



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

**Wednesday 20 February 2019**

# Shire of Mingenew

## Ordinary Council Meeting Notice Paper

20 February 2019

Madam President and Councillors,

An Ordinary Meeting of Council is called for Wednesday, 20 February 2019, in the Council Chambers, Victoria Street, Mingenew, commencing at 4.30 pm.

**Nils Hay**  
**Chief Executive Officer**

15 February 2019

### **DISCLAIMER**

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Mingenew expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

## 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><b>Petitions</b> A formal process where members of the community present a written request to the Council.</p>	<p><b>Deputations</b> A formal process where members of the community request permission to address Council or Committee on an issue.</p>	<p><b>Presentations</b> 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](mailto: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](mailto: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 VISITORS .....	6
2.0	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE .....	6
3.0	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	6
4.0	PUBLIC QUESTION TIME/PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS .....	6
5.0	APPLICATIONS FOR LEAVE OF ABSENCE .....	6
6.0	DECLARATIONS OF INTEREST .....	6
7.0	CONFIRMATION OF PREVIOUS MEETING MINUTES .....	6
<b>7.1</b>	<b>ORDINARY MEETING HELD 19 DECEMBER 2018 .....</b>	<b>6</b>
8.0	ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION .....	6
9.0	REPORTS/MINUTES OF COMMITTEES .....	6
<b>9.1</b>	<b>EXECUTIVE COMMITTEE MEETING HELD 07 FEBRUARY 2019 .....</b>	<b>6</b>
<b>9.2</b>	<b>ANNUAL ELECTORS MEETING HELD 19 DECEMBER 2018.....</b>	<b>7</b>
10.0	REPORTS BY THE CHIEF EXECUTIVE OFFICER.....	8
<b>10.1</b>	<b>SHIRE OF MINGENEW AUDIT COMMITTEE.....</b>	<b>8</b>
<b>10.2</b>	<b>LOCAL GOVERNMENT ACT REFORM SUBMISSION.....</b>	<b>12</b>
<b>10.3</b>	<b>STANDPIPE CLASSIFICATION.....</b>	<b>14</b>
<b>10.4</b>	<b>STRATEGIC COMMUNITY PLAN.....</b>	<b>17</b>
11.0	REPORTS OF ADMINISTRATION.....	20
<b>11.1</b>	<b>FINANCIAL REPORT FOR THE PERIODS ENDING 31 DECEMBER 2018 AND 31 JANUARY 2019 20</b>	
<b>11.2</b>	<b>LIST OF PAYMENTS FOR THE PERIOD ENDING 31 DECEMBER 2018 &amp; 31 JANUARY 2019.....</b>	<b>23</b>
<b>11.3</b>	<b>GERALDTON ALTERNATIVE SETTLEMENT AGREEMENT.....</b>	<b>25</b>
<b>11.4</b>	<b>ELECTED MEMBER ENTITLEMENTS POLICY.....</b>	<b>29</b>
<b>11.5</b>	<b>RISK MANAGEMENT POLICY AMENDMENT.....</b>	<b>36</b>
12.0	ELECTED MEMBERS/MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	38
13.0	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING .....	38
11.1	ELECTED MEMBERS .....	38
11.2	STAFF .....	38
14.0	CONFIDENTIAL ITEMS.....	38
<b>14.1</b>	<b>CHIEF EXECUTIVE OFFICER’S PROBATIONARY REVIEW - CLOSED [s5.23(2)(a)] .....</b>	<b>38</b>
<b>14.2</b>	<b>WATER USE AGREEMENT ASSIGNMENT – CLOSED [5.23(2)(c)].....</b>	<b>38</b>
15.0	TIME AND DATE OF NEXT MEETING .....	38
16.0	CLOSURE.....	38

## SHIRE OF MINGENEW

### AGENDA FOR THE ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON 20 FEBRUARY 2019 COMMENCING AT 4.30pm

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

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

**APOLOGIES**

Nil

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

Nil

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

**5.0 APPLICATIONS FOR LEAVE OF ABSENCE**

**6.0 DECLARATIONS OF INTEREST**

Nils Hay – Item 14.1 (Chief Executive Officer Probationary Review - Closed [S5.23(2)(a)]) -  
Financial Interest – The report directly relates to the Officer's employment with the Shire.

**7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES**

7.1 ORDINARY MEETING HELD 19 DECEMBER 2018

**OFFICER RECOMMENDATION – ITEM 7.1**

That the minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 19 December 2018 be confirmed as a true and accurate record of proceedings.

**VOTING DETAILS:**

**8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION**

**9.0 REPORTS/MINUTES OF COMMITTEES**

9.1 EXECUTIVE COMMITTEE MEETING HELD 07 FEBRUARY 2019

**OFFICER RECOMMENDATION – ITEM 9.1**

That the minutes of the Executive Committee Meeting of the Shire of Mingenew held in the Council Chambers on 07 February 2019 be received.

**VOTING DETAILS:**

**9.2 ANNUAL ELECTORS MEETING HELD 19 DECEMBER 2018**

**OFFICER RECOMMENDATION – ITEM 9.2**

**That Council:**

- 1. Receive the minutes of the Annual Electors Meeting of the Shire of Mingenew held in the Council Chambers on 19 December 2018; and**
- 2. Note that there were no Motions Moved or Carried by Electors.**

**VOTING DETAILS:**

## 10.0 REPORTS BY THE CHIEF EXECUTIVE OFFICER

### 10.1 SHIRE OF MINGENEW AUDIT COMMITTEE

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:**  
**Disclosure of Interest:** Nil  
**Date:** 10 February 2019  
**Author:** Nils Hay, Chief Executive Officer

#### Summary

At the December 2018 Audit Committee meeting discussion was held regarding the role and structure of Council's Audit Committee. Further detail was requested by the Audit Committee, which this paper seeks to provide.

#### Attachment

- Draft Audit Committee Terms of Reference
- Office of the Auditor General Information for Local Governments
- Draft Expression of Interest documentation for recruitment of Independent Audit Committee Member

#### Background

At the December 2018 Audit Committee Meeting the following motion was passed:

#### **OFFICER RECOMMENDATION AND COMMITTEE RESOLUTION – ITEM 6.2**

**Moved: Cr Newton / Seconded: Cr Bagley**

**That Council on recommendation from the Audit Committee:**

1. **Requests that the Chief Executive Officer prepare an Audit Committee Terms of Reference for adoption at the February 2019 Ordinary Meeting of Council**

#### **AMENDMENT**

**Moved: Cr Newton / Seconded: Cr Bagley**

**That the word 'adoption' be changed to 'consideration'.**

#### **SUBSTANTIVE MOTION**

**That Council on recommendation from the Audit Committee:**

1. **Requests that the Chief Executive Officer prepare an Audit Committee Terms of Reference for consideration at the February 2019 Ordinary Meeting of Council.**

**VOTING DETAILS:**

**CARRIED 6/0**

Council's audit function is becoming increasingly important as the Office of the Auditor General (OAG) assumes responsibility for auditing local governments. The OAG's current approach includes both External Audits (which all local governments are subject to) as well as Performance Audits related to specific areas of Local Government operations, for which a sample of local governments are selected. It is the OAG's intent that, over a period of several years, all WA local governments will undergo some form of Performance Audit.

