



AGENDA FOR THE ORDINARY COUNCIL MEETING

17 NOVEMBER 2021



Ordinary Council Meeting Notice Paper

17 November 2021

An Ordinary Meeting of Council is called for Wednesday, 17 November 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
12 November 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</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

MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 17 November 2021

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
17 NOVEMBER 2021 COMMENCING AT 4.30PM**

Prior to the meeting commencing, Councillor-elect Jonathan Holmes will make the declaration of office in accordance with s.2.29 of the Local Government Act 1995.

- 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 13 OCTOBER 2021

OFFICER RECOMMENDATION - ITEM 7.1

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 13 October 2021 be confirmed as a true and accurate record of proceedings.

- 7.2 SPECIAL COUNCIL MEETING HELD 20 OCTOBER 2021

OFFICER RECOMMENDATION - ITEM 7.2

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 20 October 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

11.0 CHIEF EXECUTIVE OFFICER

11.1 CODE OF CONDUCT BEHAVIOUR COMPLAINTS OFFICER

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	CM.POL.1
Disclosure of Interest:	Impartiality – report author is proposed Complaints Officer
Date:	8 November 2021
Author:	Erin Greaves, Governance & Community Manager
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Simple Minority

Summary

To review the Complaints Officers appointed/authorised under the Code of Conduct Behaviour Complaints Management Policy, proposing that the Governance & Community Manager be added as an authorised person within the Policy.

Key Points

- Council adopted the Code of Conduct Behaviour Complaints Management Policy in June 2021
- The CEO was appointed as the Complaints Officer for the purpose of receiving and investigating complaints received under the Code of Conduct
- To account for any instances where it may not be appropriate for the CEO to investigate a complaint (e.g. if the CEO is the complainant) it is proposed that the Governance & Community Manager be appointed as an additional authorised officer
- The authorised officers have been included within the Policy itself

OFFICER RECOMMENDATION – ITEM 11.1

That Council accepts the amended ‘Code of Conduct Behaviour Complaints Management Policy’ as attached, authorising the Governance & Community Manager to receive complaints and withdrawals of complaints as a Behaviour Complaints Officer, in accordance with cl.11(3) of the Shire of Code of Conduct for Council Members, Committee Members and Candidates.

Attachment

11.1.1 Amended Code of Conduct Behaviour Complaints Management Policy (*amendment highlighted in yellow*)

Background

On 3 February 2021, the *Local Government (Model Code of Conduct) Regulations 2021* was gazetted, introducing a mandatory Code of Conduct for Council Members, Committee Members and Candidates, as required under s.5.104 of the *Local Government Legislation Amendment Act 2019*. Transitional provisions were made at the 17 February 2021 Ordinary Council meeting to establish authorised persons for receiving complaints under the Code.

The Shire adopted the Code of Conduct Behaviour Complaints Management Policy in June 2021, to guide how Behaviour Complaints are to be received and dealt with, as per the Shire’s Code of Conduct for Council Members, Committee Members and Candidates. The original Policy did not specify the persons authorised to receive complaints and withdrawals of complaints but relied on the resolution from February 2021 that lists the CEO as the Behaviour Complaints Officer.

The Policy provides the following definition:

“Behaviour Complaints Officer means a person authorised in writing [by Council resolution or by the CEO exercising delegated authority] under clause 11(3) of the Code of Conduct to receive complaints and withdrawals of complaints. The role of the Behaviour Complaints Officer is addressed in Part 2.1 of this Policy.”

Comment

It has been identified that the CEO’s appointment as the only Behaviour Complaints Officer has a limitation; if the CEO is the complainant then they are also responsible for dealing with their own complaint which is not considered to align with procedural fairness.

Based on advice from WALGA’s Governance Team, it was suggested that Council would benefit from having at least two authorised officers. The Governance & Community Manager is recommended as being the second Behaviour Complaints Officer. Having these appointments in the policy ensures that the appropriateness of this appointment is reviewed in line with the Policy.

Consultation

WALGA

Statutory Environment

Local Government Act 1995

Policy Implications

As outlined above.

Financial Implications

Nil.

