



MINUTES OF THE ORDINARY COUNCIL MEETING

19 MAY 2021

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7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

7.1 ORDINARY COUNCIL MEETING HELD 17 MARCH 2021

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 7.1 – RESOLUTION# 01190521

MOVED: Cr AR Smyth

SECONDED: Cr JD Bagley

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 17 March 2021 be confirmed as a true and accurate record of proceedings.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

- 8.1 STAFF ACKNOWLEDGEMENT - TROPICAL CYCLONE SEROJA RESPONSE AND RECOVERY**
The Shire President took the opportunity, on behalf of Councillors and the community, to formally acknowledge and thank the Chief Executive Officer and Shire of Mingenew staff for their efforts in the response to and recovery from TC Seroja on 11 April 2021.

9.0 DECLARATIONS OF INTEREST

Cr HR McTaggart disclosed an impartiality interest in Item 12.4 Mingenew Cricket Club – Sporting Club Lease.

Miss E Greaves disclosed a financial interest in Confidential Item 15.2 Organisation Structure Amendment.

10.0 RECOMMENDATIONS OF COMMITTEES

Nil.

Section 5.39B of the Local Government Act 1995 requires that a local government must prepare and adopt standards for CEO recruitment, performance and termination that incorporate the model standards within three months of the Model Standards being gazetted.

Comment

Model Standards

Council has scope to make additional provisions to the CEO Standards provided they are not inconsistent with the Model Standards. It is not proposed that any amendments/additions be made at this time.

The Department of Local Government, Sport and Cultural Industries (DLGSC) has prepared a set of Operational Guidelines to assist application and interpretation of the Model Standards, they are available here - <https://www.dlgsc.wa.gov.au/department/publications/publication/appointing-a-ceo>.

A summary of the CEO Standards is provided below:

Recruitment and Selection

Recruitment requirements that will require future endorsement/action by Council include:

- The approval of the CEO Job Description Form (by Absolute Majority) which should include the selection criteria and responsibilities of the position.
- State wide notice is to be given of a vacancy which is to outline the details of the remuneration and benefits offered, how and where to submit an application, date and time applications close, duration of the proposed contract, website links and contacts details for obtaining further information
- Establishing a Selection panel made up of Council members (number to be determined Council) and an independent member. The Department recommends developing a policy or terms of reference to outline panel duties and responsibilities.
- Absolute majority decision to make an offer of employment and approve the proposed or variation to contract terms, noting that the contract cannot exceed five years unless an acting or temporary appointment is being made which cannot exceed one year.
- Following the appointment of a CEO, certify by Absolute Majority that the CEO was employed in accordance with the adopted standards and give notice to the Department
- External recruitment to occur on expiry of CEO contract where the CEO has held the position for 10 or more consecutive years

The Model requires that the selection panel for employment of the CEO must comprise of council members and at least one independent person (that person cannot be a council member, an employee of the local government or a human resources consultant engaged by the local government). Whilst Council raised issue with this being a mandatory requirement during the consultation period, the wording used is intentionally flexible to allow Council's to determine the makeup of the panel. It is suggested that the matter be dealt with as a decision of Council when establishing a panel rather than restricting within the Standards now. This may mean that Council could approach a suitably qualified employee of another local government to be an independent member (similar to Council's existing arrangement with Mr Battilana as the independent member on the Audit & Risk Committee). Having an independent member reduces the risk to Council to support a merit-based, above reproach decision-making.

The Department also recommends an independent human resources consultant/agency, experienced in senior executive recruitment be engaged to conduct the recruitment process on Council's behalf, as has been the Shire's practice in the past.

The Model Standards also outline the requirement to go through a recruitment and selection process for the CEO position every ten (10) years to ensure local governments appropriately test the market. The Shire and broader local government industry have strongly fought against this requirement, as it forces the local

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government to go through the process regardless of whether the CEO and Council are satisfied with the employment arrangement at a cost to the Shire. WALGA and the Local Government Professionals WA continue to advocate for a change to this requirement.

Performance Reviews

The Standards require that the process for the Performance Review and performance criteria is to be agreed between Council and the CEO. This has been done as part of the CEO's contract development and renewal process with specific provision made for performance criteria, the reviewer and conducting the review. The Department recommends developing a "performance agreement" which is to outline how the performance criteria is to be assessed. This can be considered as part of the scope for the relevant consultant.

The Shire of Mingenew has been conducting regular annual performance reviews and it is scheduled to undertake the next review by July 2021 with that duty currently delegated to the Executive Management Committee who engages an external consultant to gather evidence and present findings to the Committee. The Executive Management Committee Terms of Reference are currently being reviewed to align with these Standards.

Termination

The Model Standards provides strict guidance for the termination of the CEO, particularly if termination is proposed based on performance to ensure procedural fairness has been afforded. This reduces risk for industrial relation action and reputational damage to the local government.

A local government is required to endorse the decision to terminate a CEO's employment by way of an absolute majority decision. A local government must certify that the termination was in accordance with the adopted standards in regulations.

Temporary Employment or Appointment of CEO Policy

The Shire's Acting Chief Executive Officer policy has been reviewed in light of the recent legislative changes [s5.39C] and has been updated to reflect currently legislation wording, to ensure compliance. The main change being that the existing policy really only applied to internal appointments of existing staff to the role of Acting CEO. Whereas, the reviewed policy makes provision for any appointment to the role of CEO (including an Acting appointment) for a term not exceeding 12 months.

In enacting the Policy, the CEO has discretion to appoint a person temporarily as CEO if they are already an endorsed person by Council (as this ensures Council can be satisfied that the person is suitably qualified for the position). The Policy has historically referenced previously endorsed persons as being approved however, "suitably qualified person" has since been included within the policy (being restricted to those of management level who have been in the role for more than 3 months) to provide clarity in enacting the policy in future without the need to search other documentation.

The legislative changes also require that the Council consider and endorse the proposed employment contract by Absolute Majority. The Policy has been amended slightly to clarify that up to 100% of the CEO base salary is to be offered to the incumbent ACEO, assuming it is in accordance with the relevant SAT determined range for a Band 4 Council.

There were also some minor changes made to update legislative references.

Consultation

WALGA

Local Government Professionals WA

Department of Local Government, Sport and Cultural Industries (Operational Guidelines)

Statutory Environment

Local Government Act 1995

Local Government (Administration) Regulations 1996

Policy Implications

This is a new policy to be incorporated into Council's Policy Manual.

Financial Implications

Whilst no immediate financial impact, there is a requirement to conduct a recruitment and selection process for the CEO position after each 10-year period after the expiry of the contract of employment (in accordance with clause 13 of the Model Standards). This will have implications for future resourcing, advertising and on-boarding expenditure.

Strategic Implications

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

11.2 PROPOSED AMENDMENTS TO PURCHASING POLICY AND DELEGATIONS

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: CM.POL.1
Disclosure of Interest: Nil
Date: 6 April 2021
Author: Erin Greaves, Governance Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

Following a review of the Shire's purchasing policy and procedures, an amended Purchasing Policy (1.3.1) and associated delegation relating to Expressions of Interest, Tenders and Tender Exempt procurement (CD04) is presented for Council consideration.