#### Comment

The OAG assuming audit responsibility for the sector both increases the scrutiny of annual External Audit processes, as well as the need for some form of internal audit function to better manage future Performance



## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

Audits, as well as giving greater confidence to External Auditors with regards to the systems and procedures under the preparation of annual financial reports.

The Shire of Mingenew currently has no real internal audit function, and the Audit Committee serves largely to rubber-stamp the Annual Financial Report and Compliance Audit Return (CAR). Given the narrow scope of both these items, a large amount of organisational activity is not subject to any critical scrutiny. Unless held separately, there do not appear to have been any substantive Audit Committee meetings to discuss its wider responsibilities in recent years (most meetings, according to minutes, have lasted between 10 and 30 minutes).

It is however acknowledged that – due to the size and make-up of the Shire of Mingenew’s Council – it is difficult for Audit Committee members to properly fulfil the Committee’s legislative function due to limited experience with and prior exposure to public sector audit processes and local government internal and financial operations and regulatory requirements. This is where the value of an external party on the Audit Committee with that expertise is not only valuable but increasingly necessary, as their technical knowledge can be combined with Councillors’ extensive knowledge and understanding of the local environment and organisational history to provide a more well-rounded Committee better capable of meeting the expectations the Act and Regulations place upon it.

In addition to the specifically legislated requirements, the Committee should also serve as an oversight mechanism for the Chief Executive Officer and Shire Administration who – at this point – are generally tasked with both operational activities and informal internal audit processes. Ideally the Chief Executive Officer would be the primarily responsible party for monitoring organisational compliance and performance, as there exists significant potential for bias (at minimum) and concealing improper/illegal activities (worst case scenario).

Consultation with industry bodies including WALGA, LG Professionals, the Department of Local Government, Sport and Cultural Industries (DLGSC), the Shire’s auditors, as well as other local governments has yielded several key points:

- The role of the Audit Committee is both becoming increasingly important internally, and increasingly scrutinised externally. This centres around the Committee’s legislated requirement to “guide and assist” a range of the local government’s functions designated under the *Local Government Act 1995* and *Local Government (Audit) Regulations 1996* (outlined in more detail in the ‘Statutory Environment’ section of this report)
  - o The Shire of Mingenew’s historical approach to Audit Committee operations does not appear to reflect the “guide and assist” approach
- There are numerous individuals within the sector who would likely be available to assist the Shire by joining its audit committee as an independent member
- The most appropriate way to recruit for an independent member would be a public Expression of Interest campaign

To that end, this paper is both recommending the introduction of new Terms of Reference for the Shire of Mingenew’s Audit Committee, as well as undergoing an Expression of Interest campaign to determine if a suitable external member could be recruited to join the Shire’s Audit Committee.

The Terms of Reference require some final input from Councillors; specifically determining:

- Membership: Shall all seven Councillors remain on the Audit Committee, in addition to an independent member? A minimum of three Councillors must be on the Committee, but it is not a requirement for all to do so.
- Meeting Frequency: At present meetings take place biannually (typically March, to review the Compliance Audit Return and November to accept the Annual Financial Report). The scope of these meetings can be expanded to better encapsulate the Audit Committee’s responsibilities, or additional meetings could be added

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

- E.g. May meeting to coincide with Interim Audit planning process and budget development, including resourcing Internal Audit function for coming year
- E.g. August meeting in preparation for annual Financial Audit and potentially finalise annual report to Council regarding Audit Committee activities (which could also feature in the Shire's Annual Report)
- The DLGSC model Terms of Reference suggest four meetings per annum

Whilst part of the goal is improving the organisation's compliance, and avoiding the ire of the OAG/DLGSC and other regulators, an effective Audit Committee can actually use the internal audit function to improve operational efficiency (through review and development of improvement plans for key areas) and wider public trust (by providing Councillors directly with a greater understanding of operational matters, as well as introducing better checks and balances for the Chief Executive Officer and administration).

### **Consultation**

- Lynn Fogg, Governance Advisor, WALGA
- Robert Hall and Marius van der Merwe, Auditors, Butler Settineri
- Jodie Holbrook, Director Local Government Policy & Engagement, DLGSC
- Candy Choo, CEO Local Government Professionals
- Anthony Vuleta, CEO Town of Victoria Park

### **Statutory Environment**

#### **Local Government Act 1995**

##### **Part 7.1A. Audit Committee**

- (1) A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.
- (2) The members of the audit committee of a local government are to be appointed\* by the local government and at least 3 of the members, and the majority of the members, are to be council members.
- (3) A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent the CEO as a member of an audit committee.
- (4) An employee is not to be a member of an audit committee.

#### **Local Government (Audit) Regulations 1996**

##### **r.16.**

##### **Functions of audit committee**

An audit committee has the following functions —

- a. to guide and assist the local government in carrying out —
  - i. its functions under Part 6 of the Act; and
  - ii. its functions relating to other audits and other matters related to financial management;
- b. to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;
- c. to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to —
  - i. report to the council the results of that review; and;
  - ii. give a copy of the CEO's report to the council;
- d. to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —
  - i. regulation 17(1); and
  - ii. the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- e. to support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government;
- f. to oversee the implementation of any action that the local government —
  - i. is required to take by section 7.12A(3); and
  - ii. has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and
  - iii. has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

iv. has accepted should be taken following receipt of a report of a review conducted under the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);  
to perform any other function conferred on the audit committee by these regulations or another written law.

### **Policy Implications**

Nil. Policies may be required to guide Audit Committee operations in future.

### **Financial Implications**

Depending upon the way the Council chooses to structure the audit committee, (i.e. include an external party) there may be a cost associated. Under the legislation, you cannot pay a person to be a member of an audit committee, but they can be reimbursed for travel expenses. The quantum of this would depend upon:

- a. who was chosen
- b. where they had to travel from
- c. frequency of meetings
- d. need for them to be on site for every meeting

### **Strategic Implications**

Community Strategic Plan

Outcome 4.2 – An open and accountable local government that is respected, professional and trustworthy

Outcome 4.5 – Achieve a high level of compliance

### **Voting Requirements**

Simple Majority

### **OFFICER RECOMMENDATION – ITEM 10.1**

**That Council:**

1. **Adopt the attached Audit Committee Terms of Reference, with the following modifications:**
  - i. **Audit Committee Membership is made up of <4-8> members with <3-7> elected and one external person; and**
  - ii **The Audit Committee shall meet <4> times per year; and**
2. **Directs the Chief Executive Officer to release an Expression of Interest campaign to recruit a suitably qualified independent Audit Committee member; and**
3. **Directs the Chief Executive Officer to provide Council with details of applicants and an assessment framework so that Council may select an independent Audit Committee member at the March 2019 Ordinary Meeting of Council**

### **VOTING DETAILS**

## 10.2 LOCAL GOVERNMENT ACT REFORM SUBMISSION

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:**  
**Disclosure of Interest:** Nil  
**Date:** 10 February 2019  
**Author:** Nils Hay, Chief Executive Officer

### **Summary**

The *Local Government Act 1995* (LGA95) is currently in its second phase of being reviewed by the Department of Local Government, Sport and Cultural Industries (DLGSC). As part of this process, the Shire of Mingenew has an opportunity to make a formal submission to the review committee.

