



AGENDA FOR THE ORDINARY COUNCIL MEETING

18 AUGUST 2021



Ordinary Council Meeting Notice Paper

18 August 2021

An Ordinary Meeting of Council is called for Wednesday, 18 August 2021, in the Council Chambers, Victoria Street, Mingenew, commencing at 4.30 pm. Members of the public are most welcome to attend.

Nils Hay
Chief Executive Officer
13 August 2021

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

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

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

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

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

A Deputation invited to attend a Council meeting:

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

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

PROCEDURE FOR PRESENTATION

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

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

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

PROCEDURE FOR PETITIONS

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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.**

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**AGENDA FOR THE ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON
18 AUGUST 2021 COMMENCING AT 4.30PM**

- 1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS
- 2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE
- 3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE
Nil.
- 4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME
- 5.0 APPLICATIONS FOR LEAVE OF ABSENCE
- 6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS
- 7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES
- 7.1 ORDINARY COUNCIL MEETING HELD 21 JULY 2021

OFFICER RECOMMENDATION - ITEM 10.1

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 21 July 2021 be confirmed as a true and accurate record of proceedings.

- 7.2 SPECIAL COUNCIL MEETING HELD 10 AUGUST 2021

OFFICER RECOMMENDATION - ITEM 10.2

That the Minutes of the Special Meeting of the Shire of Mingenew held in the Council Chambers on 10 August 2021 be confirmed as a true and accurate record of proceedings.

- 8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION
- 9.0 DECLARATIONS OF INTEREST
- 10.0 RECOMMENDATIONS OF COMMITTEES
Nil.

11.0 REPORTS BY THE CHIEF EXECUTIVE OFFICER

11.1 DRIVEWAY ACCESS TO LOT 38 ON PLAN 573

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: A205
Date: 13 August 2021
Author: Nils Hay, CEO
Voting Requirement: Simple Majority

Summary

Council is to consider the provision of driveway access to L38 on P573 (Mingenew Bakery), as the lot currently has no easement or agreement in place for right of access.

Key Points

- Council seeking to create access for L38 on P573, via L70 on P573
- At present, informal access exists via L39 on P573, but there is no legal right of access
- Council is seeking to relocate access to support delivery of youth precinct project

OFFICER RECOMMENDATION – ITEM 11.1

That Council:

1. Notify the landowners of L38 on P573 of its intent to close access through L39 on P573; and
2. At its cost, agree to create vehicle access to the fence of L38 on P573 via L70 on P573; and
3. At its cost, agree to create an easement for access to L38 on P573 via L70 on P573; and
4. Following creation of access via L70, Council close access to L38 on P573 through L39 on P573.

Attachment

11.1.1 Land ownership map

11.1.2 Access Agreement between Shire of Mingenew and K & M Boyland

11.1.3 Youth Precinct Layout Options

Background

A map showing various land ownership of the area in discussion is attached (Attachment 11.1.1).

On 25 June 1993, K & M Boyland – then owners of L38 on P573 – entered into an agreement (Attachment 11.1.2) with the Shire of Mingenew for access to their property via a driveway on L38 on P573 (which is owned by the Shire). That agreement lapsed with the sale of the property to Christopher and Sarah Gammon (the current proprietors of the Mingenew Bakery) on 31 October 2013.

Since that time the Gammons have continued to utilize the same access as the Boylands, without any agreement in place. Over that time, no legal right of access to the property has existed through any of the adjoining land. Title searches of the various blocks in question do not reveal any provision for access to L38.

At its May and July 2020 Ordinary Council Meetings, Council endorsed the allocation of Drought Communities Program (DCP) and Local Roads and Community Infrastructure (LRCI) funding towards a project which would see new playgrounds and a pump track built on L39 and L40 on P573, as well as the upgrade of the skate park on L41. To better connect the upgraded youth precinct and reduce the likelihood of any interaction between vehicles and pedestrians, discussions were held with the Gammons regarding alternative access options. At this time, it had been incorrectly assumed by Council officers that a legal right of access existed.

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Following several site meetings with the Shire CEO and staff from around June 2020, on 29 September 2020 the Gammons verbally agreed for the Shire to undertake works to relocate their property access to enter via Lot 70 on P573. On 12 October 2020, that agreement was withdrawn.