Key Points

- Council must adopt a Purchasing Policy in accordance with Regulation 11A of the *Local Government (Functions and General) Regulations 1996*
- An Internal Audit on Tendering and Procurement was conducted in February 2021 which identified a number of areas for improvement and clarification
- The proposed amended Policy and Delegation reflect the outcomes of that review and advice from WALGA

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.2 – RESOLUTION# 03190521

MOVED: Cr HM Newton

SECONDED: Cr HR McTaggart

That Council:

1. Adopts the amended 1.3.1 Purchasing Policy as attached; and
2. Repeals delegation 'CD04 Expressions of Interest, Tenders and Tender Exempt Procurement' and adopts the following Council delegations to the Chief Executive Officer as attached:
 - a. CD24 Tenders for Goods and Services;
 - b. CD25 Tenders for Goods and Services – Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options;
 - c. CD26 Tenders for Goods and Services – Exempt Procurement;
 - d. CD27 Panels of Pre-Qualified Suppliers for Goods and Services; and
 - e. CD28 Expressions of Interest for Goods or Services.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

Attachment

11.2.1 Proposed (Amended) Purchasing Policy

11.2.2 Current 1.3.1 Purchasing Policy

11.2.3 Proposed New Delegations CD24-CD29

11.2.4 Current CD04 Expressions of Interest, Tenders and Tender Exempt Procurement Delegation

Background

The *Local Government (Functions and General) Regulations 1996* require that a local government has a purchasing policy in place to guide purchasing activities and entering into contracts for the supply of goods and services to the value of \$250,000 or less.

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The Shire of Mingenew has consistently had a Purchasing Policy in place and reviews this Policy at a minimum biennially. The existing Policy was last endorsed by Council in April 2020 when amendments were made with respect to purchasing during a state of emergency. Changes were also made to the tender threshold limits and WALGA has updated the model Purchasing Policy they have developed.

In February 2021, an Internal Audit Report on Tendering and Procurement was received by the Shire's Audit & Risk Committee, and subsequently received by Council. This report recommended the Purchasing Policy and related delegation be reviewed to incorporate improvements identified by WALGA and the reporting officer to ensure the Shire's purchasing activities are compliant, transparent and guided by best practice principles.

Comment

The following amendments to the Purchasing Policy have been made:

- Clarification around the need to 'seek' versus 'obtain' minimum quotations for purchasing thresholds. WALGA has also provided advice that the use of the word 'seek' in reference to the number of quotes required (versus 'obtain') in the purchasing requirements is an appropriate amendment and consistent with the template policy.
- Provide for at least one verbal or written quote to be obtained for the \$4,999 and under purchasing threshold. The current policy does not provide a minimum requirement but in reality, at least one quote must be obtained to create a purchase order, so the Policy now reflects what currently already occurs;
- Prescribed process for 'emergency purchases' (where a budget allocation exists and the circumstances for when emergency purchasing is to be authorised and how)
- Clarifying the wording around the final purchasing threshold to align with legislation for purchasing \$250,000 and above (this has been rectified by aligning with WALGA's template);
- Clarify when panels of pre-qualified suppliers are preferenced and at what values (the amended policy provides for this in the new order of priority section)
- To include control measures for complying with the Policy, including the requirement to evidence any attempts to seek the required number of quotes and the inclusion of consequences for non-compliance when not reasonable – see 'PURCHASING POLICY NON-COMPLIANCE' at the end of the policy. The Shire also has internal measures and procedures for checking compliance and guiding good process.

The CD04 Delegation has been split and amended to reflect the current Policy and legislative changes, as well as adding reference to decision making for Pre-qualified suppliers. This delegation is made based on the WALGA model delegation. Specific feedback from WALGA was received indicating that the former CD04 Delegation was out of date and suggested the WALGA template delegations be utilized. Therefore, there are a number of new delegations proposed to simplify and clarify the various tender/procurement activities.

Consultation-

WALGA

Shire of Mingenew Audit & Risk Committee

Statutory Environment

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

11A. Purchasing policies for local governments

- (1) *A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.*

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- (2) *A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).*
- (3) *A purchasing policy must make provision in respect of —*
 - (a) *the form of quotations acceptable; and*
 - (ba) *the minimum number of oral quotations and written quotations that must be obtained; and*
 - (b) *the recording and retention of written information, or documents, in respect of —*
 - (i) *all quotations received; and*
 - (ii) *all purchases made.*

Policy Implications

Policy implications are outlined in the comment section above as this matter directly relates to a Council Policy amendment.

Financial Implications

There are no identifiable financial implications.

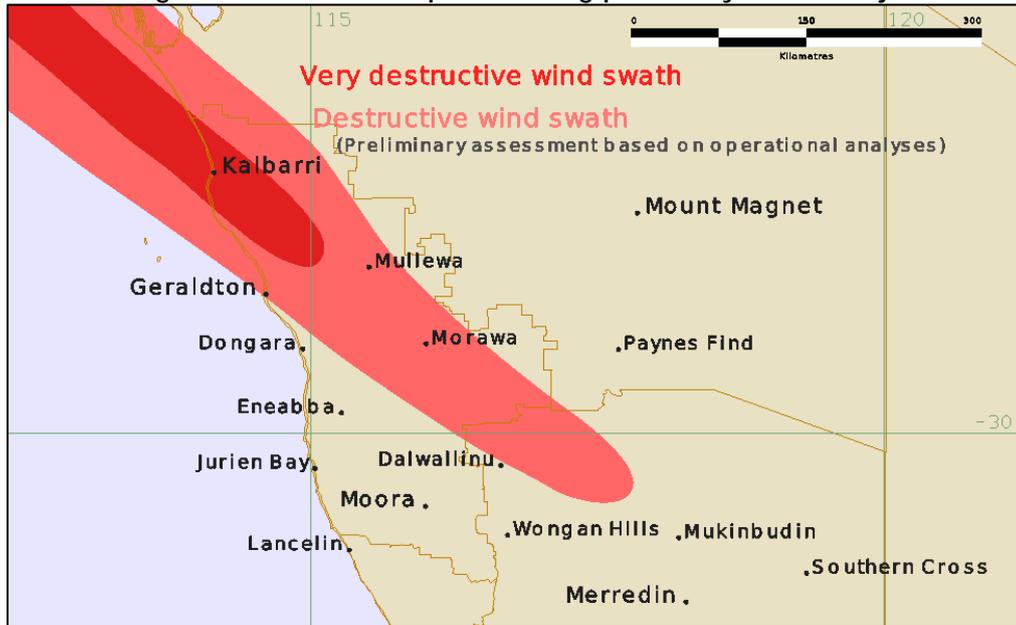
Strategic Implications

Strategic Community Plan 2017-2027

Strategy 1.2.1 Manage organisation in a financially sustainable manner

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource efficient manner

Figure 11.3 – DFES Map illustrating path of Cyclone Seroja



Consultation

Nil

Statutory Environment

Part 7 Division 2 Clause 52 of the *Planning and Development Regulations 2009* allows for a local government to waive or refund, in whole or in part, payment of a fee for planning service.