### **Attachment**

- Proposed Shire of Mingenew Submission to WA Local Government Act Review
- WALGA Position Paper on Phase 2 of Local Government Act Review
- LG Professionals Phase 2 Position Paper

### **Background**

In 2017 the McGowan Government announced a review of the Local Government Act 1995. This is the first significant reform of local government conducted in more than two decades. The objective is for Western Australia to have a new, modern Act that empowers local governments to better deliver for the community. Our vision is for local governments to be agile, smart and inclusive.

Phase One of the Act Review has resulted in commencement of a Bill being drafted which includes provision for universal training for candidates and council members, council member code of conduct, improvements to CEO recruitment and performance review and a simplified gift framework.

Phase Two is broader than Phase One, and considers nine key topic areas:

- Beneficial enterprises
- Financial management
- Rates, fees and charges
- Administrative efficiencies — local laws
- Council meetings
- Interventions
- Community engagement — IPR
- Complaints management
- Elections

More information on the process can be found at:

<https://www.dlgsc.wa.gov.au/localgovernment/strengthening/Pages/LG-Act-Review.aspx>

Local Governments have been asked to provide their submission to WALGA by 22 February 2019, this will ensure that submissions can travel through Zone Meetings and WALGA State Council ahead of the 31 March 2019 submission date to DLGSC.

At the December 2018 Concept Forum, it was noted that this paper would be developed and presented for Councillor consideration.

### **Comment**

The submission prepared for the Shire of Mingenew supports a number of WALGA's policy positions, in addition to several other key items that are more particular to smaller, rural local governments.

This represents an opportunity to ensure that – even if it is not adopted – the Shire puts its own case forward for sensible reform to our governing piece of legislation.

It's noted that this submission is going to be filtered through WALGA. There is nothing preventing the Shire from providing a submission to WALGA, to inform their final position, as well as submitting it directly to DLGSC, noting that the WALGA deadline is 22 February 2019, while DLGSC's is 31 March 2019.

**Consultation**

- Leadership Team

**Statutory Environment**

**Local Government Act 1995**

This submission is in relation to the new Local Government Act, to replace the LGA95.

**Policy Implications**

Nil.

**Financial Implications**

Nil.

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

**Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION – ITEM 10.2**

**That Council:**

- 1. Endorse the attached submission to the Local Government Act Reform Process; and**
- 2. Directs the Chief Executive Officer to provide the submission to WALGA ahead of the 22 February 2019 deadline; and**
- 3. Directs the Chief Executive Officer to provide the submission to the Department of Local Government, Sport and Cultural Industries ahead of the 31 March 2019 deadline.**

**VOTING DETAILS**

### 10.3 STANDPIPE CLASSIFICATION

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:**  
**Disclosure of Interest:** Nil  
**Date:** 6 February 2019  
**Author:** Nils Hay, Chief Executive Officer

#### Summary

Effective 1 July 2019, Water Corporation is changing its pricing and policy with regards to Local Government-owned Fixed Standpipes, of which two are currently present in the Shire of Mingenew. As part of this process, Local Governments must classify their standpipes under the new classifications that have been introduced.

#### Attachment

- Standpipe Classification Action Plan- CONFIDENTIAL
- Mingenew Standpipe Map-
- Frequently Asked Questions-
- Using a Fixed Standpipe in WA brochure-
- Historical standpipe usage and charges- CONDIFENTIAL

#### Background

The Shire currently has two standpipes: Meter #FK1000141 – opposite the Shire depot on Linthorne Street; and Meter #FK0900048 – on the southern edge of town on Victoria Street. They are 50mm in size and the Shire is billed for water used from both. At present both standpipes operate under an honesty system, which is very difficult for the Shire to monitor. The implementation of the new classifications is actively seeking to reduce the number of honesty system-based standpipes in operation.

Historical usage and charges on the two standpipes is attached.

Whilst initially closing on 30 November 2018, the timeframe for Local Governments to provide reclassification information has been extended to 28 February 2019.

#### Comment

Because both the Shire standpipes are 50mm in size – the only options that we can select are:

1. Local Authority Standpipe: Must be locked or within a depot and not available for public access. For Shire and Shire contractor purposes. Can be used for firefighting purposes but can only be used for community purposes during drought.
2. Fire Fighting Only: As the name suggests, can only be use for firefighting. Can be utilised for community purposes during drought.
3. Commercial Standpipe: Can be used for any purpose, but commercial rates apply. A method for capturing water usage must also be implemented (swipe card, credit card, coin operated, other method).

As we do not have any standpipes below 50mm in size, we can request from Water Corporation to install a Community Use Standpipe of 20-25mm, which they will install free of installation and administration fees (the Shire would have to pay a Standard Infrastructure Contribution based upon the size of the standpipe). We must make this request to Water Corporation by 1 July 2019. As the name suggests, Community Use standpipes are for non-commercial use by members of the local community (and attract a lower /kL tariff than Commercial standpipes).

With any standpipe, provided volumes are recorded, the amount of water taken for fire-fighting purposes can be claimed back from Water Corporation.

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

With Commercial Standpipes, the Shire can charge any amount it wishes above the standard commercial rate should it choose to do so.

The following is suggested:

1. Classify the Linthorne Street standpipe as a Local Authority Standpipe. It will then be locked and only utilised for Shire and firefighting activities. Keys must be made available to appropriate Shire staff and relevant bushfire brigade representatives. Shire staff will be responsible for monitoring usage so that, if necessary, we are able to claim back any water used for firefighting purposes.
2. Classify the Victoria Street standpipe as a Commercial Standpipe. An appropriate access/monitoring method will need to be developed and introduced. (It could be as simple as key access and the user photographing the start and finish meter readings, with payment via invoice or credit card). A fee must be set by Council in fees and charges annually. Again, keys will need to be available for bushfire brigade staff.
3. Request the installation of a Community Use standpipe so that this functionality is not lost. A suitable location will need to be determined, and an appropriate monitoring method developed and implemented. It is recommended that this standpipe only be 20mm in size to ensure that it cannot be easily utilised for commercial purposes to reduce the need for monitoring as stringent as would be expected on the Commercial Standpipe. The Shire is waiting on a response from Water Corporation regarding potentially suitable sites within the townsite for the new standpipe.

All of the above options will require development of some additional procedures both internally at the Shire and for standpipe users. Given the relatively low usage of the standpipes over the past few years, it is hoped that the provision of a new Community Use standpipe limits the impact on current (non-commercial) users, whilst the designation and control of a Commercial Standpipe allows the Shire to better police commercial users who have not been making use of the honesty system.