Subsequently, Shire officers worked with the Gammons to examine alternative access options (Attachment 1.1.3), including access onto Midlands Road, via a driveway on L39 and L37. This option required both the relocation a Western Power power pole, as well as the construction of a Main Roads-specification crossover and entry onto Midlands Road.

Western Power advised that pole relocation works were estimated to cost approximately \$20,000.

Main Roads WA advised that the following would be required for the provision of compliant driveway access onto Midlands Road:

- Sealed driveway of 6m width (in line with Main Roads Urban Driveway Setout Light Vehicles - Two way - Drawing 200431-0199-3)
- To achieve the required 40m sight distance:
 - o From the edge of the driveway to the East, an 8.5m raised bulge should be installed within the current parking area, as an exclusion zone for parking
 - o From the edge of the driveway to the West, a 7.0m raised bulge should be installed within the current parking area, as an exclusion zone for parking
- Installation of give way and continuity line-marking
- Installation of pedestrian warning signage

This work was not costed, as the loss of main street parking alone was deemed to make it an unviable option.

Other alternative options were also examined, including alternative access onto Shenton Street, via L40, 41 and 42. This option would have had significant impacts upon the potential to construct a new pump track on L40 and 41 and, if made permanent, would require a significant easement across three parcels of land.

As of November 2020, in the absence of agreement, maintaining the existing access and implementing methods to try to protect pedestrians, appeared the only option open to Council.

Following discussion at the February 2021 Concept Forum meeting, Council officers re-examined the matter as concerns were expressed about the suitability of maintaining the existing access. As part of that re-examination, Council officers became aware of the previous agreement between the Boylands and the Shire. Council officers re-engaged with the Gammons to try to reach a mutually acceptable outcome.

To date, there has been no agreement between the parties on a preferred way forward. In previous correspondence, Council has expressed its desire to work with the Gammons to provide suitable access through L70, including the creation of an easement to guarantee access into the future. Council has offered to incur reasonable costs to assist with the delivery of this access.

Since their initial assent in September 2020, the Gammons have opposed this option. In July 2021, discussions with the Gammons reached an impasse as a result of mutually exclusive preferences.

Comment

Council's legal advice on this matter has supported the position that:

- There is currently no legal right of access into L38
- Council is within its rights to close the current access
- Council does not have an obligation to provide alternative access

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Whilst it is the landholder's responsibility, not Council's, to ensure that they hold legal right of access to their property, Council has sought to try to identify alternatives over the past year in order to minimize the potential impact of the change. At no stage has Council's intent been to deprive the property of any form of access.

Few suitable alternatives exist. Access onto Midlands Road is expensive and would result in significant loss of main street parking. Access onto Shenton Street via a different configuration would adversely impact the ability of the Shire to provide a pump track as part of the youth precinct project.

Rather than remove access to the property altogether, Council has sought to try to find a suitable alternative and has offered support repeatedly to make access via L70 a practical option. This option can provide lasting access, in the form of a permanent easement, and would only have a small impact upon available parking.

Whilst it is understood that this option is not favoured by the Gammons, it is viewed by Council as being the least impactful overall in terms of:

- Likely interactions between pedestrians and vehicles accessing L38
- Loss of parking
- Impact on youth precinct project

Consultation

- Christopher and Sarah Gammon
- Main Roads WA
- Western Power
- McLeods Barrister & Solicitors

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

An initial amount of \$7,000 is in the current budget for works potentially relating to driveway access changes.

Strategic Implications

Delivery of the youth precinct project is part of the Shire's Corporate Business Plan 2021-25 (item 2.4.2e)

11.2 WALGA STATE COUNCIL AGENDA 3 SEPTEMBER 2021 MEETING

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: GR.LRL.4
Disclosure of Interest: Nil
Date: 3 August 2021
Author: Erin Greaves, Governance & Community Manager
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To consider and vote on the WALGA State Council Matters for Decision and submit those to the Council.

Key Points

- The WALGA State Council Meeting is scheduled to be held on Friday, 3 September 2021 commencing at 10am and will be hosted by the Shire of Broome at The Continental Hotel.
- The Shire of Mingenew is represented at State Council by Cr Karen Chappel, Deputy President of WALGA and Chair of the Northern Country Zone of WALGA.
- The next meeting is proposed to be held on Wednesday, 1 December 2021.