Section 6.16 of the *Local Government Act 1995* requires that an amendment of a Shire fee/charge must be made by absolute majority.

Lodgement of a building permit application also attracts payment of the Building Services Levy by the applicant. This is a levy imposed by the Building Commission that is required to be collected by the local government and passed onto the Department of Mines, Industry Regulation and Safety.

The Shire wrote to the Department of Mines, Industry Regulation and Safety on 4 May 2021 seeking an exemption, and the Department responded on 11 May 2021 to advise as follows:

"I was saddened to hear of the significant impacts that the Shire of Mingenew experienced during Severe Tropical Cyclone Seroja. Our thoughts remain with all those affected by this event.

Ordinarily the building services levy is paid when making an application under the Building Act 2011 for a building, demolition or occupancy permit or building approval certificate. However, to assist in the recovery, repair and rebuilding efforts, the Building Commissioner has agreed to waive the building services levy for people affected by the cyclone in your local government area.

A notice of the waiver was published in the Government Gazette on Friday 14 May 2021. An extract of this waiver is enclosed for your information. I hope that the removal of this levy provides some financial support for those affected by this cyclone."

Landowners/Builders lodging building permit applications are also required to pay the Construction & Training Fund ('CTF') Levy. An enquiry was also sent to the CTF on 4 May 2021 enquiring whether it would waive its levy for works relating to damage caused by Cyclone Seroja.

On 6 May 2021 the CTF responded as follows:

“CTF has been approached to waive the BCITF levy on construction work required in response to damage caused by Severe Tropical Cyclone Seroja. CTF is also aware that the Building Commission has waived the building services levy, and local governments are removing planning and building permit fees for impacted works.

After a thorough review of our Act, it has been confirmed that there is no legislative mechanism available for CTF to exempt or waive the BCITF levy in response to works resulting from damage caused by a natural disaster.

Whilst CTF is sympathetic to those impacted by this disaster the levy will need to be collected as normal for those applications exceeding an estimate \$20,000 in value.

The CTF Board is exploring options by which we can provide targeted support to the construction workforce directly engaged in the rebuild works.

To help in this, it would be appreciated if a record of those applications where fees are waived but the BCITF levy charged is kept. We can then use this to identify impacted works and engage with the project owner and their sub-contractors to provide support.

I recognise that some applicants may be aggrieved or confused by the need to still pay the levy in the circumstances. Should this be the case, they are welcome to contact CTF on 9244 0100 or provide feedback via email inquiries@ctf.wa.gov.au.”

The response of CTF is disappointing as it had been hoped that a coordinated zero fee approach could have been achieved that may in some small way have served to assist those who have suffered as a result of Cyclone Seroja.

Policy Implications

The Shire’s Schedule of Fees & Charges are updated annually (generally at the May Council meeting) as part of the lead up to the formulation and adoption of the Council budget for the upcoming financial year.

Financial Implications

Waiving of the building and planning application fees will have some budgetary impact to Council based upon the potential for receipt of 54 building applications relating to cyclone damage (however this is a ‘ceiling’ figure, with 13 of these identified as being ‘slightly damaged’ and not all recovery activities will involve structural works that require lodgement of a building application). However it is considered that the ability for the Shire to continue its ongoing role of providing support to those members of our community who have experienced hardship as a result of this event should be maintained.

Strategic Implications

Strategic Community Plan 2019-2029

Strategy 1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders

Strategy 1.2.4 Seek innovative ways to improve organisational efficiency and effectiveness.

SUBSTANTIVE MOTION – ITEM 11.4 – RESOLUTION# 06190521

MOVED: Cr RW Newton

SECONDED: Cr HM Newton

That Council grants formal planning approval for a transportable building to be sited upon Lot 2 Eleanor Street, Mingenew to serve as an office subject to the following:

Conditions:

- 1 Development shall be in accordance with the attached approved plans dated 19 May 2021 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.

Notes:

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

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

Attachments

11.4.1 Copy of submitted application (provided as separate attachment)

Background

Lot 2 Eleanor Street is a 2,326m² property located within the Mingenew industrial area and is used to operate a tyre servicing business. The applicant is seeking to place a transportable building upon the land for the purpose of providing a site office for employees and clients attending the site.

Figure 11.4(a) – Location Plan for Lot 2 Eleanor Street, Mingenew



Figure 11.4(b) – Aerial Photograph of Lot 2 Eleanor Street, Mingenew



The applicant is proposing to site a 6m x 3m (18m²) transportable building upon Lot 2 to serve as an office. The building consists of 2.4m high walls and would be sited 100mm above ground level. The internal layout of the building consists of an open room and an adjoining toilet facility. The building is a light beige/grey on the walls with a darker grey/brown trim to the roofline.

The building is proposed to be sited 6.16m from the side (western) boundary and 15.23m from the Eleanor Street (northern) boundary which is compliant with the requirements of Local Planning Scheme No.4.

Figure 11.4(c) – Submitted site plan for proposed office at Lot 2 Eleanor Street



Figure 11.4(d) – Photos of proposed office building to be sited at Lot 2 Eleanor Street



The applicant's site, elevation and floor plans are provided as **separate Attachment 11.4**.

Comment

The appearance of the transportable building is one that is commonly associated with industrial land uses and with some landscaping along the western elevation it is considered that the building would blend with existing development onsite. As the building is to be used in conjunction with an operating business this is seen as a positive improvement by separating customers from the workshop activities which can pose a safety risk. The office also provides a clear point of entry for the business which provides increased legibility to the site for access and egress.

However, it might also be considered by Council that addition of external works, such as a verandah along the northern elevation, would further improve the visual appearance of the building.

Council might also consider that a condition be imposed requiring the lodgement of a bond by the applicant, that would be held by the Shire until the additional external works requested by Council had been completed, to encourage the applicant to complete the works in a timely fashion.

In the event that Council deems that the application requires additional conditions relating to the finish of the transportable building it may consider any of the following suggestions:

- The building shall be clad to a finish and colour to the approval of the local government; and/or
- A verandah is required to be constructed along the length of the northern elevation of the building using materials and colours that are to the approval of the local government; and/or
- A bond of \$5,000 must be lodged by the applicant with the local government that will be returned upon completion of the requirements pertaining to the abovementioned conditions within a period of 12 months, and in the event that the works described in the application are not carried out within the 12-month timeframe the bond shall be forfeited to the local government.

Consultation

Council is not required to undertake consultation for this application, however, Council does have the right to advertise the application should it wish to seek comment on the proposal and return the matter to a future meeting of Council for consideration of any received submissions, prior to making its determination.

