



MINUTES OF THE ORDINARY COUNCIL MEETING

15 DECEMBER 2021

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 15 December 2021

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN COUNCIL CHAMBERS ON
15 DECEMBER 2021 COMMENCING AT 4.30PM**

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

Cr GJ Cosgrove, Presiding Member declared the meeting open at 4:30pm.

2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Councillors

Cr GJ Cosgrove	Shire President
Cr JD Bagley	Deputy President
Cr CV Farr	Councillor
Cr JR Holmes	Councillor
Cr HR McTaggart	Councillor
Cr GF Pearse	Councillor

Staff

Mr Nils Hay	Chief Executive Officer
Mr Jeremy Clapham	Manager Finance and Administration
Ms Erin Greaves	Manager Governance and Community
Mr Peter Wood	Manager Works

Apologies

Cr AR Smyth	Councillor
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Members of the Gallery

Mr Joe Clifford

3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME

Mr Clifford raised the following questions in regard to the Expressions of Interest for the Airport Reserve and Rifle Range Reserve Cropping leases (Item 11.5 of this Agenda):

1. The report indicates that the Mingeneew Sports Club submission was received late; why was the submission accepted?

The CEO advised that it is up to Council to determine whether the late submission is to be accepted and considered. As indicated in the report, a Sports Club representative contacted Shire staff prior to the deadline and indicated a submission would be forthcoming.

2. The Sports Club submission indicates \$40,000 would be used for repairs and upkeep of the Sports Club but the report noted \$4,000?

This was a typographic error within the Agenda report (that was only identified on Tuesday 14 December and corrected at that time). The Attachment submitted by the Sports Club shows \$40,000.

3. Has this clarification been raised with the Clubs who have submitted an application?

No, the correct information will be noted in the Minutes.

5.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil.

7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES

7.1 ORDINARY COUNCIL MEETING HELD 17 NOVEMBER 2021

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 7.1 – RESOLUTION# 01151221

MOVED: Cr GF Pearse

SECONDED: Cr CV Farr

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

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil.

9.0 DECLARATIONS OF INTEREST

The following declarations of interest were disclosed in regard to Item 11.5 Airport and Rifle Range Cropping Lease Expressions of Interest:

Cr GJ Cosgrove indicated a Financial Interest, as Cosgrove Farming is the current cropping managers for the Airport Reserve on behalf of the Mingenew Sports Club.

Cr GJ Cosgrove, Cr GF Pearse, Cr JR Holmes, Cr HR McTaggart indicated an Impartiality Interest, as members of the Mingenew Sports Club. Cr JD Bagley also indicated an Impartiality Interest as a member of the Mingenew Football Club and disclosed that his wife (closely associated person) is President of the Mingenew Turf Club. Cr GF Pearse is also a member of the Mingenew Bowling Club and Mingenew Golf Club.

10.0 RECOMMENDATIONS OF COMMITTEES

10.1 AUDIT & RISK COMMITTEE MEETING HELD 10 DECEMBER 2021

10.1.1 MINUTES OF THE AUDIT & RISK COMMITTEE – 10 DECEMBER 2021

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 10.1.1 – RESOLUTION# 02151221

MOVED: Cr HR McTaggart

SECONDED: Cr JR Holmes

That Council receives the Minutes of the Shire of Mingenew Audit & Risk Committee meeting held 10 December 2021.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

- 10.1.2 2020/21 FINAL AUDIT, ANNUAL REPORT AND ANNUAL MEETING OF ELECTORS
- 10.1.3 RFT2 – 2021/22 GRADER TENDER – NON-COMPLIANCE WITH CEO DELEGATION
- 10.1.4 AUDIT & RISK COMMITTEE INDEPENDENT MEMBER SELECTION
- 10.1.5 SHIRE OF MINGENEW INTERNAL AUDIT PLAN – FLEET MANAGEMENT UPDATE
- 10.1.6 OPERATING SURPLUS RATIO BELOW THE DEPARTMENT STANDARD AS IDENTIFIED IN THE AUDIT REPORT – 2020/21
- 10.1.7 REVIEW OF SHIRE OF MINGENEW RISK REGISTER 2021