OFFICER RECOMMENDATION – ITEM 11.2

PART A

That Council supports WALGA's recommendations submitted in the 3 September 2021 WALGA State Council Meeting Agenda, as follows:

Item 5.1 External Oversight of Local Level Complaints (05-034-01-0001 JM)

That WALGA advocate for an external oversight model for local level behavioural complaints made under Council Member, Committee Member and Candidate Codes of Conduct, that is closely aligned to the Victorian Councillor Complaints Framework.

Item 5.2 Tender Exemption Provisions – General Practitioner Services (05-034-01-0005 TB)

That WALGA:

1. Adopt a new Advocacy Position Statement under 'Local Government Legislation -Tender Exemption General Practitioner Services':
"WALGA advocates for the inclusion of a tender exemption for General Practitioner (GP) services under Part 4, Division 2 of the Local Government (Functions and General) Regulations 1996, to support Local Governments to secure and retain necessary primary health care services for their communities"; and
2. Undertake additional research in support of the Advocacy Position with the following aims:
 - a) Identify State and Federal Government policy settings and other factors contributing to gaps in primary health care services in regional communities; and
 - b) Quantify the number of regional Local Governments that have current contracts, or are proposing to enter into contracts, for General Practitioner services and the associated costs to Local Government incurred.

Item 5.3 Phase 2 Planning Reform Submission

That the submission to the Department of Planning, Lands and Heritage on Phase 2 Planning Reform be endorsed.

PART B

That Council notes the Information Reports provided within the 3 September 2021 WALGA State Council Meeting Agenda, as follows:

Item 6.1 Stop Puppy Farming Legislation

Item 6.2 *Regional Telecommunications Resilience*

Item 6.3 Report Municipal Waste Advisory Council (MWAC)

Item 6.4 2021-22 State Budget Submission

Item 6.5 WALGA Submission: Inquiry into the Delivery of Ambulance Services in WA

Item 7.1 Key Activity Reports

7.1.1 Commercial and Communications

7.1.2 Governance and Organisational Services

7.1.3 Infrastructure

7.1.4 Strategy, Policy and Planning

Item 7.2 Policy Forum Report

Attachment

11.2.1 WALGA State Council Agenda – 3 September 2021

Background and Comment

The WALGA State Council Agenda provides significant background around each matter presented for decision however a summary and comment for each Item is provided below:

Item 5.1 External Oversight of Local Level Complaints (Page 5)

WALGA have received feedback from some member Councils that there is concern in regard to local governments being responsible for dealing with local level complaints about alleged breaches under the new Code of Conduct provisions.

It is WALGA's policy position that an independent assessor is responsible for receiving, investigating and assessing complaints and that the CEO is removed from processing complaints (in light of the employee relationship the CEO has with Council potentially creating a conflict of interest or bias). It is also WALGA's view that the focus should remain on early intervention framework of monitoring to support local governments at the State Governments cost.

The Shire of Mingenew has raised concern in the past about the cost implications to Council for seeking independent advice and resourcing.

The recommendation by WALGA supports a similar model to Victoria's is framed on a tiered system as follows:

- complaints of misconduct by a Councillor are heard and determined under the Council's internal arbitration process by an independent arbiter; and
- complaints of serious misconduct by a Councillor are heard and determined by independently established Councillor Conduct Panels; and
- allegations of gross misconduct are dealt with by Victorian Civil and Administrative Tribunal.

This proposal provides some flexibility in being able to deal with minor matters locally, and that any system does not undermine the leadership role of the Shire President to guide Council Members.

Item 5.2 Tender Exemption Provisions – General Practitioner Services (Page 8)

In response to feedback received on local governments acquiring GP services, WALGA is advocating for a size and scale regional tender exemption to apply when procuring these services. GP Services are generally acquired through tendering of services although, some do employ the GP directly. The current tender process

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requires that the service must be tendered on a regular basis to test the market, but this puts the GP service continuity at risk in a market that is low on supply, with limited GPs willing to be based in the regions.

The Shire of Mingenew is fortunate to be a position currently that it does not need to resource the GP services (although a contribution is made to support this service). Should this model change in the future and the Shire would need to resource this service, flexibility in the tender requirements would be supported to ensure the community could attract and retain a quality GP service.

Item 5.3 Phase 2 Planning Reform Submission (Page 10)

Phase 2 of the Action Plan for Planning Reform has been released for comment by the Department of Planning, Lands and Heritage (DPLH). WALGA's submission (provided within the Attachment on page 14) provides a response to all relevant reform initiatives as well as detailed commentary on suggested further areas for reform.