Statutory Environment

Lot 2 Eleanor Street is zoned 'General Industry' under the Shire of Mingenew Local Planning Scheme No.4, the objectives for which are:

- *To provide appropriately located, accessible, serviced and level industrial land to cater for the needs of anticipated industrial development within the townsite area.*
- *To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses.*
- *Seek to manage impacts such as noise, dust and odour within the zone."*

Schedule 1 of the Scheme provides some general guidance on developments in the 'General Industry' zone as follows:

<i>General Industry</i>	<ol style="list-style-type: none"> 1 <i>The local government shall not grant development approval in the General Industry zone, unless the proponent can adequately demonstrate to the satisfaction of the local government that there will be no adverse impacts on sensitive land uses from noise, dust, odour, risk, or gaseous emissions.</i> 2 <i>In determining an application for development approval in the General Industry zone, the local government may impose conditions to control emissions including, but not limited to, industrial liquid, solid or gaseous wastes in accordance with Environmental Protection Authority's guidelines and advice from the Department of Water and Environmental Regulation.</i> 3 <i>Land uses within the General Industry zone that are not required to be housed in buildings shall be designed and laid out on the land so as not to detract from the visual amenity of the area and where open storage of goods and materials is proposed on the land they shall, at the discretion of the local government, be screened from view from the street and/or other public viewpoints.</i> 4 <i>All buildings within the General Industry zone shall be located, designed and constructed so that the external appearance arising from height, bulk, method of construction, materials used, colour texture of the external appearance do not have an adverse impact on the locality.</i> 5 <i>Security fences along street boundaries in the General Industry zone shall be setback a distance of 1.5 metres from the boundary and landscaping shall be established and maintained between these lines by the owner to the satisfaction of local government.</i>
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Schedule 2 Part 9 Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by local government in considering a development application:

- “(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following —*
 - (i) environmental impacts of the development;*
 - (ii) the character of the locality;*
 - (iii) social impacts of the development;...*
- ...(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;...*
- ...(s) the adequacy of —*
 - (i) the proposed means of access to and egress from the site; and*
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;...*

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...(x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;...*

...(zb) *any other planning consideration the local government considers appropriate."*

Policy Implications

Nil

Financial Implications

The application would not have a budgetary impact to Council.

Strategic Implications

Section 6.5 of the Shire of Mingenew Townsite Local Planning Strategy (2016) notes the following relevant to the industrial area and the assessment of this application:

Objectives	Planning Provisions	Priority Level
O4.1 Development will be predominantly industrial in nature with incompatible uses encouraged to relocate.	P4.2 - Service Commercial and Light Industrial land uses are to be encouraged to locate in close proximity to the Midlands Road.	Short Term
	P4.4 - Future demand for General Industry expansion should be encouraged on Lots 2 and 3 Ernest Street. Some incentive may be required to facilitate the relocation of the existing residences. This option would require the rezoning to industry. Further Rural Residential subdivision in this location should be discouraged.	Long Term
O4.2 High quality built form is to be encouraged, notably in areas that are visible from Midlands Road.	P4.5 Building scale and bulk for industrial development is minimised through the use of a series of buildings rather than one or two larger building footprints.	
	P4.6 New industrial development is encouraged to be constructed to a high standard and ensure the buildings facing the street maintain an attractive façade enhancing the visual amenity of the streetscape.	
	P4.7 Landscape buffering is to be provided particularly along the Eleanor Road and Midlands Road frontages. Landscaping details to be encouraged to be locally themed and of a species that is well represented throughout Mingenew.	

11.5 PROPOSED TELECOMMUNICATIONS INFRASTRUCTURE

Location/Address: 2564 (Lot 1908) Coalseam Road, Holmwood
Name of Applicant: Westcom Group for Telstra
Disclosure of Interest: Nil
File Reference: A24
Date: 11 May 2021
Author: Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

Council is in receipt of an application seeking to site a mobile phone tower upon 2564 (Lot 1908) Coalseam Road, Holmwood. This report recommends that Council approve the application subject to conditions.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.5 – RESOLUTION# 07190521

MOVED: Cr HM Newton

SECONDED: Cr JD Bagley

That Council grants formal planning approval for Telecommunications Infrastructure upon Lot 1908 (No.2564) Coalseam Road Holmwood subject to compliance with the following:

Conditions:

- 1 Development shall generally be in accordance with plans dated 19 May 2021 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the land (not the subject of this consent/approval) considered by the Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
- 3 The use hereby permitted shall not cause injury to or prejudicially affect the amenity of the locality by reason of the emission of noise, vibration or otherwise.
- 4 The development must have battery capacity to continue operating for a minimum period of 12 hours after natural disaster.
- 5 The applicant must obtain any/all necessary consent of the landowner relevant to the site and the access to the site.

Notes:

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

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

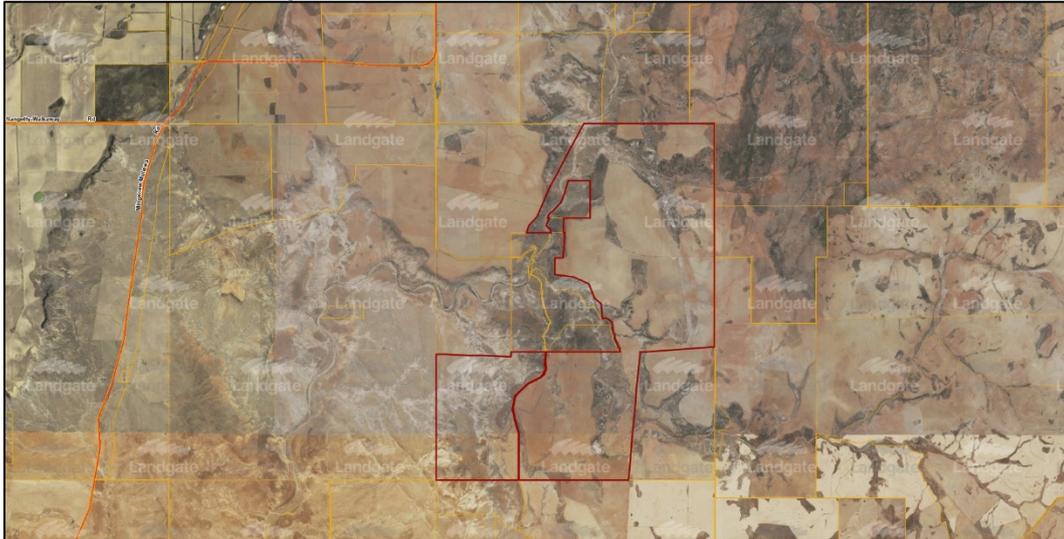
Attachments

Attachment 11.5 - Copy of submitted application (provided as separate attachment)

Background

Lot 1908 is a 4,108.8678ha property used for broad acre agricultural activities (cropping). The western and southern boundary of the lot adjoins the Coalseam Conservation Reserve (R900-Environmental Conservation Reserve).

Figure 11.5(a) – Location Plan for Lot 1908



It is proposed that the telecommunications tower would be sited in the south-western corner of the lot and would be accessed via the Lookout Road followed by an approximately 600m track traversing the paddock along the boundary fence line.