Strategic Implications

Strategic Community Plan

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

11.2 WALGA STATE COUNCIL AGENDA 1 DECEMBER 2021 MEETING

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	GR.LRL.4
Disclosure of Interest:	Nil
Date:	11 November 2021
Author:	Erin Greaves, Governance & Community Manager
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Simple Minority

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 Wednesday, 1 December 2021 commencing at 4pm and will be hosted by WALGA at Level 1, 170 Railway Parade, West Leederville.
- 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, 2 March 2022.

OFFICER RECOMMENDATION – ITEM 11.2

PART A

That Council supports WALGA's recommendations submitted in the 1 December 2021 WALGA State Council Meeting Agenda, as follows:

Item 5.1 Paid Family and Domestic Violence Leave Entitlements

That WALGA:

Endorse the submission to the Fair Work Commission (FWC) regarding paid family and domestic violence leave (FDVL) which:

1. highlights that FDVL for employees is an important issue for the sector;
2. supports the introduction of a new entitlement in modern awards for employees to receive five days' paid FDVL per year;
3. advocates for employees to be able to access their paid personal/carer's leave in circumstances of family and domestic violence; and
4. opposes the introduction of a new entitlement in modern awards for employees to receive 10 days' paid FDVL per year as sought by the Australian Council of Trade Unions (ACTU).

Item 5.2 Payment to Independent Committee Members

That WALGA request the Minister for Local Government to amend the *Local Government Act 1995* to allow the payment of meeting attendance fees to, and/or defined reimbursements for time committed by, 'other persons' appointed as Committee members under s.5.8 of the *Local Government Act 1995*.

Item 5.3 2021 Annual General Meeting

That:

1. The following resolutions from the 2021 WALGA Annual General Meeting be endorsed for action:

Cost of Regional Development

That WALGA makes urgent representation to the State Government to address the high cost of development in regional areas for both residential and industrial land, including the prohibitive cost of utilities headworks, which has led to market failure in many regional towns.

CSRFF Funding Pool and Contribution Ratios

That WALGA lobby the State Government to:

1. Increase the CSRFF funding pool to \$25 million per annum and revert the contribution ratio to 50% split to enable more community programs and infrastructure to be delivered.
2. Increase the \$1 million per annum quarantined for female representation to \$2 million per annum.

Regional Telecommunications Project

That WALGA strongly advocates to the State Government to increase funding for the Regional Telecommunications Project to leverage the Federal Mobile Black Spot Program and provide adequate mobile phone coverage to regional areas that currently have limited or no access to the service.

2. The following resolution passed at the 2021 WALGA Annual General Meeting be referred to the Mining Communities Policy Forum and the People and Place Policy Team for advocacy work to be undertaken:

Review of the Environmental Regulations for Mining

Regarding a review of the Mining Act 1978:

1. To call on Minister Bill Johnston, Minister for Mines and Petroleum; Energy; Corrective Services to instigate a review of the 43-year-old Mining Act to require mining companies to abide by environmental regulations, and to support research and development into sustainable mining practices that would allow mining without detriment to diversification and community sustainability through other industries and development.
2. That abandoned mines in regional Western Australia receive a priority action plan with programmes developed to work with rural and remote communities to assist in the rehabilitation of these mines as a job creation programme, with funding allocated for diversification projects for support beyond mine life across Western Australia.

Item 5.4 Review of advocacy positions relating to the *Building Act 2011* and *Building Regulations 2012*

That State Council endorses the replacement of Section 6.7: Building Act and Fees of WALGA's advocacy positions document relating to the Building Act 2011 and Building Regulations 2012 with the following:

1. Support the retention of Local Government as the primary permit authority in Western Australia for decisions made under the Building Act 2011.
2. Supports mandatory inspections for all classes of buildings, however, Local Government should not be solely responsible for all mandatory inspections.
3. Advocate for the State Government to urgently prioritise legislative reform that addresses systemic failures in the current building control model and to provide clarification on the role of Local Government in building control to ensure building legislation supports the following objectives:
 - a) Quality buildings that are cost efficient.
 - b) Functional, safe and environmentally friendly buildings.
 - c) Good decision making in all aspects of building.
 - d) Efficiency and effectiveness in building management, administration and

- e) regulation.
 - f) Openness and accountability with respect to all building matters.
 - g) Recognition of the rights and responsibilities of all parties in building matters in an
 - h) equitable manner.
4. Existing and proposed building control related fees and charges to be cost recovery for Local Government.
 5. WALGA will work with members, state agencies and industry groups to develop training opportunities and to promote the Local Government building surveying profession to ensure sustainability of Local Government building control services.
 6. WALGA supports the Australian Building Codes Boards Trajectory for Low Energy Buildings by supporting Local Governments to meet community strategic objectives of a net zero carbon future by 2050 through work with members, state agencies and industry groups.