In the event of drought or other disaster, it would naturally be expected that all standpipes are made available to assist those in need.

### **Consultation**

- Wendy Mathews, Water Corporation
- John D'Arcy, Water Corporation

### **Statutory Environment**

Under the *Water Corporations Act 1995*, Water Corporation assumes responsibility for the storage, treatment and distribution of water for any purpose in Western Australia.

### **Policy Implications**

Currently nil, but it would be prudent to develop appropriate use policies for Commercial and Community Use standpipes in the months leading up to the change in classification.

### **Financial Implications**

Any new service or water use charges will apply from the 1 July 2019.

#### **Annual Water Service Charges:**

In FY 17/18 we paid \$1,580.97 each in Water Service Charges for our two standpipes. Reclassifying them as Local Authority and Commercial will mean that we pay \$0 for the Local Authority Standpipe and \$1,628.84 for the Commercial Standpipe.

The Community Use standpipe will be charged at an annual rate of \$265.41.

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

Overall, these changes will represent a small net saving to Council (in the order of approximately \$1,300 per year)

### Water Use Charges:

In 2017-18, the Shire paid \$2.391/kL. The 2018/19 rate of \$2.534/kL will apply to any Local Authority or Community Use standpipe. A rate of \$8.353/kL will apply to any Commercial standpipe.

The cost of the Shire's water usage is unlikely to change, however our ability to potentially identify and charge commercial operators who utilise the Shire's standpipes without adhering to the honesty system will change, resulting in a small amount of revenue.

### Other Charges:

There will be an Infrastructure Contribution payable for the installation of the Community Use standpipe of \$2,211 for a 20mm standpipe and \$4,422 for a 25mm standpipe. This item has not been budgeted for and will need to feature in the 2019/20 budget.

There may be some costs involved in the establishment of an appropriate monitoring/management system for any non-Local Authority standpipes. Whilst swipe-card systems exist for this purpose, they are likely to be far too expensive proportional to the amount of revenue any standpipe would generate to justify. As such, a more low-tech system is likely to be developed and put in place.

There will also be minor expenses associated with notifying the community of any changes, installation of appropriate signage at the standpipes, et cetera. It is noted that Water Corporation will assist with this process (as these changes are going to be occurring statewide).

### Strategic Implications

2012 Strategic Community Plan Outcomes:

- 1.5.2: Efficient use of water resources within the Shire
- 2.1.2: Efficient use of water resources within the Shire

### Voting Requirements

Simple Majority

### **OFFICER RECOMMENDATION – ITEM 10.3**

#### **That Council:**

- 1. Classify Standpipe #FK1000141, located on Lot 117 Linthorne Street, Mingenew as a Local Authority Standpipe; and**
- 2. Classify Standpipe #FK1000141, located opposite L444 Mingenew South Road, Mingenew as a Commercial Standpipe; and**
- 3. Directs the Chief Executive Officer notify Water Corporation of these classifications before 28 February 2019; and**
- 4. Directs the Chief Executive Officer to notify Water Corporation of Council's desire for a 20mm Community Use Standpipe to be installed in the Mingenew townsite; and**
- 5. Directs the Chief Executive Officer to provide Council with potential siting information so that Council can determine the location of the new Community Use Standpipe at the March 2019 Ordinary Council Meeting**

### **VOTING DETAILS**



## 10.4 STRATEGIC COMMUNITY PLAN

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:**  
**Disclosure of Interest:** Nil  
**Date:** 13 February 2019  
**Author:** Nils Hay, Chief Executive Officer

### Summary

The Shire of Mingenew is reviewing its Strategic Community Plan. The next phase of this process is for Council to endorse the Draft Plan ahead of a further (final) phase of Community Consultation.

### Attachment

- Draft Strategic Community Plan

### Background

The draft plan has been developed over the previous 4-5 months. Sue Middleton (Lateral Aspect) was engaged to conduct the review process through an RFQ process facilitated through the WALGA preferred supplier panel.

The process commenced with a Community Consultation session on 18 October 2018, and individual interviews with community members and regional stakeholders around that period.

A draft summary of the consultation sessions was presented to community for feedback through January 2019. That feedback was incorporated into a draft document presented to and workshopped with Councillors on 7 February 2019.

The current draft represents the culmination of the process thus far.

### Comment

The intent is that, if endorsed, this plan be distributed for community consultation through the month of March 2019. As part of this process there will be a second community consultation session (facilitated by Sue Middleton) on 12 March 2019.

The consultation documents, along with feedback forms, will be available on Council's website and in hard copy from the Shire Office. The process will be publicised through social media, text message, on the Shire's website and advertised in Mingenew Matters.

Following the consultation process, feedback and submissions will be incorporated and a final draft of the plan will be compiled and presented to Council at the April 2019 Ordinary Meeting.

It should be noted that if Councillors have any feedback they wish to provide on the current plan, they are able to do so through the consultation period as well.

### Consultation

- Councillors
- Sue Middleton
- Mingenew Community

### Statutory Environment

#### **Local Government Act 1995**

#### **5.56. Planning for the future**

- (1) A local government is to plan for the future of the district.

- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

### **Local Government (Administration) Regulations 1996**

#### **19C. Strategic community plans, requirements for**

- (1) A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.
- (3) A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.
- (4) A local government is to review the current strategic community plan for its district at least once every 4 years.
- (5) In making or reviewing a strategic community plan, a local government is to have regard to —
  - (a) the capacity of its current resources and the anticipated capacity of its future resources; and
  - (b) strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and
  - (c) demographic trends.
- (6) Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.
- (7) A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine whether or not to adopt the plan or the modifications (absolute majority required).
- (8) If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.
- (9) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.
- (10) A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.

#### **Policy Implications**

Nil.

#### **Financial Implications**

Depending upon the way the Council chooses to structure the audit committee, (i.e. include an external party) there may be a cost associated. Under the legislation, you cannot pay a person to be a member of an audit committee, but they can be reimbursed for travel expenses. The quantum of this would depend upon:

- e. who was chosen
- f. where they had to travel from
- g. frequency of meetings
- h. need for them to be on site for every meeting

#### **Strategic Implications**

The Strategic Community Plan is Council's primary strategic document, from which all others are derived. As such, the final product has wide-ranging strategic implications for the Shire, as it should serve to guide strategic decision-making for the coming decade.

An updated Corporate Business Plan will be developed to facilitate the delivery of the first four years of Strategic Community Plan activity as the Shire works through this process.

#### **Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION – ITEM 10.4**

**That Council endorses the Draft Strategic Community Plan to be distributed for public consultation.**

**VOTING DETAILS**

## 11.0 REPORTS OF ADMINISTRATION

### 11.1 FINANCIAL REPORT FOR THE PERIODS ENDING 31 DECEMBER 2018 AND 31 JANUARY 2019

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** ADM0304  
**Date:** 12 February 2019  
**Author:** Jeremy Clapham – Finance Manager

#### Summary

This report recommends that the Monthly Financial Report for the periods ending 31 December 2018 and 31 January 2019 as presented to the Council be received.