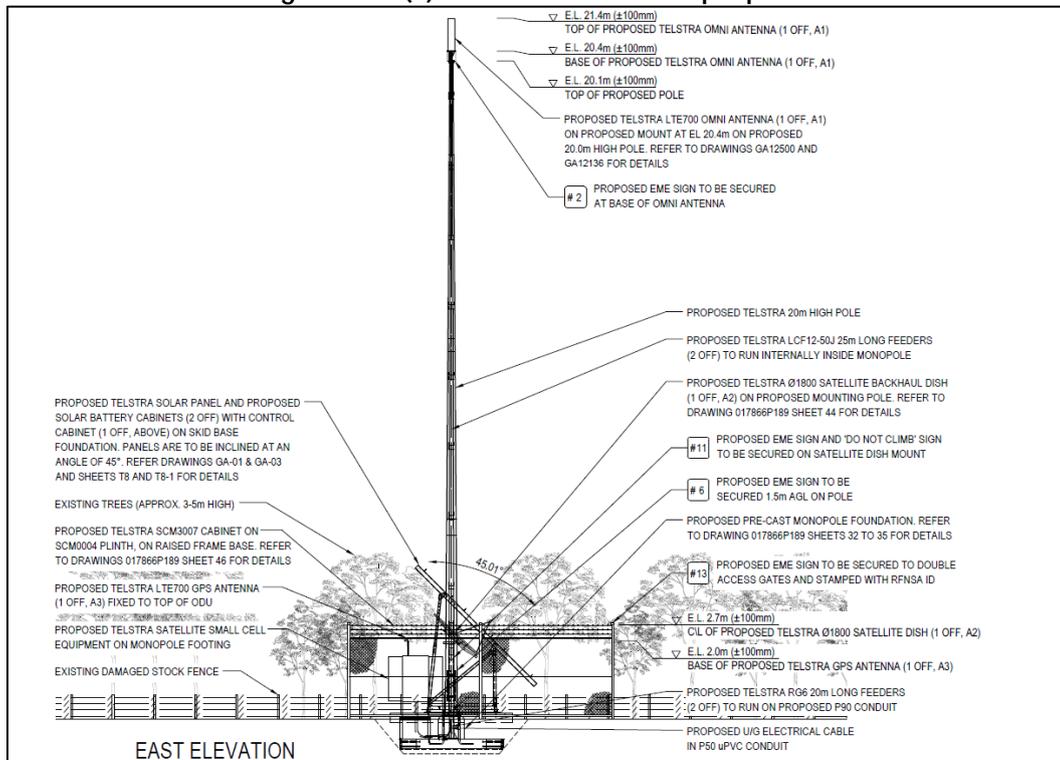
The proposed telecommunications infrastructure would consist of the following:

- 21.4m high monopole with 1m high antenna located at the top of the pole;
- 2m high equipment cabinet at base of monopole;
- solar panel and battery cabinets; &
- 2.7m high security fence around the 14m x 8m (112m²) compound area.

Figure 11.5(b) – Aerial view of Lot 1908 showing proposed siting



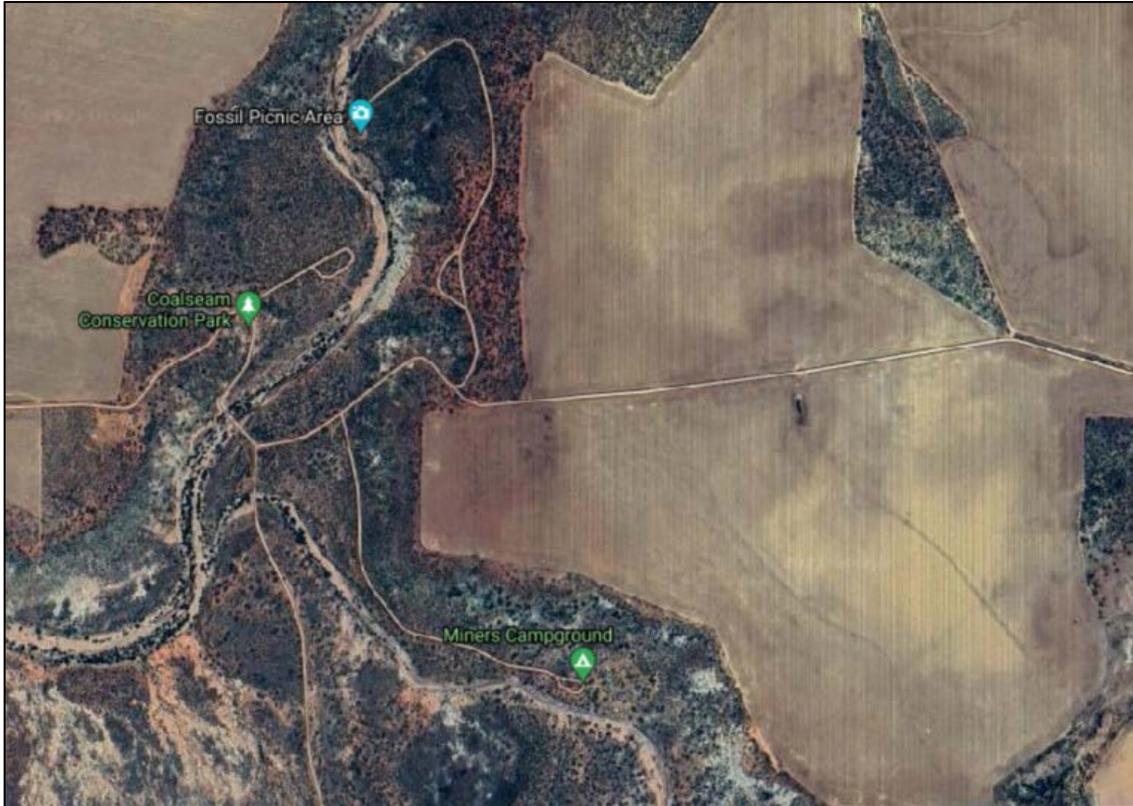
Figure 11.5(c) – Elevation view of proposal



The applicant's submitted site, elevation and floor plans and supporting correspondence are provided as separate Attachment 11.5.

Figure 11.5(d) illustrates the nearest activity areas within the Coalseam Conservation Park (lookout, Fossil Park picnic area, Miner's Campground). Whilst the pole would be visible from points within the Coalseam Conservation Park, its monopole design (as opposed to a taller, guyed wire mast or pylon to) and the existence of existing vegetation would lessen its visual impact.

Figure 11.5(d) – Nearest land uses / activities



Comment

Council may consider that the application should be supported based on the following:

- the mast would be incidental to, and not interfere, with the agricultural productivity of the land;
- the development will assist economic productivity by enabling improved access to mobile phone networks and the internet to conduct business;
- the development will provide greater ability to reach assistance in an emergency situation;
- the development will provide tourists with telecommunications access whilst enjoying the Coalseam Conservation Reserve which improves their experience and increases tourism exposure for the Shire;
- the proposed facility would not require clearing of remnant vegetation and is removed from environmental features such as watercourses.

Consultation

Council is not required to undertake consultation for this application, however, Council does have the right to advertise the application should it wish to seek comment on the proposal and return the matter to a future meeting of Council for consideration of any received submissions, prior to making its determination.

Statutory Environment

The Site is zoned 'Rural' under the Shire of Mingenew Local Planning Scheme No 4.

The application would meet the definition of 'Telecommunications Infrastructure' which is classified as a 'D' (discretionary) use within the 'Rural' Zone.