Item 5.5 Draft WA Building Surveyors Code of Conduct

That WALGA:

1. Recommend to the Department of Mines, Industry Regulation and Safety (DMIRS) that the Draft WA Building Surveyors Code of Conduct be reviewed to ensure it addresses the following matters:
 - a) The impact of the obligations recommended in the draft Code be considered in relation to the current Western Australian building control model to ensure Local Government are able to maintain their statutory functions in line with community expectations.
 - b) That other building reform that will greatly impact the role of Local Government in the current Western Australian building control model, such as mandatory inspections and minimum documentation, be formalised prior to the Code of Conduct being introduced to ensure Local Government in Western Australia are able to maintain their statutory functions in line with community expectations.
 - c) Ensure that communities in remote and regional areas are considered when developing policy to restrict building surveyors being involved in design consultation work.
2. Endorse the attached consultation response summary on the draft Code.

PART B

That Council notes the Information Reports provided within the 1 December 2021 WALGA State Council Meeting Agenda, as follows:

Item 6.1 Local Government Support for Single Use Plastic Bans

Item 6.2 Report Municipal Waste Advisory Council (MWAC)

Item 6.3 WALGA submission on the National Climate Resilience and Adaptation Strategy

Item 6.4 Closing the Gap Update

Item 6.5 Submission to the Senate Inquiry into Provision of General Practitioner and related primary health services to outer metropolitan, rural and regional Australians

Item 6.6 Wooroloo Independent Review Letter of Support

Item 6.7 State Budget Outcomes

Item 6.8 Foundations for a Stronger Tomorrow – Submission to the Draft State Infrastructure Strategy

Item 6.9 Regional Telecommunications Review 2021

Item 6.10 WALGA submission on Guideline: Native Vegetation Referral, Part V *Environmental Protection Act 1986*

Item 6.11 WALGA submission on Draft Native Vegetation Policy for WA

Item 6.12 Submission on Cost Recovery Part IV of the Environmental Protection Act 1986 – assessments by the Environmental Protection Authority

Item 6.13 Student Transport Assistance

Attachment

11.2.1 WALGA State Council Agenda – 1 December 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 Paid Family and Domestic Violence Leave Entitlements (Page 6)

The National Employment Standards (NES) in the Fair Work Act 2009 (Cth) (FW Act) provide employees with an entitlement to five days' unpaid FDVL per year. There is no provision for paid FDVL entitlement.

The FWC commenced a review of FDVL in April 2021 to determine appropriate FDVL provisions in modern awards, including whether an entitlement to ten days' paid FDVL should be included in modern awards as requested by the ACTU.

WALGA Employee Relations has undertaken a survey and prepared a submission to FW regarding paid entitlements for FDVL, supporting 5 paid days.

Item 5.2 Payment to Independent Committee Members (Page 24)

As indicated in the report, local governments are not permitted to pay Committee Members (who are not Council members or employees) a sitting fee for attending a meeting. This matter has been raised during the review of the Audit & Risk Committee Terms of Reference and the entitlements available an independent member.

Item 5.3 2021 Annual General Meeting (Page 26)

Resolutions from the 2021 Annual General Meeting held on 20 September 2021 are presented for consideration by the State Council. The resolutions generally align with WALGA's policy positions and are recommended for endorsement.

Item 5.4 Review of advocacy positions relating to the *Building Act 2011* and the *Building Regulations 2012*

WALGA propose amending their policy position to include the listed policy positions as outlined in the recommendation to clarify local government's role in enforcing and/or enacting the legislation. This review coincides with a broader review of the Building Act and Regulations.

Item 5.5 Draft WA Building Surveyors Code of Conduct

To assist in addressing the risks identified in the Eastern States in regards to building surveyors and their services by local government, a Code of Conduct has been developed in consultation with industry to develop a best practice model for compliance and enforcement.