#### Attachment

- Monthly Financial Reports for periods ending 31 December 2018
- Monthly Financial Reports for periods ending 31 January 2019

#### Background

The Monthly Financial Reports to 31 December 2018 and 31 January 2019 are 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 as at 31 January 2019</b>	
Municipal Fund	\$371,146
Cash on Hand	\$300
Restricted Funds – 3 Month Term Deposit @ 2.50%	\$545,000
Trust Fund	\$22,586
Reserve fund (3 Month Term Deposit) @ 2.50%	\$411,269

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered.

The Statement of Financial Activities Report contains explanations of Councils adopted variances for the 2018/2019 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.
- (3) The information in a statement of financial activity may be shown —
  - (a) according to nature and type classification; or
  - (b) by program; or
  - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
  - (a) Presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
  - (b) Recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

**Policy Implications**

Nil

**Financial Implications**

No financial implications are indicated in this report.

**Strategic Implications**

Nil

**Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION 11.1**

**That the Monthly Financial Reports for the period 1 July 2018 to 31 December 2018 and 1 July 2018 to 31 January 2019 be received.**

**VOTING DETAILS:**

## 11.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 DECEMBER 2018 & 31 JANUARY 2019

<b>Location/Address:</b>	Shire of Mingenew
<b>Name of Applicant:</b>	Shire of Mingenew
<b>File Reference:</b>	ADM0042
<b>Attachment/s:</b>	List of Payments – December 2018 & January 2019
<b>Disclosure of Interest:</b>	Nil
<b>Date:</b>	8 February 2019
<b>Author:</b>	Cherie Delmage – Projects Finance

### **Summary**

This report recommends that Council receive the list of payments for periods ending 31 December 2018 and 31 January 2019 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

### **Attachment**

- List of Payments for period ending 31 December 2018
- List of Payments for period ending 31 January 2019

### **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 11.2**

**That Council:**

**1. Receive the attached list of payments for the month of December 2018 as follows:**

\$10,397.33	Municipal Cheques 8578 to 8582;
\$990,739.18	Municipal EFT12036 to EFT12140;
\$14,935.15	Municipal Direct Debit Superannuation & Payroll Deduction Payments;
\$57,242.40	Municipal Direct Debit Department of Transport (Licencing) Payments;
\$42,103.55	Municipal Direct Debit WATC Loan & Guarantee Fee Payments;
\$133.44	Municipal Direct Debit National Australia Bank Fees; and
\$626.31	Municipal Direct Debit Other.
Totalling \$1,116,177.36; and	

**2. Receive the attached list of payments for the month of January 2019 as follows:**

\$15,736.43	Municipal Cheques 8583 to 8589;
\$1,032,323.53	Municipal EFT12141 to EFT12204;
\$10,955.67	Municipal Direct Debit Superannuation & Payroll Deduction Payments;
\$86,216.95	Municipal Direct Debit Department of Transport (Licencing) Payments;
\$2,192.67	Municipal Direct Debit WATC Loan & Guarantee Fee Payments;
\$271.89	Municipal Direct Debit National Australia Bank Fees; and
\$3239.25	Municipal Direct Debit Other.
Totalling \$1,150,936.39.	

**VOTING DETAILS:**



### 11.3 GERALDTON ALTERNATIVE SETTLEMENT AGREEMENT

**Location/Address:** various Crown Land  
**Name of Applicant:** Department of Planning, Lands & Heritage  
**Disclosure of Interest:** Nil  
**File Reference:** ADM0491  
**Date:** 24 January 2019  
**Author:** Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley  
**Senior Officer:** Nils Hay, Chief Executive Officer

#### Summary

Council is in receipt of further correspondence from the Department of Planning, Lands & Heritage seeking comment in relation to various Crown Land parcels within the Shire of Mingenew that have been identified as areas of interest for the native title claimants and are currently being considered for inclusion into the Indigenous Land Use Agreements.

#### Attachment

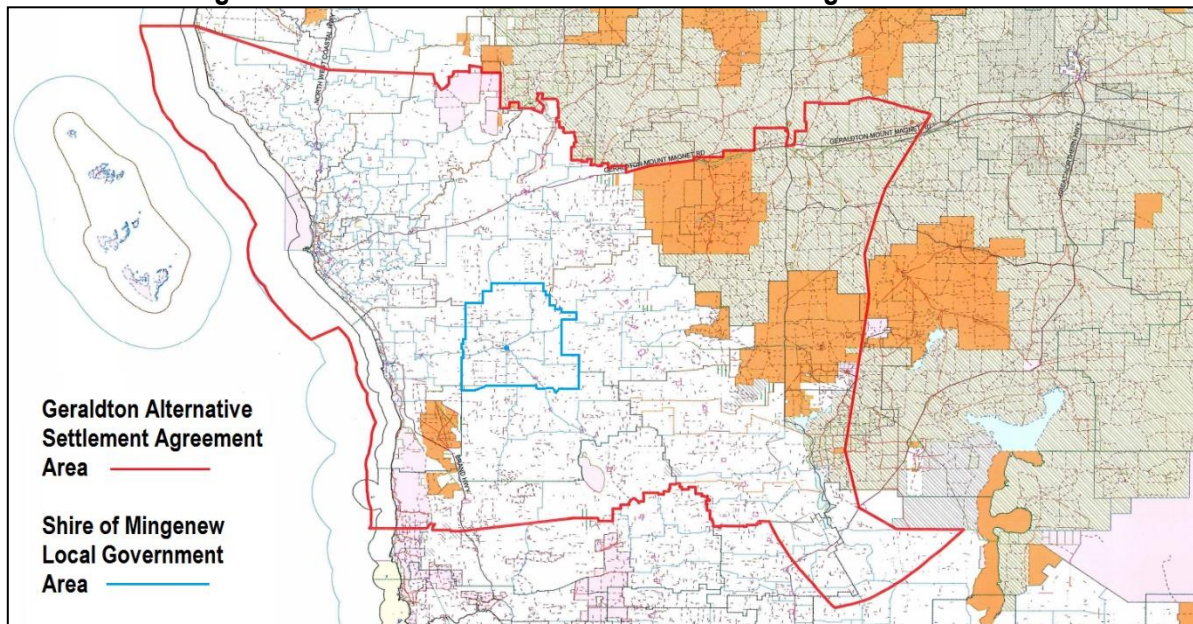
Attachment 11.3 - draft Shire response for Council discussion – provided as separate CONFIDENTIAL Attachment-

#### 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 11.3 – 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;**

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

- 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).