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'Telecommunications Infrastructure' is defined under the Scheme and Schedule 1 Part 6 Clause 38 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as follows:

"means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network."

The objectives for development within the 'Rural' zone are identified under Scheme Clause 16 as:

- "• To provide for the maintenance or enhancement of specific local rural character.*
- To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.*
- To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage."*

Schedule 1 Clause 7 of the Scheme notes the following in relation to the issue of 'Building Height':

- "1 The maximum height limit for buildings and structures above natural ground level irrespective of whether or not development approval is required is 10m.*
- 2 Notwithstanding clause 7.1, the local government may, after following the advertising procedures set out at clause 64 of the deemed provisions, permit the construction of buildings or structures in excess of the height limit specified where it is satisfied:*
 - (a) site constraints are such as to prevent the construction of a building or structure within height limits; or*
 - (b) additional height is critical to the function and operation of the proposed building or structure; and*
 - (c) the building or structure will be in harmony with the general character of buildings in the locality; and*
 - (d) the building or structure will not adversely affect the beauty, character, quality of environment or the townscape generally; and*
 - (e) the building or structure will maintain a satisfactory relationship to the boundaries of the lot on which it is to be constructed and relates generally to the siting, design and aspect of buildings on other nearby lots;*
 - (f) the building or structure will not impair the amenity or development of adjoining lots.*
- 3 For the purpose of clause 7.1, a building or structure does not include reference to a chimney, mast, satellite dish (not exceeding a diameter of 4 metres), pole, wind turbine or signal receiving or transmitting tower provided that the structure or facility is designed, sited and/or treated so as not to detract from the visual amenity of the locality."*

Schedule 2 Part 9 Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by local government in considering a development application:

- "(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*

- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;...*
- ...(p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;...*
- ...(x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;...*
- ...(zb) *any other planning consideration the local government considers appropriate."*

The application is considered consistent with the objectives of the Scheme and Regulations as it provides an essential service in ensuring that the regions maintain communications for day to day activities and in the event of an emergency. Being located in the corner of a lot ensures that the impact of the tower is minimised, however it is recognised that the height of the tower will cause it to be seen from some vantage points. This is a necessary trade off to provide good communications in the area which is vital to improving safety and liveability for the regions.

Policy Implications

There are no local planning policies relevant to this application.

The Western Australian Planning Commission have prepared Statement of Planning Policy 5.2- Telecommunications Infrastructure for applications for above and below ground telecommunications infrastructure other than those facilities exempted under the *Telecommunications Act 1997*.

The policy has the following objectives:

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

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

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

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

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

- i) *Assessment of the visual impact of development proposals for telecommunications infrastructure should be made on a case by case basis;*

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

The applicant has addressed key criteria of SPP5.2 within part 4.2 of their submitted application provided as **separate Attachment 11.5** to this report.

Financial Implications

The application would not have a budgetary impact to Council.

Strategic Implications

The proposed mobile phone tower would assist in meeting the following goal as identified within the Shire of Mingenew Strategic Community Plan (2019):

"Strategy 5: Making Business Easy in Mingenew

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Goal: Ensure Mingenew is supporting local businesses to grow and maintain employment within the community.

5.1 *Digital Capacity*

5.1.1 *Support digital infrastructure and capacity of farms and rural areas."*

11.6 CBH SITE AMENITIES

Location/Address: Lot 202 Boolinda Road, Mingenew
Name of Applicant: Cooperative Bulk Handling
Disclosure of Interest: Nil
File Reference: A994
Date: 12 May 2021
Author: Simon Lancaster, DCEO / Planning Advisor, Shire of Chapman Valley
Senior Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

Council is in receipt of an application seeking to site 4 transportable buildings and construct a linking patio upon Lot 202 Boolinda Road, Mingenew to be used in conjunction with the existing CBH receival site. The buildings will be used as a meeting room, staff room, shower building and toilet building with a patio constructed to join all structures together. This report recommends that Council approve the application subject to conditions.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.6 – RESOLUTION# 08190521

MOVED: Cr JD Bagley

SECONDED: Cr AR Smyth

That Council grant formal planning approval for four (4) transportable buildings and a patio to be sited upon Lot 202 Boolinda Road, Mingenew subject to the following:

Conditions:

- 1 Development shall be in accordance with the attached approved plans dated 19 May 2021 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 The buildings are not permitted to be used for accommodation purposes.
- 4 The buildings shall be clad to a finish and colour to the approval of the local government.
- 5 The conditions relating to this approval are to be complied with to the approval of the local government within 6 months of the building being sited upon the property.

Note:

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

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

Attachments

11.6.1 Copy of submitted application (provided as separate attachment)

Background

Lot 202 Boolinda Road is a 51.2247ha property east of the Mingenew townsite that used as the grain receive depot for CBH operations within the district. The applicant proposes to place four (4) transportable buildings and construct a connecting patio upon the land for the purpose of providing a meeting room, staff room, shower building and toilet building for onsite staff. This application does not include accommodation or meal production.

Figure 11.6(a) – Location Plan for Lot 202 Boolinda Road, Mingenew



Figure 11.6(b) – Aerial Photograph of Lot 202 Boolinda Road, Mingenew



The applicant is proposing to install a:

- 8.4m x 4m transportable building to operate as a staff room;
- 10.2m x 7m transportable building to operate as a meeting room;
- 7.4m x 2.5m transportable building to operate as a toilet block (5 cubicles);
- 3.6m x 3m transportable building to operate as a shower block (2 cubicles); &

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- 12.980m x 12.980m patio to provide an undercover area between the buildings.

The applicant's submitted site, elevation and floor plans and supporting correspondence are provided as separate Attachment 11.6.

Comment

The siting of transportable buildings of this type is not uncommon in industrial land areas. CBH is a well-established operation large in scale and prominence in the streetscape. The location of this cluster of transportable buildings to the rear of the existing maintenance workshop ensures that this development is not viewed from the road or townsite, and the industrial nature of the buildings is in keeping with the existing development upon the site.

Council might consider that a condition should be imposed requiring the lodgement of a bond by the applicant, that would be held by the Shire until the additional external works requested by Council had been completed, to encourage the applicant to complete the works in a timely fashion.

In the event that Council deems that the application requires additional conditions relating to the development it may consider any of the following suggestions appropriate:

- Landscaping is required to be installed and maintained surrounding the development for the purpose of softening the visual impact of the buildings to the approval of the local government; and/or
- A bond of \$5,000 must be lodged by the applicant with the local government that will be returned upon completion of the requirements pertaining to the abovementioned conditions within a period of 12 months, and in the event that the works described in the application are not carried out within the 12-month timeframe the bond shall be forfeited to the local government.

Consultation

Council is not required to undertake consultation for this application, however, Council does have the right to advertise the application should it wish to seek comment on the proposal and return the matter to a future meeting of Council for consideration of any received submissions, prior to making its determination.