The public comment period is due to close on Tuesday, 31 August however, an extension has been granted to the Association to provide its comment by Friday, 3 September. An overview of the proposed planning reform can be found at <https://consultation.dplh.wa.gov.au/reform-design-state-assessment/planning-reform-phase-2/>.

Any reform that proposes to reduce red tape and increase efficiency is welcomed and generally, the proposed reform aligns with this. Given there has been reasonable consultation with experts within the local governments sector on the reform and the Shire

The Council Agenda also provides a number of reports for information purposes. Comment is provided below on any matters considered of interest or applicable to the Shire:

Item 6.1 Stop Puppy Farming Legislation

The Dog Amendment (Stop Puppy Farming) Bill 2021 was introduced on 2 June 2021. WALGA notes that concern remains around the fees and charges, which are based on 2018 cost modelling, and it is concerning that they may not adequately recover costs to the local government in implementing the law. WALGA is continuing to liaise with DLGSC to advocate for fees and charges to be set at levels to achieve full cost recovery.

Item 6.2 Regional Telecommunications Resilience (Page 44)

In 2019, local governments were requested to provide feedback on their experiences with telecommunications, including blackspots, battery back-up failures, outages (planned and unplanned) and Telstra notification systems. Regional Telecommunications Review Issues Paper released 16 July 2021 with the Committee accepting submissions until 30 September 2021. Each WALGA Zone requested to consider the Regional Telecommunications Review as part of the Agenda for their August round of meetings. With the Consultation Period running from 6 July 2021 to 30 September 2021, the Committee is inviting regional communities, businesses and governments to engage directly through face-to-face consultations, written submissions and online forums. The Association encourages Local Government to make a submission and take the opportunity WALGA will be coordinating a whole of sector response and welcomes Local Government contributions on this important issue to our rural, regional and remote members and those who live, work or visit your communities.

Item 6.3 Report Municipal Waste Advisory Council (MWAC) (Page 46)

This Information report summarises the outcomes of the MWAC's most recent meeting held 30 June 2020.

No further comment is provided on WALGA's Key Activity Reports or Policy Forum Reports.

Consultation

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WALGA

Statutory Environment

Local Government Act 1995

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Community Strategic Plan

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

11.3 VOTING DELEGATES - WALGA STATE COUNCIL AGM 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: GR.LRL.4
Disclosure of Interest: Nil
Date: 3 August 2021
Author: Erin Greaves, Governance & Community Manager
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Minority

Summary

To consider, and to appoint Council's voting delegates for the meeting.

Key Points

- All WALGA member Councils are entitled to be represented by two voting delegates at the AGM
- The Annual General Meeting 2021 is to be held in conjunction with the 2021 Local Government Convention at Crown Perth.
- Elected Members and senior officers are welcome to attend as observers
- Registrations for voting delegates close 27 August 2021

OFFICER RECOMMENDATION – ITEM 11.3

That Council appoints Cr GJ Cosgrove and Mr Nils Hay as voting delegates for the Shire of Mingenew at the 2021 WALGA State Council AGM on Monday, 20 September 2021.

Attachment

11.3.1 WALGA State Council AGM Minutes 2020

Background

The WALGA State Council AGM is commonly held the week of the Local Government Convention and this year it will be held at 9am on Monday 20 September 2021 at Crown Perth, marking the start of the Convention for 2021.

The closing date for any submissions of motions was 16 July 2021. Any matters relevant to the State Council have gone through the Northern Country Zone of WALGA. No motion shall be accepted for debate at the Annual General Meeting after the closing date unless the Association President determines that it is of an urgent nature, sufficient to warrant immediate debate, and delegates resolve accordingly at the meeting.

Comment

It has been previous practice to appoint the Shire President and Chief Executive Officer as Shire representative voting delegates. Only registered delegates or proxy registered delegates will be permitted to exercise voting entitlements on behalf of Member Councils. Delegates may be Elected Members or serving officers. Council may wish to nominate two proxy delegates

The Agenda for the meeting was not available at the time of preparing this report but a copy of the Minutes from the 2020 AGM have been included as an attachment.

All Voting Delegates will need to present at the WALGA Delegate Service Desk prior to the AGM to collect their electronic voting device (keypad) for voting and identification tag to gain entry into the Annual General Meeting.