### **Comment**

The Department of Planning, Lands & Heritage are seeking Council's comment upon 6 parcels of Crown Land 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?"*

**Separate CONFIDENTIAL Attachment 11.3** provides a cadastral map overlaid upon an aerial photograph and individual comment for each Crown Land parcel and it is suggested that this form the basis for Council's discussion and 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 22 February 2019.**

The Department of Planning, Lands & Heritage advised the Shire on 21 December 2018:

*"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."*

In relation to Council's resolution at its 19 September 2018 meeting the Department of Planning, Lands & Heritage advised the Shire on 23 October 2018:

*"Please note that the GASA team will not be referring to adjoining land owners, noting that this Agreement is mediated by the federal court. The GASA Team will be referring to Main Roads WA and the Department of Biodiversity, Conservation and Attractions, as well as a number of other agencies, for comments."*

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

**That Council endorse and forward the Shire response to the Department of Planning, Lands & Heritage as provided in Attachment 11.3**

**VOTING DETAILS:**

## 11.4 ELECTED MEMBER ENTITLEMENTS POLICY

<b>Location/Address:</b>	Shire of Mingenew
<b>Name of Applicant:</b>	Shire of Mingenew
<b>File Reference:</b>	ADM0489
<b>Disclosure of Interest:</b>	Nil
<b>Date:</b>	05 February 2019
<b>Author:</b>	Belinda Bow, Governance Officer
<b>Authorising Officer</b>	Nils Hay, Chief Executive Officer

### Summary

To represent to Council the proposed Elected Member entitlements policy following changes made to the Professional Development provisions in line with Council's resolution from the Ordinary Meeting held on 19 December 2018. Further information has also been included to assist in determining President / Deputy President allowances.

The proposed policy (see attachment 2) has been drafted to outline the support that will be provided to Councillors through the payment of allowances and reimbursement of expenses incurred under the *Local Government Act 1995* (the Act) while performing the official duties of office. Council is requested to review the attached Elected Member Entitlements Policy and adopt, if satisfied with its contents, with /without modifications or alternatively decline the policy and maintain the current processes.

### Attachment

- 1- Current policy- 1.1.1 Elected Members Entitlements
- 2- Proposed policy- 1.1.1 Elected Members Entitlements v1

### Background

Part 5 division 8 of the Act provides for Elected Member entitlements and allowances in recognition of the complexity, time and demands of the role. These entitlements and allowances are governed by the Salaries and Allowances Tribunal "SAT" whom classify local governments according to bands, and then set the parameters in which monetary payments can be made. Whilst the Salaries and Allowances Tribunal reviews its determinations every 12 months it is Council that must set the entitlements and allowances figures within the SAT range through either policy or as a part of the budget process and to also stipulate conditions around such payments.

Currently as per the Policy titled 1.1.1 Elected Members Entitlements (attachment 1) Councillor sitting fees and allowances are set as a part of the budget process and includes:

- a) Councillor sitting fees;
- b) President & Deputy President allowances.

However there is a lack of clear direction from Council on:

- a) Whether Council would like to continue with an annual sitting fee instead of on a per meeting basis;
- b) Quantum of President and Deputy President Allowances;
- a) Reimbursements; the extent to what, and to how much, will be recoverable
- b) Whether Council would like to set annual professional development entitlements to ensure all Councillors receive the opportunity for development as opposed to first in, first served;
- c) Agreed monetary values for acknowledgement of service.

This proposed policy provides direction for both Elected Members and Management on all the above.

### Comment

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

The proposed Elected Members' Entitlements Policy formalises the support and allowances available to the Shire's Elected Members in line with what is currently practiced and is consistent with the provisions set out in the Local Government Act 1995 "the Act" and supporting regulations. As stated, it assumes Council is satisfied with the current provisions and payment options and seeks to govern such payments without imposing a significant impact to the 2018/19 budget.

### Sitting Fees

To guide the annual budget process, the policy proposes that the annual meeting attendance fee for both Councillor and President be expressed as percentage of the maximum SAT determination (see fig 2). You will note that there is no provision for a separate Deputy President sitting fee; despite this having been in place since 2014 (and potentially previously), neither the Act, its regulations or the Salaries and Allowances Tribunal provides for such a fee.

This I can only assume is due the fact that only one person presides at meetings and if it is not the President, then it would be the Deputy acting in the President's capacity, which would therefore entitle the Deputy to the President's fee for that meeting, however given that Council currently have an annual sitting fee in lieu of individual meeting fees payment of this item is not feasible. Given that the legislation does not make provision for this fee it must be removed and if not done through policy, then it will be addressed at the mid-year budget review. The Deputy President is entitled to the same monetary amount as the other Councillors (excluding the President), in line with the provisions of the Act.

**Figure 1. The current 2018/19 Shire of Mingenew Council annual attendance fees, in lieu of individual council meeting attendance fees [extracted from the 2018/19 Shire Budget].**

<i>G/L</i>	<i>Description</i>	<i>Explanation</i>	<i>Timing</i>	<i>Amount</i>
0162	Members Allowance	Sitting Fee- President (2017/18 - \$6,222)	Quarterly	\$6,278
0162	Members Allowance	Sitting Fee- Deputy President (2017/18 - \$4,131)	Quarterly	\$4,168
0162	Members Allowance	Sitting Fee- 5x Councillors @ \$3,700 each (2017/18- \$3,616 each) (Increased by March Perth CPR each year – 0.9% for 12 months to March 2018)	Quarterly	\$18,245

The percentages suggested for the meeting/sitting fees (33% and 40% of the maximum SAT allowance for the President and Councillors respectively) have been suggested as they achieve, as closely as possible, the current budgeted figures. Historically, according to Cr Cosgrove, Council set the Annual Attendance/Sitting Fees, in lieu of per meeting fee, at the minimum allocation set by SAT.

The table below details the current range set by SAT in which Councillors are able to set their attendance fees within. The Shire of Mingenew is classified as Band 4.

**Figure 2- Current SAT Determination for Annual attendance fees in lieu of council meeting, committee meeting and prescribed meeting attendance fees – local governments.**

Band	For a council member other than the mayor or president		For a council member who holds the office of mayor or president	
	Minimum	Maximum	Minimum	Maximum
1	\$24,360	\$31,364	\$24,360	\$47,046
2	\$14,718	\$23,000	\$14,718	\$30,841
3	\$7,612	\$16,205	\$7,612	\$25,091
4	\$3,553	\$9,410	\$3,553	\$19,341

MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

Given that percentages have been rounded to the nearest whole number for ease of calculation, the policy would result in an increase to the annual attendance fees as below listed. It equates to an approximate annual increase of \$64.00 per councillor and \$104.00 increase to the President for the Annual Attendance Fee.

**Fig 3- Annual Meeting Attendance Fee as a Result of the Policy if Adopted**

G/L	Description	Explanation
0162	Members Allowance	Annual Sitting Fee- President (2019/20 - \$6382.50)
0162	Members Allowance	Annual Sitting Fee- Councillor (2019/20- \$3,764)

President & Deputy President Allowances

Again the allowances have been expressed as a percentage of the maximum SAT determination for each category. Under the Local Government Act 1995 s5.98 & S5.98A, the Presidential allowance *must* be paid whilst the Deputy President *may* be paid and is to be decided by absolute majority of Council. The purpose of the President and Deputy President's allowance is to remunerate the office bearers for the performance of the duties associated with their office.