Statutory Environment

Lot 202 Boolinda Road is zoned 'General Industry' under the Shire of Mingenew Local Planning Scheme No.4, the objectives for which are:

- *To provide appropriately located, accessible, serviced and level industrial land to cater for the needs of anticipated industrial development within the townsite area.*
- *To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses.*
- *Seek to manage impacts such as noise, dust and odour within the zone."*

As the buildings are to be used in conjunction with the existing CBH operations their development is considered incidental to the primary use of the land being 'Industry (grain receipt depot)'.

Schedule 1 of the Scheme provides some general guidance on developments in the 'General Industry' zone as follows:

General Industry	1	<i>The local government shall not grant development approval in the General Industry zone, unless the proponent can adequately demonstrate to the satisfaction of the local government that there will be no adverse impacts on sensitive land uses from noise, dust, odour, risk, or gaseous emissions.</i>
------------------	---	--

- 2 *In determining an application for development approval in the General Industry zone, the local government may impose conditions to control emissions including, but not limited to, industrial liquid, solid or gaseous wastes in accordance with Environmental Protection Authority's guidelines and advice from the Department of Water and Environmental Regulation.*
- 3 *Land uses within the General Industry zone that are not required to be housed in buildings shall be designed and laid out on the land so as not to detract from the visual amenity of the area and where open storage of goods and materials is proposed on the land they shall, at the discretion of the local government, be screened from view from the street and/or other public viewpoints.*
- 4 *All buildings within the General Industry zone shall be located, designed and constructed so that the external appearance arising from height, bulk, method of construction, materials used, colour texture of the external appearance do not have an adverse impact on the locality.*
- 5 *Security fences along street boundaries in the General Industry zone shall be setback a distance of 1.5 metres from the boundary and landscaping shall be established and maintained between these lines by the owner to the satisfaction of local government.*

Figure 11.6(c) – Scheme Zoning for Lot 202 Boolinda Road, Mingenew



Schedule 2 Part 9 Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by local government in considering a development application:

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;...*
- ...(p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;...*
- ...(s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;...*

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...(x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;...*

...(zb) *any other planning consideration the local government considers appropriate."*

Policy Implications

Nil

Financial Implications

The application would not have a budgetary impact to Council.

Strategic Implications

The 'What our Regional Community Said' section (p.11) of the Shire of Mingenew Strategic Community Plan (2019) notes the following in relation to the CBH site:

"Mingenew has comparative advantage in Agriculture, and is not necessarily utilising all its assets:

- *Mingenew has the onshore largest grain receival facility in the southern hemisphere and hasn't been able to leverage this asset (noting that a strong relationship with CBH is critical to achieving this). Identify value adding opportunities for agriculture, particularly in relation to this asset."*

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2. Width at the property boundary of 3.0 metres
3. 1.5 metre tapers or wings at the crossover entrance;
4. Where constructed in concrete, the crossover shall be standard grey in colour;
5. Brick paved crossovers to have a 1.0-metre-wide concrete apron at the crossover entrance.

Comment

This Policy may become applicable with the recent land sale and the requirement for development to occur within the next 2 years for those lots. This may see new homes constructed in town therefore, this policy will ensure there are appropriate standards for crossovers.

Once constructed, crossovers are to be maintained at the expense of the property owner. The Council may issue a notice in writing pursuant to the Local Government (Uniform Local Provisions) Regulations 1996 to the owner or occupier of private land requiring the person to repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land.

Statutory Environment

Local Government Act 1995

Local Government (Uniform Local Provisions) Regulations 1996

Policy Implications

Policy implications are outlined in the comment section above as this matter directly relates to a Council Policy.

Financial Implications

The 50% crossover contribution is an expense that Council will need to consider and will be dependent on land development.

Strategic Implications

Strategic Community Plan 2017-2027

Strategy 1.2.1 Manage organisation in a financially sustainable manner

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource efficient manner

Financial Implications

There are no identifiable financial implications.

Strategic Implications

Strategic Community Plan 2019-2029

Strategy 1.1.1 Provide and support cost effective transport networks

Strategy 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 31 March 2021	
Municipal Funds – Corporate cheque account	\$201,596
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$1,851,595

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 2020/21 financial year.

The Opening Funding Surplus on 1 July 2020 is different to the Closing Funding Surplus at 30 June 2020. The reason for this is that the Closing Funding Surplus at 30 June 2020 was estimated in order to prepare the budget, due to the June 2020 accounts not yet being finalised. There were a number of adjustments made after year end, mainly to do with legislation changes (the treatment of income, the treatment of leases and the treatment of loss allowances). The largest of these adjustments was to do with the Bridge Funds received in 2016/17 but not yet spent, amounting to \$146,667. An adjustment was required as the funds received needed to be shown as a liability rather than as income. When the funds get paid to MRWA for the work done, they will be transferred back to income and increase the Funding Surplus once more.

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 —

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- (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

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 30 April 2021	
Municipal Funds – Corporate cheque account	\$65,912
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$1,602,660

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 2020/21 financial year.

The Opening Funding Surplus on 1 July 2020 is different to the Closing Funding Surplus at 30 June 2020. The reason for this is that the Closing Funding Surplus at 30 June 2020 was estimated in order to prepare the budget, due to the June 2020 accounts not yet being finalised. There were a number of adjustments made after year end, mainly to do with legislation changes (the treatment of income, the treatment of leases and the treatment of loss allowances). The largest of these adjustments was to do with the Bridge Funds received in 2016/17 but not yet spent, amounting to \$146,667. An adjustment was required as the funds received needed to be shown as a liability rather than as income. When the funds get paid to MRWA for the work done, they will be transferred back to income and increase the Funding Surplus once more.

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 —

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- (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

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

12.3 LIST OF PAYMENTS FOR THE PERIOD 1 MARCH TO 30 APRIL 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: FM.CRD
Attachment/s: List of Payments – March and April 2021
Disclosure of Interest: Nil
Date: 10 May 2021
Author: Helen Sternick, Senior Finance Officer
Authorising Officer: Jeremy Clapham, Finance & Administration Manager
Voting Requirement: Simple Majority

Summary

This report recommends that Council receive the list of payments for period 1 March to 30 April 2021 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.3 – RESOLUTION# 13190521
MOVED: Cr AR Smyth SECONDED: Cr CV Farr

That Council receive the attached list of payments for the period of 1 March to 30 April 2021 as follows:

 \$644,936.58 Municipal EFT's;
 \$89,784.70 Municipal Direct Debit Department of Transport (Licencing) Payments;
 \$152,570.98 Municipal Direct Debit Other;
 \$3,466.90 Municipal Other Charges;
 \$212,389.30 Net Salaries
 \$1,103,148.46 Total Payments

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

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

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 19 May 2021

Prior to Item 12.4, Cr HR McTaggart disclosed an impartiality interest in the item, as having a close relationship (marriage) with the Mingenew Cricket Club President. Cr McTaggart remained in the meeting for discussion on the item and voting in accordance with the Local Government (Administration) Regulations 1996.

12.4 MINGENEW CRICKET CLUB – SPORTING CLUB LEASE

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: ADM0009
Date: 5 May 2021
Author: Jeremy Clapham, Finance and Admin Manager
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirement: Absolute Majority

Summary

Council is asked to consider the request made by Mr Ben McTaggart (President of the Mingenew Cricket Club) on behalf of the Mingenew Cricket Club (DM16), for a lease review, in a letter received by the Shire on 15 February 2021 (please see copy of letter attached).