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The appointment does not preclude other Councillors or officers from attending the AGM.

Consultation

WALGA

Statutory Environment

Local Government Act 1995

WALGA State Council Constitution

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Community Strategic Plan

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

11.4 PLANNING EXEMPTION GUIDELINES FOR CYCLONE-IMPACTED PROPERTIES

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	LP.APP
Disclosure of Interest:	Nil
Date:	12 August 2021
Author:	Erin Greaves, Governance & Community Manager
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Absolute Majority

Summary

To consider changes to how planning applications are considered for cyclone-impacted properties so that building works can be streamlined. The Emergency Temporary Accommodation Information Sheet is aimed at guiding the provision of emergency accommodation on a temporary basis as a result of the impacts of Cyclone Seroja in April 2021.

The purpose of this report is for Council to consider and adopt the content of the information sheet and the applicable timeframe for planning exemptions.

Key Points

- In response to the number of planning applications expected resulting from damage caused by Cyclone Seroja, the Shire of Northampton developed an Information Sheet
- To provide some relief to impacted residents, the Shire of Mingenew proposes a similar policy be adopted

OFFICER RECOMMENDATION – ITEM 11.4

That Council:

- 1. Adopts the Emergency Temporary Accommodation Information Sheet – Planning Exemption Guidelines;**
- 2. Adopts a 12-month Planning Exemption period for Emergency Temporary Accommodation within the Shire of Mingenew for properties that have been damaged or lost due to Cyclone Seroja on 11 April 2021.**
- 3. Grants, by Absolute Majority, delegated authority to the Chief Executive Officer to issue Planning Exemptions in accordance with the Guidelines as attached.**

Attachment

11.4.1 Emergency Temporary Accommodation – Cyclone Seroja Guidelines and Application Form

Background

In emergency situations, Clause 61(1) of the 'Deemed Provisions' of the Planning and Development (Local Planning Scheme) Regulations 2015 permits local governments to issue a temporary exemption from the need to obtain development (planning) approval. An 'exemption' is not an approval but a temporary relaxation of requirements which is permitted for a maximum period of twelve (12) months. At the end of the twelve months, the exemption ceases, and the structures will be required to be removed.

Alternatively, should the owner want to retain the development on site then an Application for Development approval will be required. The proposed development will be assessed against the normal planning framework and in some cases, approval will not be granted. It is also noted that in many cases, people will not need to apply for development approval for temporary accommodation (as per normal) as this requirement meets a form of exemption that local governments can apply if the structures are compliant with the Residential Design Codes, Local Planning Schemes and the Planning and Development Act 2005. However, exemptions will not apply to properties located within

Special Control Areas, Heritage protected places and those located within Bushfire prone areas with ratings >BAL-40/BAL-FZ.

Further general information can be found at <https://www.wa.gov.au/organisation/department-of-planning-lands-and-heritage/cyclone-seroja-support>.

Comment

The Emergency Temporary Accommodation Information Sheet – Planning Exemption Guidelines for Cyclone Seroja is considered to accord with the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* relating to planning exemptions. In summary the guidelines set out the following information:

Planning exemption up to 12 months

The guidelines consider issuing an exemption for temporary works for a period of twelve (12) months under the Local Planning Scheme to be the most efficient and responsive mechanism to facilitate the provision of temporary accommodation immediately to those landowners who have lost homes or for construction workers involved in rebuilding and recovery works.

If there is a further need for accommodation structures after the initial exemption period of twelve (12) months, this is considered to be the responsibility of the applicant to submit a Development Application in good time before expiration of the exemption period. It is also recognised in the guidelines that Council will not automatically re-issue exemption approvals.

Types of development considered for exemption the guidelines set out the parameters and planning requirements for the consideration of a planning exemption for outbuildings, repurposed and second-hand dwellings, ancillary accommodation, caravans, and motorhome.

In order to obtain the planning exemption, some basic information is required to support the request including:

- Site Plan showing location of proposed structure together with plans and elevations of proposed works; and
- Photos submitted that clearly illustrate the condition and appearance of the entire building/caravan; and
- Statutory Declaration acknowledging conditions of planning exemption for emergency temporary accommodation.

Next Steps including Health and Building requirements

The guidelines also include some additional information in the provision of general advice regarding the steps that following planning exemption. Given the extensive damage that has occurred to buildings and infrastructure in some cases, it is necessary that sites where emergency temporary accommodation are being proposed meet health, building and safety requirements.