Please note that I have been unable to locate any further information / formula's on how these allowances have been previously determined by Council.

In accordance with s5.98 of the Local Government Act 1995, the Presidents allowance must be set within Band 4 of the below table (fig4). Currently the President's allowance is set at \$7,288 per annum. To again achieve monetary values as close as possible to current budgetary figures, the policy proposes the President receive 37% of the maximum SAT allowance. Due to rounding of percentages, this would increase the President's allowance to \$7,349.70, equating to a \$61.70 increase in the President's allowance from current budgeted figures.

**Figure 4: Current SAT Determination for Annual allowance for a mayor or president of a local government**

For a mayor or president		
Band	Minimum	Maximum
1	\$50,750	\$88,864
2	\$15,225	\$62,727
3	\$1,015	\$36,591
4	\$508	\$19,864

In regard to the Deputy President's allowance, the policy proposes what is currently practiced by Council and sets a Deputy President's allowance at the maximum entitlement of 25% of the Presidential allowance. This would equate to an increase in the Deputy President's allowance of \$15.40, taking it from \$1,822 to \$1,837.40 (25% of \$7,349.70).

Given that currently and historically, the office of the Deputy President has required minimal work over and above that of an Elected Member, Council may wish to review the allowance and either:

- a) Make no modification to the policy and in turn the allowance percentage; or
- b) Minimise the percentage paid in relation to the President's allowance (may set the percentage anywhere from 0-25% of the President's allowance; or
- c) Choose not to pay the allowance at all.

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

It is important for Council to consider that with the current *annual sitting fee* structure, should the President require an extended leave of absence, the Deputy President would be required to fulfil presidential duties whilst still on the standard Councillor sitting fee rate and would only be entitled to the annual allowance for compensation of increased duties. Should Council wish to reduce/omit the Deputy President's allowance, it needs to reflect what is fair and reasonable if that event were to occur.

### Information, Communication and Technology (ICT) Allowance

The Act provides for Elected Members to be either reimbursed or receive an allowance for ICT costs incurred whilst undertaking their role. Currently the Shire does not pay an ICT allowance as all Councillors are provided with iPads and data connectivity/download capacity on commencement of their role. If an Elected Member were to incur additional costs such as phone expenditure due to the demands of their role, then the proposed policy provides for reimbursement but stipulates a maximum monetary value claimable of \$100.00, provided sufficient evidence be submitted.

### Professional Development

As per Council's request at the Ordinary Meeting held 19 December, I have removed individual allocations for training and replaced with "Council to decide the Annual Conference and Training allocation as a part of the budgetary process". The policy still proposes that all Elected Members are entitled to attend Local Government Week and that the cost of meals, conference attendance fees, travel etc will be paid via reimbursement at the rate determined by SAT. The policy also proposes that accommodation costs associated with training / conferences be reimbursed by the Shire providing the nightly rate is seen to be fair and reasonable.

### Training Approval

The policy gives authorisation to the CEO to approve all intrastate training/conference attendance providing the costs are within the budgetary provision as set by Council.

### Accompanying Persons at Conferences and Training

Whilst the Shire has previously not held a policy position on accompanying persons for Conference/Training, it did in regards to Local Government Week.

"Partners are eligible to attend Local Government Week... and the cost of registration, accommodation and meals will be met by Council, provided such expenditure is under the terms and conditions of the Local Government Act" (May 2017 Policy Manual).

This policy proposes that all costs associated with an accompanying person be borne by the Elected Member, except for the circumstances as listed in clause 2.8 of the policy.

### Acknowledgement of Service

This has been included within this policy as it is an entitlement provided for by the Act. What has been proposed is in line with what Council had previously adopted in 2017 and consistent with Council's policy with relation to gratuities to staff for service.

### Comparison of Councillor Entitlements with Surrounding Shires against Proposed Policy

I have completed a comparison of Elected Member entitlements with the surrounding Shires for Council to consider and to assist in determine whether changes need to be made to the policy.

Shire	Structure	Sitting Fees	Pres & D/Pres Allowances	ICT Allowance	Conference/ Training + Travel
Mingenew	Annual Fee	Annual Fig \$28966.50 President- \$6,382.50 Councillor- \$3,764.00	President- \$7,349.70 D/Pres- \$1,837.40	\$0	\$21,450 (includes local gov week provision)



MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 20 February 2019

Three Springs	Per Meeting (includes committee, RRG, Walga etc)	<u>Annual Fig \$12,672</u> <i>Ordinary Meeting</i> President- \$264 Councillor- \$132 <i>Special/Committee</i> President- \$66 Councillor- \$33	President- \$7,500 D/Pres- \$1,375	\$0	?
Morawa	Annual Fee	<u>Annual Fig \$64,000</u> President- \$16,000 Councillor- \$8,000	President- \$17,000 D/Pres- \$4,250	\$1500	\$23,200 (includes local gov week provision)
Perenjori	Per Meeting (includes committee, RRG, Walga etc)	<u>Budgeted \$32,000</u> <i>Ordinary Meeting</i> President- \$400 Councillor- \$200 <i>Special/Committee</i> Councillor including President- \$118	President- \$22,000 D/Pres- \$6,000	\$0	\$8,000
Carnamah	?	<u>Annual Fig \$19,824</u>	President- \$3,650 D/Pres- \$0	\$3,500	\$2800 each for travel and \$100 per day for food etc.

**Consultation**

Lyn Fogg- WALGA Governance Advisor.

**Statutory Environment**

Local Government Act 1995

5.98. Fees etc. for council members

(1A) In this section —

**determined** means determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7B.

(1) A council member who attends a council or committee meeting is entitled to be paid —

- (a) the fee determined for attending a council or committee meeting; or
- (b) where the local government has set a fee within the range determined for council or committee meeting attendance fees, that fee.....

(5) The mayor or president of a local government is entitled, in addition to any entitlement that he or she has under subsection (1) or (2), to be paid —

- (a) the annual local government allowance determined for mayors or presidents; or
- (b) where the local government has set an annual local government allowance within the range determined for annual local government allowances for mayors or presidents, that allowance.

5.98A. Allowance for deputy mayor or deputy president

(1) A local government may decide\* to pay the deputy mayor or deputy president of the local government an allowance of up to the percentage that is determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7B of the annual local government allowance to which the mayor or president is entitled under section 5.98(5).

\* *Absolute majority required.*

(2) An allowance under subsection (1) is to be paid in addition to any amount to which the deputy mayor or deputy president is entitled under section 5.98.

5.99. Annual fee for council members in lieu of fees for attending meetings

A local government may decide\* that instead of paying council members a fee referred to in section 5.98(1), it will instead pay all council members who attend council or committee meetings —

- (a) the annual fee determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7B; or
- (b) where the local government has set a fee within the range for annual fees determined by that Tribunal under that section, that fee.

\* Absolute majority required.

[Section 5.99 amended by No. 2 of 2012 s. 16.]