OFFICER RECOMMENDATION AND COUNCIL DECISION – ENBLOC ITEM 10.1.2 – 10.1.7 – RESOLUTION# 03151221

MOVED: Cr HR McTaggart

SECONDED: Cr CV Farr

10.1.1 That Council receives the Minutes of the Shire of Mingenew Audit & Risk Committee meeting held 10 December 2021.

10.1.2 That Council

1. Accepts the 2020/21 Draft Annual Report as attached, incorporating the Annual Financial Report and Independent Auditors Report as presented at the meeting (authorising the CEO to make minor corrections and amendments to the final document prior to publishing);
2. Notes the Auditor's finding in regard to the incorrect depreciation on infrastructure assets as noted in the Management Letter as a "significant risk", and the management response;
3. Holds its Annual Meeting of Electors on Monday, 7 February 2022 at 5:30pm to discuss the contents of the annual report and any other matters, in accordance with s5.27 of the *Local Government Act 1995* and Regulation 15 of the *Local Government (Administration) Regulations 1996*.

10.1.3 That Council notes:

1. The non-compliance with Council's delegation to the CEO for accepting and rejecting tenders (CD25), in relation to the Request for Tender for the Grader (RFT2 – 2021/22 Grader), and
2. The actions taken improve internal procedures for tendering and procurement to mitigate any future risk of the error occurring again, including:
 - a) the development of a Procurement Workflow and Tender Checklist (attached)
 - b) the development of templates relating to tendering and procurement activities.

10.1.4 That Council:

1. Notes that Expressions of Interest were called via state-wide and local public notice; and
2. Endorses Ms. Jane Bagshaw's application to join the Shire of Mingenew's Audit and Risk Committee as an independent member; and
3. Appoints, by Absolute Majority, Ms. Bagshaw to the Shire of Mingenew Audit and Risk Committee for one year, with an option to extend for a further two years.

10.1.5 That Council:

1. Receives the Fleet Management Internal Audit Report Update as per Item 3 audit risk theme '1. Asset Management and 2. Misconduct' of the Internal Audit Plan'; and
2. Notes the Plant and Fleet Replacement Guideline
3. Notes the Asset Disposal Procedure.

10.1.6 That Council receives this report in regard to the material matter raised in the Audit Report for 2020/21 – Operating Surplus Ratio below Department of Local Government, Sport and Cultural Industries' standard for the past three years.

10.1.7 That Council receives the updated Shire of Mingenew Risk Register (reviewed November 2021), as attached.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

11.0 CHIEF EXECUTIVE OFFICER

11.1 COUNCIL MEETING DATES 2022

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

Summary

In response to the Council resolution from the 17 November 2021 Ordinary Council meeting, a report has been prepared setting the annual meeting dates and time for its 2022 Ordinary Council meetings based on a reduced number of meetings per year.

Key Points

- In 2021, the meetings have been held on the third Wednesday of each month (excluding January)
- An alternative model is proposed for 2022, in an effort to increase efficiency, maximise Councillors' time and promote more efficient methods of communication with the community
- Council has the ability to call for a Special meeting if a matter or matters require attention between the proposed meetings dates
- Council is required to set and give local public notice of the date, time and place of its ordinary council meetings at least once every calendar year
- Council has the option to review the meeting dates at any time should the new structure not meet the needs of the community

OFFICER RECOMMENDATION – ITEM 11.1

MOVED: Cr JD Bagley **SECONDED:** Cr GF Pearse

That Council sets the 2022 Ordinary Council meeting dates to commence at 5:00pm, in accordance with Regulation 12(1) of the *Local Government (Administration) Regulations 1996*, as per the below schedule:

Council Meeting Dates 2022
January 2022 – Nil
16 February 2022
March 2022 – Nil
20 April 2022
May 2022 - Nil
15 June 2022
July 2022 - Nil
17 August 2022
September 2022 - Nil
19 October 2022
November 2022 - Nil
14 December 2022

Unless local public notice is provided to the contrary, all Council meetings are to be held in Council Chambers located at 21 Victoria Street, Mingenew.

COUNCIL DECISION - ITEM 11.1 – RESOLUTION# 04151221

MOVED: Cr HR McTaggart

SECONDED: Cr JR Holmes

That Council adds an additional point to the motion to provide Council with a formal opportunity to evaluate the reduced number of meetings and impacts on the community, as follows:

2. “Resolves that the meeting schedule be reviewed at the 15 June 2022 meeting.”