Delegation to CEO to issue planning exemptions

As part of the suite of matters to be considered in regard to issuing planning exemptions for emergency temporary accommodation, the matter of delegation also needs to be considered. At present the Delegation Register makes no specific mention of delegated authority to the Chief Executive Officer for the issuing of planning exemptions. It is recommended that Council issue delegation to the CEO to issue a planning exemption for emergency temporary accommodation for up to a 12-month period in order to expedite the process.

Consultation

This report is based on a similar proposal considered by the Shire of Northampton in May 2021.

There has been no formal community or government consultation on the Emergency Temporary Accommodation Information Sheet, however, the Department of Planning Lands and Heritage has provided information to the Shire with regard to planning exemptions.

Statutory Environment

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Shire of Mingenew Local Planning Scheme No.4

Clause 61(1) of the 'Deemed Provisions' of the Planning and Development (Local Planning Scheme) Regulations 2015 permits local governments to issue a temporary exemption from the need to obtain development (planning) approval.

Policy Implications

The adoption of the information sheet into the format of a Local Planning Policy can proceed without the usual advertising and adoption requirements if permission is granted by the WA Planning Commission. The Shire of Northampton are currently liaising with the Department of Planning Lands and Heritage to prepare a Local Planning Policy that addresses "Emergency Planning" matters and it is proposed that the Shire follow suit.

Financial Implications

The issuing of a planning exemption will not incur a fee. It is also recommended that at the end of the proposed twelve (12) month period, should an Application for Development Approval be lodged to formalise development, for example, in the case of a transportable dwelling, then Council may also wish to waive the planning fee associated with this part of the process.

Strategic Implications

Community Strategic Plan

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

11.5 COMMUNITY BUS POLICY REVIEW

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	CM.POL.1
Disclosure of Interest:	Nil
Date:	23 July 2021
Author:	Erin Greaves, Governance & Community Manager
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Simple Majority

Summary

To consider the reviewed Community Bus Policy.

Key Points

- Council adopted a revised fee structure for the Community Bus hire in 2021/22 and the Policy has been amended to reflect those changes.
- The Community Bus is predominantly used by the Seniors and Mingenew Primary School

OFFICER RECOMMENDATION – ITEM 11.5

That Council adopts the reviewed Policy 1.4.3 Community Bus Policy as attached.

Attachment

11.5.1 Proposed Policy 1.4.3 Community Bus

11.5.2 Existing Policy 1.4.3 Community Bus

Background

The Shire's Community Bus Policy has seen minimal changes since its major review in December 2016.

Following a review of its usage and implementation of the Policy over the last couple of years, staff propose some changes to simplify hire charges and processing.

Comment

The Seniors Program and Mingenew Primary School, under the current fee structure are liable to pay a nominal fee which is waived in most cases and their usage is only 2-3 times per year. The new fee structure therefore proposes the fee be waived permanently for these users.

The current fee structure has been challenging for officers to interpret and implement logistically. The new fee structure provides a flat fee per day charge to be applied and the per km charge be removed.

The requirement to pay a relevant bond and return the Bus with a full tank of fuel remains.

Statutory Environment

Local Government Act 1995

Policy Implications

As outlined.

Financial Implications

The change to the fee structure is considered to have an immaterial effect on income from the bus hire.

Strategic Implications

Strategic Community Plan

Strategy 2.1.2 Develop healthcare and recreation services for all the community to ensure the well-being and health of all age groups within the community

Strategy 2.2.2 Support planning for access to quality education services, including transport planning

11.6 TEMPORARY EMPLOYMENT OR APPOINTMENT OF CEO

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	CM.POL.1
Disclosure of Interest:	Nil
Date:	23 July 2021
Author:	Erin Greaves, Governance & Community Manager
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Absolute Majority

Summary

Since review of the Temporary Employment or Appointment of CEO policy was reviewed in May 2021, WALGA have released a more comprehensive model policy template that incorporates a number of the new legislative references.

Key Points

- Section 5.39C of the Local Government Act 1995 sets out the requirement to adopt a policy for the temporary employment or appointment of a CEO
- WALGA have recently updated their model template and the Shire's existing policy has been updated to reflect it

OFFICER RECOMMENDATION – ITEM 11.6

That Council, by Absolute Majority, adopts the reviewed Policy 1.2.4 Temporary Employment or Appointment of CEO as attached.

