The State's proposal, under the Geraldton Alternative Settlement Agreement ('GASA') is that a settlement package will be agreed in exchange for the surrender of all native title rights and interests within the external boundaries of the GASA.

Figure 9.4.1 – Geraldton Alternative Settlement Agreement Area



Negotiations may include the following matters:

- development of, and initial support for, appropriate governance structures to ensure successful implementation of a final agreement;
- a heritage regime based on the Government Standard Heritage Agreement;
- provision by the State of a land base;
- joint vesting and/or management of conservation areas, including areas not yet reserved for conservation purposes;
- development of a ranger program;
- financial assistance for business and economic development opportunities; &
- recognition of traditional ownership.

The State's offer under the GASA includes provision by the State of a land base to the claimant groups. The negotiation of this part of the agreement entails members of the groups' Traditional Owner Negotiation Team selecting various parcels of land within the agreement area which they seek to have transferred to them, or management thereof. The Department of Planning, Lands & Heritage is responsible for reviewing these parcels to identify which of them might be eligible for transfer, what is the appropriate tenure and under what conditions (e.g. freehold, leasing, sole management or joint management of reserves).

A flowchart providing background information on the overall process has been provided as Attachment 9.4.1(a).

Comment

The Department of Planning, Lands & Heritage are seeking Council's comment upon a Crown Reserve within the Shire of Mingenew with respect to the following:

- "1 Are there any future proposals for the land identified? If so, in what time frame?"*
- "2 Are there any future proposals for any adjoining land which may impact on the proposed transfer of the land identified?"*
- "3 Are there any proposed planning scheme amendments which may affect the land identified? If so, in what time frame?"*
- "4 Are there any known land management issues with the land identified e.g. contamination etc?"*

Shire staff have prepared separate confidential Attachment 9.4.1(b) that provides a cadastral map, aerial photograph and comment, and it is suggested that this form the basis for Council's response to the Department of Planning, Lands & Heritage.

Consultation

The Department of Planning, Lands & Heritage have advised that the parties to the proposed agreement are negotiating under tight timeframes imposed by the Federal Court and the Shire comment is required to be provided by 30 October 2018.

The Department of Planning, Lands & Heritage have advised as follows:

"Please note that this process is being carried out in the context of a Federal Court mediation which is confidential. Accordingly, you are not permitted to share any of the matters pertaining to this referral to a third party."

The Department of Planning, Lands & Heritage have also advised that the Shire's comments may be provided to the Traditional Owner Negotiation Team members for their consideration.

Statutory Environment

Section 14 of the *Land Administration Act 1997* requires that:

“Before exercising in relation to Crown land any power conferred by this Act, the Minister must, unless it is impracticable to do so, consult the local government within the district of which the Crown land is situated concerning that exercise.”

Policy Implications

Nil.

Financial Implications

The GASA is following a similar process to that previously undertaken for the South West Native Title Claim Area, which is at a more advanced stage, that also sought to identify Unallocated Crown Land that might be either transferred to the Noongar Boodja Trust as freehold title or leasehold or managed reserves. The South West Native Title Settlement Fact Sheet, previously prepared by the Department of Premier & Cabinet in 2015 for that process, provides some general guidance on frequently asked questions, noting that:

“What is the difference between Freehold land and Managed Reserve Land?”

Each form of land tenure has different benefits.

- *Freehold is land that the Noongar Boodja Trust will own like any other private land owner in the State. It allows for the land to be developed, used for commercial purposes, used as security against loans, or to be sold. Like all other freehold land, there are costs that must be met, including local government rates and charges, insurance, fire service levies and any land management cost.*
- *Managed reserves are areas of Crown land that has been reserved for a particular purpose. The Trustee will consult with the Noongar community as to the use of any individual reserve – i.e. whether it is held for particular Noongar social, cultural, or economic benefit, whether it can be subdivided, and so on.”*

“Will the Noongar Boodja Trust need to pay rates on the Freehold land allocated under the Settlement?”

As the owner of the freehold land, the Noongar Boodja Trust will be required to meet the normal costs, including rates or service charges, associated with owning freehold land. Freehold land can be exempted from rates under s.6.26(2)(g) of the Local Government Act 1995 (WA) where that land is used exclusively for charitable purposes. However, if the freehold land is used for a commercial purpose or leased for a commercial enterprise, it will not be exempt from rates.”