Salaries and Allowances Act 1975

Local Government Chief Executive Officers and Elected Members Determination No. 1 of 2018

1.3 (7) Where the Tribunal has determined a minimum and maximum amount for a fee, expense or allowance for elected council members of a local government or regional local government, each local government or regional local government council will set an amount within the relevant range determined and the amount set will be payable to an eligible elected council member.

1.3 (8) The fees, expenses and allowances determined are intended to recognise the responsibilities of elected council members, mayors and presidents of local governments and chairmen of regional local governments and to remunerate them for the performance of the duties associated with their office.

7.3 Annual Allowance for a Deputy President.....The percentage determined for section 5.98A(1) of the LG Act is 25 percent.

Local Government (Administration) Regulations 1996

34AC. Gifts to council members, when permitted etc. (Act s. 5.100A)

(1) The retirement of a council member who has served at least one full 4 year term of office is prescribed under section 5.100A(a) as circumstances in which a gift can be given to the council member.

(2) The amount of \$100 for each year served as a council member to a maximum of \$1,000 is prescribed under section 5.100A(b) in respect of a gift given to a council member in the circumstances set out in subregulation (1). [Regulation 34AC inserted in Gazette 3 May 2011 p. 1596.]

**Policy Implications**

Council currently has no policies in respect to this matter. The adoption of an Elected Member Entitlement's Policy formalises such entitlements and assists staff in the budget formation process.

**Financial Implications**

The policy, if adopted, will result in an additional cost to the Shire of approximately \$200 on an annual basis, excluding CPI increases, from what is currently provided for within the 2018/19 budget if no changes to percentages or monetary values are made.

**Strategic Implications**

The 2017 – 2021 Corporate Business Plan has a range of objectives, outcomes and actions that revolve around these policy issues, including the outcomes *'being an open and accountable local government that is respected, professional and trustworthy'*; and *'to achieve a high level of compliance.'*

**Voting Requirements**

Absolute Majority

**OFFICER RECOMMENDATION – ITEM 11.4**

**That Council:**

1. **Revoke the policy titled 1.1.1 Elected Members Entitlement, adopted March 2018;**

- 2. Adopt the attached policy titled 1.1.1 Elected Member Entitlements v1 (attachment 2) with no modifications; and**
- 3. Direct the CEO to address any budget variations resulting from this policy through the mid-year 2018/19 Budget review process.**

**VOTING DETAILS:**

## 11.5 RISK MANAGEMENT POLICY AMENDMENT

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:**  
**Date:** 13/02/2019  
**Author:** Belinda Bow, Governance Officer  
**Authorising Officer:** Nils Hay, Chief Executive Officer

### Summary

To present for council consideration a revised Risk Management Policy, with the supporting Risk Management Framework/Procedures for Council to note.

### Attachment

- 1- Current Policy- 1.2.2 Risk Management
- 2- 2014 Council adopted Risk Management Framework and Procedures
- 3- Proposed Policy- 1.2.2 Risk Management v1
- 4- Current Operational Risk Management Framework/Procedures

### Background

Council's current Risk Management Framework and Procedures were adopted by Council in December 2014 (see attachment 1 & 2). Given that the framework requires review every 2 years, that there has been an updated Australian Standard published in Risk Management since documentation adoption and LGIS have since released updated Risk Management Proforma's, a review and revision of current documentation has been undertaken to reflect such changes and changes in management practices.

### Comment

Key findings in the documentation review included:

- I. That Council's risk appetite and tolerance criteria needed to be shifted from the framework/procedures document and put into policy;
- II. Council's risk appetite needed further description;
- III. That there was a lack of direction from Council as to its expectations of Management in reporting of Risk;
- IV. The Framework was suitable, but AU Standard reference needed updating;
- V. Some areas in the Procedures required further clarification or simplification to make more user friendly;
- VI. Value in keeping the control assurance plan in the procedures (as was not in the updated proforma's).

A summary of the changes made and implemented into the proposed policy and framework/procedures (attachment 3&4) is detailed below:

- I. Council's risk appetite, tolerance and assessment criteria have been put into policy. This allows the framework and procedures to become an operational document, that is a document that can be amended by the CEO as required without Council approval, but still under guidance of the policy.
- II. Council's appetite is clearly articulated- ie overall a conservative appetite- less appetite for financial risk and risk to reputation as opposed to environmental and property risk.
- III. Policy now includes reporting expectations of Council to demonstrate Council are providing oversight of the organisations risk management.
- IV. Simple procedures to facilitate implementation.

The Framework/Procedures document was approved by the CEO, and now in effect as of the 13 February 2019. It replaces the Document titled 1.2.2 Risk Management Procedure.

### Consultation

Mark Harris- Senior Risk Consultant LGIS

**Statutory Environment**

Local Government Act 1995

s2.7 Role of council

- (1) The council –
  - (a) governs the local government's affairs; and
  - (b) is responsible for the performance of the local government's functions.
- (2) Without limiting subsection (1), the council is to –
  - (a) oversee the allocation of the local government's finances and resources; and
  - (b) determine the local government's policies.

**Policy Implications**

The adoption of Policy 1.2.2 Risk Management v2 will strengthen Council's oversight of Risk Management. Policy titled 1.2.2 Risk Management v1 would be revoked as would the Risk Management Framework and Procedures document endorsed by Council in 2014.

**Financial Implications**

There are no direct costs associated with this item.

**Strategic Implications**

**Voting Requirements**

Simple Majority

**OFFICER RECOMMENDATION – ITEM 11.5**

**That Council:**

- 1. Revoke the Policy titled 1.2.2 Risk Management which was adopted 21 March 2018;**
- 2. Revoke the Risk Management Governance Framework, inclusive of its procedures which was adopted 17 December 2014;**
- 3. Adopt the Policy titled 1.2.2 Risk Management v1 as presented as attachment 3;**
- 4. Note the Risk Management Framework and Procedures document, approved by the CEO on the 13 February 2019, as presented in attachment 4.**

**VOTING DETAILS:**

**12.0 ELECTED MEMBERS/MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**  
Nil

**13.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

**11.1 ELECTED MEMBERS**

**11.2 STAFF**

**14.0 CONFIDENTIAL ITEMS**

**14.1 CHIEF EXECUTIVE OFFICER'S PROBATIONARY REVIEW - CLOSED [s5.23(2)(a)]**

**OFFICER RECOMMENDATION – ITEM 14.1**

This matter will be dealt with as a confidential item in accordance with Section 5.23(2)(a) of the Local Government Act 1995.

**14.2 WATER USE AGREEMENT ASSIGNMENT – CLOSED [5.23(2)(c)]**

**OFFICER RECOMMENDATION – ITEM 14.2**

This matter will be dealt with as a confidential item in accordance with Section 5.23(2)(c) of the Local Government Act 1995.

**15.0 TIME AND DATE OF NEXT MEETING**

Next Ordinary Council Meeting to be held on Wednesday 20 March 2019 commencing at 4.30pm.

**16.0 CLOSURE**

These minutes were confirmed at an Ordinary Council meeting on 20 March 2019.

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

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