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

AMENDED MOTION AND COUNCIL DECISION - ITEM 11.1 – RESOLUTION# 05151221

MOVED: Cr JD Bagley

SECONDED: Cr GF Pearse

That Council

1. Sets the 2022 Ordinary Council meeting dates to commence at 5:00pm, in accordance with Regulation 12(1) of the *Local Government (Administration) Regulations 1996*, as per the below schedule:

Council Meeting Dates 2022
January 2022 - Nil
16 February 2022
March 2022 - Nil
20 April 2022
May 2022 - Nil
15 June 2022
July 2022 - Nil
17 August 2022
September 2022 - Nil
19 October 2022
November 2022 - Nil
14 December 2022

Unless local public notice is provided to the contrary, all Council meetings are to be held in Council Chambers located at 21 Victoria Street, Mingenew.

2. Resolves that the meeting schedule be reviewed at the 15 June 2022 meeting.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Background

At the 17 November 2021 Ordinary Council meeting, a Councillor motion was presented requesting a direction to the CEO to prepare a meeting schedule for 2022 to be based upon an intent to hold Ordinary Council meetings every two months. The motion was carried, and an extract of the resolution is provided below:

COUNCILLOR MOTION AND COUNCIL DECISION - ITEM 13.1 – RESOLUTION# 10171121

MOVED: Cr AR Smyth

SECONDED: Cr JD Bagley

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.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/1

Cr JR Holmes requested that his name be recorded as voting against this item

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. Section 5.3(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.

The reduction in the number of Council meetings recognises the change in the way members of the public interact with Council and the Shire. Technology now provides for more timely contact through phone, email, social media and online meetings which ensures queries, suggestions and complaints can be dealt with within a reasonable timeframe and with sufficient governance oversight, without the need to await a monthly meeting. A majority of questions / deputations made at Council meetings by members of the public over the last two years have specifically related to a matter before Council at that meeting, and this opportunity would not be impacted by the schedule change.

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.

Council also has the ability to set decision-making parameters through delegations to the CEO and can call for Special meetings where the timeline of set meetings is not suitable.

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 15 December 2021

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 trialled, noting that Council can change its meeting calendar mid-year should it prove to be unworkable.

The meeting schedule presented has been considered against statutory requirements, and the table below summarises them based on the proposed schedule:

Matter for Decision	Statutory Requirement / Better Practice
February	
Compliance Audit Return (CAR)	Must be adopted and submitted by 31 March each year
Budget Review	Must be carried out between 1 January and 31 March
Workforce Plan Review	Scheduled for annual review

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Minutes of Annual Electors Meeting	Depending on when Electors Meeting held, must review outcomes of meeting at next ordinary meeting
Monthly Financials - December and January	Must be adopted within 2 months after the end of the month to which the statement relates
List of Payments - December and January	
April	
Local Heritage Survey	Adopt new (replacing Municipal Inventory)
BFAC Appointments	Appointments for BFAC to be endorsed following AGM (March)
CAR Action Plan	Must consider any Action Plan developed in response to CAR outcomes
Sporting Club Fees & Charges Review	In preparation for Budget
Monthly Financials - February and March	Must be adopted within 2 months after the end of the month to which the statement relates
List of Payments - February and March	
Consider if differential rates apply	6.33 and FM Reg 52A
June	
Delegations Register Review	Must be reviewed at least once each calendar year
Monthly Financials - April and May	Must be adopted within 2 months after the end of the month to which the statement relates
List of Payments - April and May	
August	
CEO Performance Review	Recommendations from the Executive Management Committee on the performance review of the CEO to be considered
WALGA AGM and Voting Delegates	WALGA requires voting delegates to be endorsed by Council
Review Community policies	Policy schedule determines triennial review of Community policies due to be conducted July 2022 and presented to Council for adoption
Monthly Financials - June and July	Must be adopted within 2 months after the end of the month to which the statement relates
List of Payments - June and July	
October	
Review Finance Policies	Policy Schedule determines annual review of Finance Policies
Monthly Financials - August and September	Must be adopted within 2 months after the end of the month to which the statement relates
List of Payments - August and September	
December	
Set Council Meeting Dates 2023	Meeting dates to be set and advertised for following calendar year
Review Risk Management systems	As recommended by Audit & Risk Committee
Receive Annual Financial Report and Audit Report, and meet with Auditor	As recommended by Audit & Risk Committee
Review Administration Policies	Policy Schedule determines biennial review of Administration Policies
Annual Report and Electors Meeting	Annual Report must be adopted before 31 December - opportunity for Council to meet with Auditors
Monthly Financials - October and November	Must be adopted within 2 months after the end of the month to which the statement relates
List of Payments - October and November	

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 15 December 2021

It is proposed that the adoption of the Budget occur as a separate, special meeting of Council. Calling a special meeting provides some flexibility to meet as the Budget is prepared and finalised.