Strategic Implications

The Shire of Mingenew Strategic Plan notes the following:

- Objective 2 A sustainable natural and built environment that meets current and future community needs.
- Outcome 2.2 Our indigenous and cultural heritage is acknowledged.
- 2.2.1 Continue to liaise with the local indigenous and cultural groups (Key Partners: Local community, DCA, DIA)

Voting Requirements

Simple Majority

Councillor Cosgrove foreshadowed a motion that community consultation regarding Reserve 24083 be undertaken and a report be presented to Council at the October Ordinary Meeting, prior to submission of response to the Department of Planning, Lands & Heritage.

Moved: Cr Newton

Seconded: Cr Eardley

That Council endorse and forward the Shire response to the Department of Planning, Lands & Heritage as provided in Attachment 9.4.1(b).

VOTING DETAILS:

LOST 0/6

FORSHADOWED MOTION AND COUNCIL DECISION– Resolution 19091807

Moved: Cr Cosgrove

Seconded: Cr Newton

That community consultation regarding Reserve 24083 be undertaken and a report be presented to Council at the October Ordinary Meeting, prior to submission of response to the Department of Planning, Lands & Heritage.

VOTING DETAILS:

CARRIED 6/0

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

Nil

11.2 STAFF

11.2.1 DESIGN AND CONTRUCT NETBALL TENDER

PROCEDURAL MOTION – ITEM 11.2.1

Moved: Cr Bagley

Seconded: Cr McGlinn

**That the following new business of an urgent nature be considered by Council:
Item 11.2.1- DESIGN AND CONTRUCT NETBALL TENDER**

VOTING DETAILS:

CARRIED 6/0

PROCEDURAL MOTION – ITEM 11.2.1

Moved: Cr McGlinn

Seconded: Cr Eardley

- 1) That the meeting be closed to members of the public in accordance with section 5.23 of the Local Government Act to allow Council to discuss a matter that concerns a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

VOTING DETAILS:

CARRIED 6/0

OFFICER RECOMMENDATION AND COUNCIL DECISION– Resolution 19091808

Moved: Cr Bagley

Seconded: Cr Cosgrove

That Council:

1. Awards RFT1– 2018/19 Design & Construction 2x Netball Courts to the preferred tenderer: Sport and Recreation Surfaces; and
2. Delegates authority to the CEO to negotiate, execute and manage the Contract including any variations, provided those variations do not exceed the allocated budget provision, or significantly vary from the overall scope; and
3. Reallocates \$15,000.00 in the 2018-19 Budget from GL 3864 Job 0142 (Mingenew Hill / Walk Trails / Tourism) to GL 2884 Job 0169 (Netball Courts).

VOTING DETAILS:

CARRIED BY ABSOLUTE MAJORITY 6/0

12.0 CONFIDENTIAL ITEMS

Belinda Bow, Cherie Delmage and Ella Budrikis left the room at 5.01pm

12.1 ENDORSEMENT OF STAFF TO SERVE AS ACTING CHIEF EXECUTIVE OFFICER

OFFICER RECOMMENDATION AND COUNCIL DECISION– Resolution 19091809

Moved: Cr Eardley

Seconded: Cr Newton

That Council:

- 1. Note the contents of the report;**
- 2. Is satisfied that Cherie Delmage and Ella Budrikis and Belinda Bow are suitably qualified for the position of Acting Chief Executive Officer; and**
- 3. Authorises the Chief Executive Officer to appoint Cherie Delmage, Ella Budrikis or Belinda Bow as Acting Chief Executive Officer, in accordance with the relevant Council policy.**

VOTING DETAILS:

CARRIED BY ABSOLUTE MAJORITY 6/0

PROCEDURAL MOTION- ITEM 12.1

Moved: Cr Eardley

Seconded: Cr Newton

That the meeting be re-opened to members of the public.

VOTING DETAILS:

CARRIED 6/0

13.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 17 October 2018 commencing at 4.30pm.

14.0 CLOSURE

The President thanked all for attending and closed the meeting at 5.10pm.

These minutes were confirmed at an Ordinary Council meeting on 17 October 2018.

Signed _____
Presiding Officer

Date: _____