Consultation

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 RFT1 2021/22 – YANDANOOKA NORTH EAST ROAD INTERSECTION CONSTRUCTION

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: FM.TEN.21.22
Date: 9 November 2021
Author: Nils Hay, CEO
Voting Requirement: Absolute Majority

Summary

We have sought tenders for the construction of a new intersection at the northern end of Yandanooka North East Road. This paper recommends a contractor to undertake this work.

Key Points

- RFT issued with three responses
- All contractors scored well on qualitative considerations
- Preferred contractor significantly cheaper (in part due to being located in Mingenew Shire)

OFFICER RECOMMENDATION – ITEM 11.3

That Council:

1. Accepts the Tender submission for RFT1 2021/22 Yandanooka North East Road Intersection Construction, received from {_____}, named as Tenderer 2 in the Evaluation Report recommendation detailed in Confidential Attachment 11.3.2 and identified as the most advantageous for a lump sum of \${_____} excluding GST.
2. Delegates to the CEO in accordance with s.5.42(1) of the Local Government Act 1995, by absolute majority, authority to negotiate minor variations to the contract for RFT1 2021/22 Yandanooka North East Road Intersection Construction before and / or after its execution in accordance Regulations 20 and 21A of the *Local Government (Functions and General) Regulations 1996*.
3. If within 6 months of this resolution a contract is unable to be formed for RFT1 2021/22 Yandanooka North East Road Intersection Construction with Tenderer 2 identified in Evaluation Panel Report recommendation shown in Confidential Attachment 11.3.2 as the most advantageous, then the Shire of Mingenew accepts the tender submission received from Tenderer 2, identified as the next most advantageous in the Evaluation Panel Report recommendation shown in Confidential Attachment 11.3.2.

Attachment

11.3.1 Request for Tender Documentation

11.3.2 *Confidential – Evaluation Report circulated as a separate confidential attachment as per s.5.23(2)(e)(ii)(iii)*

Background

The Shire has been working with Main Roads WA to progress funding and design for the Yandanooka North East Road Intersection for several years. This tender will see the construction work take place and the overall project completed.

Comment

Tenderer 2 is the preferred contractor but have indicated that the work may need to be completed in 2022/23 due to existing contract commitments. Main Roads WA have confirmed, in writing, that it will be acceptable to

roll over State Black Spot Program funding from FY21/22 to FY22/23 to accommodate this change within existing funding arrangements.

Consultation

Main Roads WA
GHD

Statutory Environment

The Local Government Act 1995 at S3.57(1) (tenders for providing goods or services) requires that in certain circumstances, a local government is to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

The Local Government (Functions and General) Regulations 1996 at Regulation 11A (when tenders have to be publicly invited) clarifies that tenders are to be publicly invited if the consideration under the contract is, or is expected to be, more, or worth more, than \$250,000.

Policy Implications

In obtaining a public tender, the Shire's Purchasing Policy requirements have been met. Our Local Price Preference Policy was also applied in the attached tender assessment document.

Financial Implications

A total of \$934,000 was included in the FY21/22 budget for this work, made up of combination of State Black Spot, Roads to Recovery and Municipal funds. It is likely that the majority of this (relating to this contract and associated project management costs) will be deferred to FY22/23 in light of contractor availability.

This does however include some costs associated with land survey and purchase, the majority of which will be completed (within the overall project budget) in the current financial year.

Amendments will be made to reflect this as part of the Budget Review and an allocation will be included in the FY22/23 budget for this project.

Strategic Implications

Strategic Community Plan 2019-2029:

1.1.1 Provide and support cost effective transport networks

11.4 RFT 3 2021/22 – MINGENEW-MULLEWA ROAD SHOULDER SEALING

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: FM.TEN.21.22
Date: 9 November 2021
Author: Nils Hay, CEO
Voting Requirement: Absolute Majority

Summary

We have sought tenders for the completion of low-cost widening works along the length of Mingenew-Mullewa Road, as funded through the Regional Roads Safety Program

Key Points

- RFT issued with two responses
- Both contractors scored well on qualitative considerations
- Preferred contractor chosen largely on basis of price
- Additional Main Roads funds have been secured as both tenders exceeded original project budget

OFFICER RECOMMENDATION – ITEM 11.3

That Council:

1. Accepts the Tender submission for RFT3 2021/22 Mingenew-Mullewa Road Shoulder Sealing, received from {____}, named as Tenderer 2 in the Evaluation Report recommendation detailed in Confidential Attachment 11.3.2 and identified as the most advantageous for a lump sum of \${____} excluding GST.
2. Delegates to the CEO in accordance with s.5.42(1) of the Local Government Act 1995, by absolute majority, authority to negotiate minor variations to the contract for RFT3 2021/22 Mingenew-Mullewa Road Shoulder Sealing before and / or after its execution in accordance Regulations 20 and 21A of the Local Government (Functions and General) Regulations 1996.
3. If within 6 months of this resolution a contract is unable to be formed for RFT3 2021/22 Mingenew-Mullewa Road Shoulder Sealing with Tenderer 2 identified in Evaluation Panel Report recommendation shown in Confidential Attachment 11.3.2 as the most advantageous, then the Shire of Mingenew accepts the tender submission received from Tenderer 2, identified as the next most advantageous in the Evaluation Panel Report recommendation shown in Confidential Attachment 11.3.2.

Attachment

11.4.1 Request for Tender Documentation

11.4.2 *Confidential – Evaluation Report circulated as a separate confidential attachment as per s.5.23(2)(e)(ii)(iii)*

Background

The Shire secured conditional approval for \$2,746,683 of Regional Roads Safety Fund Tranche 3 (RRSP) funding in April 2021, to conduct low-cost widening works along the length of Mingenew-Mullewa Road (SLK 0.45 – 31.09). Under the program, works must be completed between 1 January and 30 June 2022.

In preparation, a tender process was carried out for this work. The tender process resulted in two applications, both above the value originally funded. Following a request to Main Roads WA in early November 2021 the Shire

received notification that the RRSP funding had been increased to accommodate this shortfall, but that no further increases would be considered.

Comment

Tenderer 2 are the preferred contractor, and following the confirmation of an increase in RRSP funds, the project can proceed as required.

Consultation

Main Roads WA
Greenfield Technical Services

Statutory Environment

The Local Government Act 1995 at S3.57(1) (tenders for providing goods or services) requires that in certain circumstances, a local government is to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

The Local Government (Functions and General) Regulations 1996 at Regulation 11A (when tenders have to be publicly invited) clarifies that tenders are to be publicly invited if the consideration under the contract is, or is expected to be, more, or worth more, than \$250,000.

Policy Implications

In obtaining a public tender, the Shire's Purchasing Policy requirements have been met. Our Local Price Preference Policy was also applied in the attached tender assessment document.

Financial Implications

The tendered amount from the successful tenderer is beyond the current budget amount of \$2,700,000, however the funding secured for the project has also been increased to address this. Both of these figures will be amended as part of the budget review process.

Strategic Implications

Strategic Community Plan 2019-2029:

1.1.1 Provide and support cost effective transport networks

12.0 FINANCE

12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 31 OCTOBER 2021

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	FM.FRP
Attachment/s:	Monthly Financial Report – October 2021
Disclosure of Interest:	Nil
Date:	5 November 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 October 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 October 2021 be received.

Attachment

12.1.1 Monthly Financial Report for period ending 31 October 2021

Background

The Monthly Financial Report to 31 October 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 October 2021	
Municipal Funds – Corporate cheque account	\$67,758
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$2,034,048
Term Deposit – Reserves	\$472,169

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.

- (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 OCTOBER TO 31 OCTOBER 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: FM.CRD
Attachment/s: List of Payments – October 2021
Disclosure of Interest: Nil
Date: 5 November 2021
Author: Jeremy Clapham Finance & Admin Manager
Voting Requirement: Simple Majority

Summary

This report recommends that Council receive the list of payments for period 1 October to 31 October 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 October to 31 October 2021 as follows:

\$375,844	Municipal EFTs;
\$101,233	Municipal Direct Debit Department of Transport (Licencing) Payments;
\$52,046	Municipal Direct Debit Other;
\$1,863	Municipal Other Charges;
\$78,879	Net Salaries
\$609,863	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.

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 POLICY MANUAL REVIEW – FINANCE POLICIES

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: CM.POL.1
Disclosure of Interest: Nil
Date: 5 November 2021
Author: Jeremy Clapham Finance & Admin Manager
Authorising Officer: Nils Hay CEO
Voting Requirements: Simple Majority

Summary

A review of the Shire of Mingenew's Finance policies (and Procedures) within Council's Policy Manual has been undertaken to ensure compliance and relevance to the community's current and future needs and is available for Council's consideration.