Attachment

11.6.1 Amended Policy 1.2.4 Temporary Employment or Appointment of CEO

11.6.2 Existing Policy 1.2.4 Temporary Employment or Appointment of CEO

Background

This template policy addresses the requirements of section 5.39C of the Local Government Act 1995 that require a Local Government to adopt, by absolute majority, a policy that sets out the process to be followed in relation to:

- Employment of a person in the position of CEO for a term not exceeding 1 year; and
- Appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

WALGA provides this template policy as a guide for Local Governments to consider when developing or amending a Policy. This template policy provides suggested wording only and Local Governments should consider, develop and implement policy suitable to their operational requirements.

Comment

The policy outlines that an Acting CEO is to be appointed for any leave periods greater than 48 hours and less than 6 weeks (noting this applies to periods of leave only and not for absences when the CEO may be attending to matters outside the Shire for periods greater than 2 consecutive working days). By decision of Council an Acting CEO appointment may be extended beyond 6 weeks (but for less than 12 months) if the CEO remains available in accordance with the policy

Remuneration of the Acting or Temporary CEO is to be in accordance with the policy; providing for 100% of the cash component (only) of the substantive CEO's reward package, and all other benefits to be determined

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by Council resolution. The remuneration is based on standard industry practice, which reflects the level of responsibility and risk associated with the role.

Consultation

WALGA

Statutory Environment

Local Government Act 1995

Policy Implications

As outlined.

Financial Implications

The Shire's Budget provides for leave provisions for the CEO and associated acting appointments.

Strategic Implications

Community Strategic Plan

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

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12.0 FINANCE

12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 31 JULY 2021

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	FM.FRP
Attachment/s:	Monthly Financial Report – July 2021
Disclosure of Interest:	Nil
Date:	12 August 2021
Author:	Jeremy Clapham, Finance & Administration Manager
Voting Requirement:	Simple Majority

Summary

This report recommends that the Monthly Financial Report for the period ending 31 July 2021 as presented to the Council be received.

OFFICER RECOMMENDATION – ITEM 12.1

That the Monthly Financial Report for the period 1 July 2021 to 31 July 2021 be received.

Attachment

12.1.1 Monthly Financial Report for period ending 31 July 2021

Background

The Monthly Financial Report to 31 July 2021 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Summary Information
- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature & Type
- Statement of Financial Activity Information
- Cash and Financial Assets
- Receivables
- Other Current Assets
- Payables
- Rating Revenue
- Disposal of Assets
- Capital Acquisitions
- Borrowings
- Lease Liabilities
- Cash Reserves
- Other Current Liabilities
- Operating Grants and Contributions
- Non-operating Grants and Contributions
- Bonds and Deposits
- Budget Amendments
- Explanation of Material Variances

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 31 July 2021	
Municipal Funds – Corporate cheque account	\$106,700
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$1,055,138

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 2021/22 financial year.

The 2020/21 Annual Financial Report has not been audited and is subject to change, this may alter the opening surplus for the 2021/22 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.

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- (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

12.2 LIST OF PAYMENTS FOR THE PERIOD 1 JULY TO 31 JULY 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: FM.CRD
Attachment/s: List of Payments – July 2021
Disclosure of Interest: Nil
Date: 9 August 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 July to 31 July 2021 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

OFFICER RECOMMENDATION

That Council receive the attached list of payments for the period of 1 July to 31 July 2021 as follows:

\$298,125.69 Municipal EFT's;
\$58,824.25 Municipal Direct Debit Department of Transport (Licencing) Payments;
\$19,744.35 Municipal Direct Debit Other;
\$1,470.38 Municipal Other Charges;
\$68,546.03 Net Salaries
\$446,710.70 Total Payments

Background

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

Comment

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

Consultation

Nil

Statutory Environment

Local Government Act 1996, Section 6.4

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

Policy Implications

Payments have been made under delegation.

Financial Implications

Funds available to meet expenditure.