July* - Special	<i>*additional to Ordinary meeting schedule, called as required</i>
5 Year Road Plan - Annual Review	Scheduled for Annual Review to inform the Budget
Corporate Business Plan Review	Scheduled for Annual Review to inform the Budget
Annual Budget adoption	Must adopt by Absolute Majority, between 1 June to 31 August

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.

11.2 ELECTED MEMBER POLICIES REVIEW

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	CM.POL
Date:	29 November 2021
Author:	Erin Greaves, Governance and Community Manager
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirement:	Absolute Majority

Summary

An internal review has been undertaken of Council's Elected Member Policies. As per the Policy Review schedule, these are presented to Council for consideration.

Key Points

- Council last reviewed its Elected Member Policies in December 2019
- The Shire's Policy Review Schedule requires the policies to be reviewed biennially and the Local Government Act 1995 requires certain policies to be reviewed after an ordinary local government election is held
- Any changes proposed are minor and are shown as tracked changes in the attachment

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.2 – RESOLUTION# 06151221

MOVED: Cr CV Farr SECONDED: Cr HR McTaggart

That Council adopts, by Absolute Majority, the amended Elected Member Policies and notes the associated management procedures, as follows:

- 1.1.1 Elected Members Entitlements Policy (*amended*)
- 1.1.2 Elected Member Communications Policy (*amended*)
Elected Member Communications Management Procedure
- 1.1.3 Communication between Elected Members and Staff Policy (*amended*)
Communication between Elected Members and Staff Management Procedure
- 1.1.4 Code of Conduct for Council Members, Committee Members and Candidates
- 1.1.5 Elected Member Training and Professional Development Policy
- 1.1.6 Elected Member and CEO Attendance at Events Policy
- 1.1.7 CEO Standards for Recruitment, Performance and Termination
- 1.1.8 Code of Conduct Behaviour Complaints Management Policy

As provided in the Attachment Booklet – December 2021, for incorporation into Council's Policy Manual.

VOTING REQUIREMENTS:

CARRIED BY ABSOLUTE MAJORITY 6/0

Attachment

11.2.1 Elected Member Polices (with tracked changes)

Background

Council established a Policy Review schedule in December 2019 requiring Elected Member policies to be reviewed, as a minimum every two years, or as required.

Comment

Based on feedback provided by Elected Members at the November Concept Forum, the Elected Member Entitlements Policy has been updated to include provisions around reimbursement of childcare, as per the relevant SAT Determination.

Provision has also been made for Elected Members to purchase obsolete devices i.e. iPads, at the end of their operational life or as replaced.

Small grammatical amendments have been made throughout to reference recent passing of the Local Government (Model Code of Conduct) Regulations 2021, the adopted Shire of Mingenew Code of Conduct and any changes to position titles e.g. Governance Officer to Governance & Community Manager.

Statutory Environment

Local Government Act 1995

5.39C. Policy for temporary employment or appointment of CEO

(1) A local government must prepare and adopt a policy that sets out the process to be followed by the local government in relation to the following —*

- (a) the employment of a person in the position of CEO for a term not exceeding 1 year;*
- (b) the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.*

** Absolute majority required.*

(2) A local government may amend the policy.*

** Absolute majority required.*

(3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.

(4) The CEO must publish an up-to-date version of the policy on the local government's official website.

5.90A. Policy for attendance at events

(1) In this section —

event includes the following —

- (a) a concert;*
- (b) a conference;*
- (c) a function;*
- (d) a sporting event;*
- (e) an occasion of a kind prescribed for the purposes of this definition.*

(2) A local government must prepare and adopt a policy that deals with matters relating to the attendance of council members and the CEO at events, including —*

- (a) the provision of tickets to events; and*
- (b) payments in respect of attendance; and*
- (c) approval of attendance by the local government and criteria for approval; and*
- (d) any prescribed matter.*

** Absolute majority required.*

(3) A local government may amend the policy.*

** Absolute majority required.*

(4) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.

(5) The CEO must publish an up-to-date version of the policy on the local government's official website.

5.128. Policy for continuing professional development

(1) A local government must prepare and adopt a policy in relation to the continuing professional development of council members.*

** Absolute majority required.*

(2) A local government may amend the policy.*

** Absolute majority required.*

(3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.

(4) The CEO must publish an up-to-date version of the policy on the local government's official website.

(5) A local government —

(a) must review the policy after each ordinary election; and

(b) may review the policy at any other time.

Policy Implications

As outlined above.