Key Points

- Council adopted a Policy Manual schedule in September 2019 that identified Administration Policies to be reviewed biennially and Finance Policies to be reviewed annually
- Administration Policies were reviewed in December 2020 and will be due for review in December 2022
- Finance Policies were reviewed in December 2020 (except for 1.3.1 Purchasing Policy which was reviewed in April 2021) and are now due to be reviewed
- Policies within the Council Policy Manual may be reviewed and amended or revoked at any time by Council decision, as required

OFFICER RECOMMENDATION – 12.3

That Council;

Notes the review of Council's Finance policies and accepts the following reviewed policies, as presented in the Attachment Booklet:

- a) 1.3.1 Purchasing Policy
- b) 1.3.2 Asset Management Policy
- c) 1.3.3 Investment of Surplus Funds Policy
- d) 1.3.4 Significant Accounting Policies Policy
- e) 1.3.5 Corporate Credit Card Policy
- f) 1.3.6 Related Parties Disclosure Policy
- g) 1.3.7 Regional Price Preference Policy
- h) 1.3.8 Employee Superannuation Policy
- i) 1.3.9 Debt Collection Policy
- j) 1.3.10 Fees and Charges Policy
- k) 1.3.11 Financial Hardship Policy

Attachment

12.3.1 Amended and reviewed Finance Policies and relevant Management Procedures.

Background

Whilst there is no statutory requirement for Council to review its Policy Manual (with the exception of certain elected member policies), it is considered best practice to ensure Council have a relevant and current policy stance that reflects the ongoing changes within local government and our community.

Many of the policies have been developed using WALGA's model policies or are based on other local government's policies that have been recognised for good governance. Some policies may have been developed or modified to suit our individual or local circumstances.

Comment

The policies within the Policy Manual are strategic, outcome focused and set governing principles, guiding the direction of the organisation, and are to be considered for endorsement by Council.

The management procedures included, following the relevant Council Policy, are developed for administrative and operational purposes and endorsed by the Chief Executive Officer.

There were no significant changes to any of the Finance Policies. The only changes made were correction of spelling, grammar and employee titles.

An updated version of the Policy Manual will be issued to Councillors following this meeting.

Consultation

CEO

Governance and Community Manager

Statutory Environment

Local Government Act 1995

Policy Implications

As outlined.

Financial Implications

There are no direct financial implications.

Strategic Implications

Community Strategic Plan

Strategy 1.2.1 Manage organisation in a financially sustainable manner

Strategy 1.2.3 Provide sound corporate governance of Shire and create an attractive work environment

Strategy 1.2.4 Seek innovative ways to improve organisational efficiency and effectiveness

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

The Council Policy Manual has been developed to complement existing legislation and guide decision making. Guidance on local application is provided where required.

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

13.1 ORDINARY COUNCIL MEETING DATES 2022

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

Summary

A notice of motion has been received requesting that, as part of development of the 2022 Ordinary Council Meeting calendar, staff consider reducing the number of meetings.

Key Points

- Cr Cosgrove submitted the motion in accordance with the Shire's Standing Orders Local Law 2017
- Council typically holds 11 Ordinary Meetings per year (each month, except January)
- The Local Government Act requires Ordinary Meetings be held not more than 3 months apart
- Financial statements must be presented at an Ordinary Meeting within months after the end of the month to which they relate
- Some items, such as planning applications have statutory timeframes
- Proposal would still allow for monthly Concept Forums

CR GJ COSGROVE MOTION – ITEM 13.1

That Council directs the Chief Executive Officer to prepare a meeting schedule for 2022 based upon an intent to hold an Ordinary Council Meeting every two months.

Background

Following previous informal discuss, a written Notice of Motion was received from the Shire President on 8 November 2021 outlining the proposed motion above.

Comment

Whilst Council has historically held 11 Ordinary Meetings per year, there is no proscriptive requirement under legislation or our Standing Orders Local Law to do so. S5.3(2) of The Local Government Act 1995 requires Ordinary Meetings be held at least every three months and Regulation 34(4) of the Local Government (Financial Management) Regulations 1996 require that Council's financial statements are brought to an Ordinary Meeting within two months of the end of the month they apply to. That said, the typical minimum number of Ordinary Meetings held by WA local governments is 10, with some small Shires holding no December or January meeting. At present, no Local Governments appear to meet less frequently than this.