Strategic Implications

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 BUDGET AMENDMENT – AUGUST 2021

Location/Address:	Shire of Mingenew – 21 Victoria Street Mingenew 6522
Name of Applicant:	Shire of Mingenew
File Reference:	ADM0130
Disclosure of Interest:	Nil
Date:	12 August 2021
Author:	Jeremy Clapham – Finance & Administration Manager
Approved by:	Nils Hay – Chief Executive Officer
Voting Requirements:	Absolute Majority

Summary

The initial budget adopted in July included a finance lease, which was to be utilised to finance the acquisition of a new grader. When the Western Australian Treasury Corporation (WATC) was approached to apply for the finance, they confirmed that finance would be approved on the basis of a loan and not a lease. This entailed a budget amendment to be made, changing the figures to show a new loan rather than a lease. The bottom line has not changed. Two other corrections were noted; none with any budgetary impact:

- The interest on rates payment instalments is legislated at a maximum of 5.5%, not 7%.
- In the Fees & Charges schedule, the instalment admin fees is to remain at \$15 not be increased to \$15.50.

Key Points

- Instead of a finance lease for the purchase of a new grader, a loan from WATC is proposed;
- Interest on rates instalment payments to be reduced;
- Instalment admin fees to be reduced.

OFFICER RECOMMENDATION - ITEM 12.3

That Council;

1. **Adopts the Amended Budget for 2020/21 incorporating the changes reflected in obtaining a loan instead of a finance lease for the acquisition of a new grader, with no change to the bottom line; and**
2. **Adopts the Amended Instalment Payment Arrangements incorporating a reduction in rates instalment interest from 7% to 5.5% as per legislation; and**
3. **Adopts the Amended Fees & Charges incorporating the reduction in the instalment admin fee from \$15.50 to \$15.**

Attachments

12.3.1 Amended Budget for the year ended 30 June 2022

12.3.2 List of Fees & Charges for the year ended 30 June 2022 as amended

Background

When the original budget was prepared, it was prepared on the basis that a finance lease would be entered into for the acquisition of a new grader, rather than a loan. When WATC was approached, it was made clear that the preferred option of financing the grader was through a loan rather than a finance lease.

The interest on rates instalment payments was increased to 7% in line with interest on outstanding rates. However, interest on rates instalment payments is legislated at a maximum of 5.5% and therefore should not have been increased.

As part of the preparation of the Fees & Charges schedule, all fees and charges were increased by 3%. However, the Budget was presented to Council for adoption with the instalment admin fee at \$15, therefore it should not have been increased.

Comment

A finance lease for the acquisition of a new grader was included in the Adopted Budget. The period of finance was 60 months, and the anticipated interest rate was 2.5% pa. WATC have advised that rather than a finance lease, a new loan should be applied for. The period and interest rate used in the budget amendment are the same as in the Adopted Budget (however, it is very possible that the actual interest rate will be less than 2.5% pa). This amendment will not change the bottom line.

In order to partly counter the effects of Covid19, in 2020/21 the maximum interest rate allowed to be charged on rates instalment payments was reduced from 11% to 5.5%. In order to maintain consistency in 2020/21, the Shire made this change by reducing interest on outstanding debts, interest on outstanding rates and interest on rates payments. In order to maintain consistency for 2021/22, the Shire proposed to increase interest on all three categories to 7%. However, the maximum interest rate allowed to be charged on rates instalment payments is still 5.5%, and therefore should not have been increased.

As part of the preparation of the Fees & Charges schedule, all fees and charges were increased by 3%. The instalment admin fee was increased from \$15 to \$15.50. However, the Budget was presented to Council for adoption with the instalment admin fee at \$15. It should therefore not have been increased.

Statutory Environment

Local Government Act 1995, Local Government (Financial Management) Regulations 1996

Policy Implications

Nil

Financial Implications

In regard to the loan to fund the acquisition of a new grader, funds will be reallocated between general ledger accounts, as outlined above, with the net effect on the budget bottom line being nil. In regard to the change in interest, there may be a slight reduction in income (less than \$1,000), depending on how many residents elect to pay their rates via instalments. In regard to the instalment admin fee, there may be a slight reduction in income (less than \$100), depending on how many residents elect to pay their rates via instalments.

Strategic Implications

Community Strategic Plan

- Strategy 1.2.1 Manage organisation in a financially sustainable manner
- Strategy 1.2.4 Seek innovating ways to improve organisational efficiency and effectiveness.

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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

16.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 15 September 2021 commencing at 4.30pm.

17.0 CLOSURE

The meeting was closed at ____pm.

These minutes were confirmed at an Ordinary Council meeting on 15 September 2021.

Signed _____
Presiding Officer

Date: _____