Key Points

- The Mingenew Cricket Club was in arrears in the amount of \$6,708.30 as at 31 January 2021; comprising the lease fee for 2019/20, the lease fee for 2020/21 and interest on the outstanding balance
- For the 2020/21 financial year the Mingenew Cricket Club fee of \$3,157 (inc GST) is 9.05% of the total Shire costs related to maintaining the facility (which is very close to the average of 9.82% for all sporting clubs)
- A payment of \$3,157 was made on 1 February 2021. Interest is currently accruing on the outstanding balance at 5.5% per annum
- A meeting was held to discuss the outstanding balance at the Shire offices on 17 December 2020. Present at the meeting were: Ben McTaggart – President of the Mingenew Cricket Club, Geoff Cosgrove – Past President of the Mingenew Cricket Club, Nils Hay – CEO of the Shire and Jeremy Clapham – Finance & Admin Manager of the Shire.
- At the meeting the outstanding fees, the reasons for non-payment, condition of the playing field, status of the cricket competition and various other items were discussed. The CEO and FAM advised the Mingenew Cricket Club to write to the Council and state their concerns. The following 3 items were listed for Council consideration:
 1. That the Sporting Club Lease for the MCC for 2020/21 and beyond be significantly reduced to better reflect the current position and operational demands of the club.
 2. That the accrued interest on the Lease be waived as a good faith acknowledgement of the lack of performance of the Shire in its preparation of the facilities in several previous seasons.
 3. That Council consider changing the invoicing/due date for the MCC Sporting Club Lease to account for the uncertainty regarding the NMCA. It is not possible for the Club to have a firm picture of the state of the competition until at least October, by which time the Lease payment is already overdue.

OFFICER RECOMMENDATION – ITEM 12.4

MOVED: Cr AR Smyth **SECONDED:** Cr CV Farr

That Council:

- Write off half of the outstanding annual lease fee of \$3,157, amounting to \$1578.50;
- Waive all of the outstanding interest of \$439.18 (as at 30 April 2021);

- Resolve to not charge Sporting Clubs interest on outstanding balances of up to 12 months in age forthwith;
- Permit the Cricket Club (and other Sporting Clubs) to pay their annual fees once they have been able to determine the state of the forthcoming season's competition;
- Consider reducing the annual lease fee for future years (proposed fees will be presented for Council review in the Budget for 2021/22).

AMENDMENT TO THE MOTION (OFFICER'S RECOMMENDATION) - ITEM 12.4 – RESOLUTION# 14190521

MOVED: Cr HM Newton

SECONDED: Cr HR McTaggart

That Council removes reference to "Sporting Clubs" and replaces the phrase with "local community organisations and sporting groups" to ensure it encapsulates all not-for-profit community organisations that are subject to annual hire fees.

SUBSTANTIVE MOTION – ITEM 12.4 – RESOLUTION# 15190521

MOVED: Cr RW Newton

SECONDED: Cr HR McTaggart

That Council:

- Write off half of the outstanding annual lease fee of \$3,157, amounting to \$1578.50;
- Waive all of the outstanding interest of \$439.18 (as at 30 April 2021);
- Resolve to not charge Local Community Organisations and Sporting Groups interest on outstanding balances of up to 12 months in age forthwith;
- Permit the Cricket Club (and other Local Community Organisations and Sporting Groups) to pay their annual fees once they have been able to determine the state of the forthcoming season's competition;
- Consider reducing the annual lease fee for future years (proposed fees will be presented for Council review in the Budget for 2021/22).

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

Attachments

12.4.1 Letter from Mingenew Cricket Club

12.4.2 Debtors Statement for Mingenew Cricket Club as at 30 April 2021

Background

The Mingenew Cricket Club is one of a number of sporting clubs that pay an annual lease fee to the Shire for a partial recovery of costs paid by the Shire to maintain the sporting facilities in the town.

Comment

All sporting clubs pay an annual lease fee to the Shire to compensate for the upkeep of the sporting facilities by the Shire. These fees vary from club to club and are dependant on a number of factors (such as: whether it is a winter or summer sport, whether it's facilities require watering or mowing, whether there is more than one facility per club and whether the club activities occur during the day or at night). The fee charged to the Mingenew Cricket Club for 2019/20 and 2020/21 was \$3,157 per year. Currently, the balance owing by the Mingenew Cricket Club is \$3,596.18 (made up of the 2020/21 fee and interest). The fee of \$3,157 for the 2019/20 financial year was only paid on 1 February 2021.

Consultation

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 19 May 2021

Ben McTaggart – President Mingenew Cricket Club
Geoff Cosgrove – Past President Mingenew Cricket Club
Concept Forum – March 2021

Statutory Environment

Local Government (Financial Management) Regulations 1996.

Policy Implications

Policy 2.3.2 – Debt Collection Policy – Directive C: All debt collection arrangements are treated strictly confidentially. Appropriate reports detailing outstanding debts and collection action will be provided to Council as required.

Financial Implications

There will be a potential reduction in income of up to \$2018.20 for this Financial Year.

Strategic Implications

Nil

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN/FOR CONSIDERATION AT FOLLOWING MEETING

Nil.

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

15.0 CONFIDENTIAL ITEMS

PROCEDURAL MOTION AND COUNCIL DECISION - ITEM 15.0 – RESOLUTION# 16190521

MOVED: Cr HR McTaggart

SECONDED: Cr JD Bagley

That Council closes the meeting to members of the public at 4.58pm in accordance with s5.23(2)(c) of the *Local Government Act 1995*, as the matter to be discussed pertains to a matter affecting a potential contract to be entered into by the local government.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

15.1 CONFIDENTIAL [s5.23 (2)(c)]: TENDER – RFT 2 2020/21: DISPOSAL OF RESIDENTIAL LAND – SECOND ALLOCATION

[Agenda Report provided to Councillors under separate confidential cover]

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 15.1 – RESOLUTION# 17190521

MOVED: Cr HM Newton

SECONDED: Cr CV Farr

That Council:

1. Note the attached Evaluation Table (CONFIDENTIAL ATTACHMENT) 15.1.1 with respect to RFT 2 2020/21: Disposal of Residential Land;
2. Award the tender for the following blocks of land to the following parties at the listed prices:
 - a. 36 Oliver Street (Lot 176 on P2893) to Peter Neale for \$1
 - b. 40 Oliver Street (Lot 178 on P2893) to Peter Neale for \$1
3. Authorise the Chief Executive Officer and Shire President to enter into contracts for the sale of the properties listed above at the prices quoted.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

PROCEDURAL MOTION AND COUNCIL DECISION - ITEM 15.0 – RESOLUTION# 18190521

MOVED: Cr JD Bagley

SECONDED: Cr RW Newton

That Council keeps the meeting closed to members of the public at 5:00pm in accordance with s5.23(2)(a) of the *Local Government Act 1995*, as the matter to be discussed pertains to a matter affecting an employee or employees.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

All staff left the meeting at 5:01pm.