Financial Implications

Nil

Strategic Implications

Strategic Community Plan 2019-2029

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

11.3 CONSULTATION ON PROPOSED LOCAL GOVERNMENT REFORMS

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: GR.STL.14
Date: 29 November 2021
Author: Nils Hay, Chief Executive Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

To provide Council with the opportunity to submit feedback on the proposed Local Government Reforms, issued by the Department of Local Government, Sport and Cultural Industries in November 2021

Key Points

- The Department of Local Government, Sport and Cultural Industries is seeking feedback on the proposed Local Government Reform
- There are a number of legislative changes proposed across a wide range of local government functions
- Feedback submissions to the Department of Local Government, Sport and Cultural Industries (DLGSC) is due 25 February 2022; WALGA have requested feedback by 28 January 2022 and a Northern Country Zone submission is also proposed to be developed in early February 2022

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.3 – RESOLUTION# 07151221
MOVED: Cr HR McTaggart SECONDED: Cr JD Bagley

That Council:

1. Notes the Local Government Reform – Summary of Proposed Reforms issued by the Department of Local Government, Sport and Cultural Industries; and
2. Endorses the drafted response, Attachment 11.3.1, for submission to DLGSC, WALGA and the Northern Country Zone.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

11.3.1 Summary and Shire of Mingenew Response to Proposed Local Government Reforms

11.3.2 WALGA Draft Response to Proposed Local Government Reforms

Background

In 2017 the State Government announced a review of the *Local Government Act 1995*. The objective of the review is for Western Australia to have a new, modern Act that empowers local governments to better deliver for the community.

Based on the significant volume of research and consultation undertaken over the past five years, the Minister for Local Government has now announced the most significant package of major reforms to local government in Western Australia since the Local Government Act 1995 was passed more than 25 years ago. The package is based on six major themes:

1. Earlier intervention, effective regulation, and stronger penalties
2. Reducing red tape, increasing consistency and simplicity

3. Greater transparency and accountability
4. Stronger local democracy and community engagement
5. Clear roles and responsibilities
6. Improved financial management and reporting.

A large focus on the new reform is oversight and intervention where there are significant problems arising within a local government. The introduction of new intermediate powers for intervention will increase the number of tools available to more quickly address problems and dysfunction within local governments. The proposed system for early intervention has been developed based on similar legislation in place in other jurisdictions, including Victoria and Queensland.

Comment

The proposed reforms are broad in nature. Some proposals will have minimal impact on the Shire of Mingenew, whilst others could be potentially very significant. The majority of the proposals are supported – some only conditionally – whilst several are opposed.

One key feature of the proposed reforms is a long-awaited recognition of size and scale within the local government legislative framework, and different regulatory treatment for Tier 1 & 2 (larger) and Tier 3 & 4 (smaller) local governments. In its response, the Shire of Mingenew is seeking to realise maximum benefit from this new differentiation, by advocating for proposed reforms which reasonably reduce the compliance burden upon small local governments, thereby allowing us to focus our limited resources on delivering value back to our communities.

It is noted that the Shire of Mingenew's response aligns relatively closely with WALGA's draft response; however we go further than WALGA in terms of our advocacy for smaller local government authorities.

Consultation

WALGA

Statutory Environment

Local Government Act 1995

Policy Implications

Nil as a result of this report, there are a range of potential policy implications should the proposed reforms be implemented. In most cases significantly more detail is required to accurately define these implications.

Financial Implications

There are no immediate financial impacts, but once again the implementation of the final reforms will likely have resourcing and financial implications. Again, more detail is required in this area. We have, through our draft response, advocated to minimise the potential resourcing implications as much as practicable.

Strategic Implications

Strategic Community Plan 2019-2029

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

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

11.4 DISPOSAL BY LEASE OF BANK BUILDING AT 50 MIDLANDS ROAD MINGENEW

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: CP.LSO
Date: 30 November 2021
Author: Nils Hay, Chief Executive Officer
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

An EOI campaign has taken place seeking potential lessee to take over the former bank building in Mingenew. One application was received over the campaign, a joint submission from the Mingenew CRC and the North Midlands Project.