This motion has been proposed with the intent of reducing some of the burden of agenda preparation on Council staff, as well as out of recognition for Councillor time spent preparing for, travelling to and attending meetings. Whilst it will not reduce the number of papers that are brought before Council, there will be some efficiency gains – primarily around the collating and formatting processes – in preparing one larger agenda every two months, rather than a smaller agenda monthly.

Advice has been sought from WALGA on the proposal, with several potential risk areas identified and risk mitigation developed, as outlined below.

Accessibility and Transparency:

Less frequent meetings provide less opportunity for the public to attend meetings and be heard on issues. Whilst this is a valid concern, in Mingenew over the previous few years there have been very few instances of public attendance at Council Meetings. The proposal would only reduce the number of meetings, not impact in any way the ability of members of the public to attend the meetings which do take place (or engage with the local government outside of these meetings).

Decisions with Statutory Timeframes:

Some decisions, particularly those related to planning matters, have statutory timeframes that Council is required to meet. Again, as a small rural Shire, these are infrequent in Mingenew and could be managed through Special Meetings as required. It is anticipated that the number of special meetings required in a given year to address these matters would be less than the 5 Ordinary Meetings that would be potentially reduced through this proposal.

Lead-time on Decisions:

There may be some items, without statutory timeframes, that could take longer to be resolved (especially where decisions are required at consecutive meetings). Again, important matters could be managed through a Special Council Meeting if required.

Community Perception of Councillor Workload:

There is a reputational risk that such a move could be seen as Councillors attempting to abrogate their responsibilities (whilst still collecting their annual fees). In larger local governments where Councillors receive higher fees, this risk would be very real. In Mingenew Councillor fees are set at around one-third of the maximum allowed by SAT for a Band 4 Council and the role is largely viewed as voluntary service. That said, this proposal will only reduce the number of Ordinary Meetings, not the overall volume of meeting papers that Councillors will need to review and consider. Further, the proposal does not intend to reduce the number of Concept Forum meetings, which will still occur monthly and which Councillors will still be expected to attend.

Council Agenda Length and Councillor Workload:

In contrast to the item above, there is a risk that two-monthly meetings could result in unreasonably large agendas for Council to consider. This risk can be managed, in part, by administrative staff seeking to spread items – where possible – across the calendar year (as currently happens through the use of our Governance Calendar). It may also be possible to release agendas further in advance of meetings to provide greater preparation time.

Loss of Connection Between Council and the Administration:

Council meetings are an opportunity for Councillors and senior staff to check in and maintain positive working relationships, which are important to the effective operation of the Shire. Whilst the proposal will reduce the number of Ordinary Meetings, Councillors and senior staff will still meet monthly at Concept Forum meetings, so this risk is minimal.

Likely Efficiency Gains:

As previously noted, staff would still be required to prepare a similar number of reports for Council, however time would be saved through:

- Reducing the number of times staff are required to:
 - o Review, format and compile agendas and attachment booklets
 - o Distribute agendas to Councillors and post to the Shire website

It is also expected that there would be a small reduction in the amount of time Councillors and staff generally spend in meetings.

Summary:

The proposal would have some efficiency gains for both staff and elected members, but there are also some risks of decision-making timeframes increasing or a need for more frequent Special Meetings which may cancel out some of the efficiency savings. The proposal could certainly be trialed, noting that Council can change its meeting calendar mid-year should it prove to be unworkable.

Consultation

WALGA

Statutory Environment

Local Government Act 1995

5.3. Ordinary and special council meetings

- (1) A council is to hold ordinary meetings and may hold special meetings.
- (2) Ordinary meetings are to be held not more than 3 months apart.
- (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.

Local Government (Financial Management) Regulations 1996

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

- (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.

Policy Implications

Nil

Financial Implications

No direct financial savings are expected, however there will be some efficiency gains as noted above.

Strategic Implications

Strategic Community Plan 2019-29

1.2.4 Seek innovative ways to improve organisational efficiency and effectiveness.

MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 17 November 2021

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

15.0 CONFIDENTIAL ITEMS

Nil.

16.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 15 December 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 December 2021.

Signed _____
Presiding Officer

Date: _____