Key Points

- Conforming application received, which supports aims of Strategic Community Plan 2019-29
- Seeks to establish The Exchange Mingenew, a community and cultural hub
- If accepted, would seek to relocate CRC's remaining tourist centre activities to Bank building up to 30 June 2022

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.4 – RESOLUTION# 08151221
MOVED: Cr CV Farr SECONDED: Cr GF Pearse

That Council:

1. Endorses the application from the Mingenew CRC and North Midlands Project to rent the Bank Building at 50 Midlands Road Mingenew; and
2. Authorises the Chief Executive Officer to proceed to enter into a lease for the disposal of the building with the Mingenew CRC and North Midlands Project.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

11.4.1 Eol Response – Mingenew CRC and North Midlands Project

Background

Following the closure of the NAB in September 2018, Council embarked on an Eol campaign and awarded a lease to the Hinterland Collaborative in October 2019. With the lessees having recently requested to exit their lease, due to an overseas move, another Eol campaign has taken place.

The Eol was advertised locally through social media, the Mingenew Matters and Shire Website.

Comment

The application from the CRC would support ongoing community and cultural activities in Mingenew and may potentially foster additional tourist services also. Both organisations are not-for-profit in nature and are strategically aligned with the aims of Council's Strategic Community Plan.

Proposed hours of operation would typically be Tuesday to Thursday, 9am to 3pm. If resourced, there is an aspiration to be open seven days during tourist season.

It should be noted that, if successful, the Mingenew CRC will seek to relinquish their lease on the Tourist Centre. Any activities previously planned/promised under that lease agreement will be delivered at the Bank instead.

If this application is accepted, it is anticipated that an EoI for the Tourist Centre will be issued in the near future so that tourist operations in town can be determined further in advance of the season than happened this year.

Consultation

Mingenew CRC
North Midlands Project

Statutory Environment

Local Government Act 1995

Section 3.58 of the *Local Government Act 1995* addresses the disposal of property by lease or sale

- (1) In this section —
 1. dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
 2. property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (2) This section does not apply to —
 - (a) a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; orany other disposition that is excluded by regulations from the application of this section.

Policy Implications

Nil

Financial Implications

As a peppercorn lease has been requested, the Shire will not realise any commercial rental income from the property.

Both applicants have committed some funds (\$7,000 in total) to set up the space.

The applicants have requested the building façade be repainted; this item is proposed to take place in the 2nd half of FY21/22 under the LRCI Phase 3 (see relevant item in this agenda).

It is not clear what additional resourcing would be required to service visitors daily during tourist season, or what expectation there would be upon Council in this space. The current agreement with the CRC to deliver tourist services expires on 30 June 2022, and this matter will be discussed separately as part of 2022/23 budget preparation and in light of a future lease opportunity being publicly advertised for the Tourist Centre.

Strategic Implications

Strategic Community Plan 2019-2029 Strategies

- 1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders
- 2.3.1 Develop arts spaces and programs to enliven community spaces and deepen experiences of visitors and community
- 4.3.2 Support development of Tourism infrastructure to support deepening of local product

Prior to discussion on Item 11.5, Cr GJ Cosgrove disclosed a financial interest as Cosgrove Farming is the current cropping managers for the Airport Reserve on behalf of the Mingenew Sports Club and an Impartiality interest as a member of the Mingenew Sports Club. Cr GJ Cosgrove left the meeting at 4:59pm. Deputy President, Cr JD Bagley presided over the meeting.

Cr GF Pearse, Cr JR Holmes and Cr HR McTaggart indicated an Impartiality Interest as members of the Mingenew Sports Club. Cr JD Bagley also indicated an Impartiality Interest as a member of the Mingenew Football Club and disclosed that his wife (closely associated person) is the President of the Mingenew Turf Club. Cr GF Pearse indicated a further Impartiality Interest as a member of both the Mingenew Bowling Club and Mingenew Golf Club. Those members remained for discussion and decision making on Item 11.5.

PROCEDURAL MOTION AND COUNCIL DECISION - ITEM 11.5 – RESOLUTION# 09151221

MOVED: Cr GF Pearse

SECONDED: Cr CV Farr

That Council, in accordance with 5.68, relevant to Item 11.5 Airport and Rifle Range Cropping Lease Expressions of Interest:

- 1. Notes the following disclosures of interest:**
 - a) Cr GJ Cosgrove disclosure of financial interest, the extent of which is disclosed donation of farm business resources to the cropping of the Airport Reserve (for charitable purposes) and they receive no reward, and any financial benefit/detriment caused by the decision would be immaterial.**
- 2. Determines that the interests disclosed by Cr GJ Cosgrove is so insignificant as to be unlikely to influence the disclosing member's conduct in relation to Item 11.5 Airport and Rifle Range Cropping Lease Expressions of Interest; and**
- 3. Allows:**
 - a) Cr GJ Cosgrove to be present, participate in discussions and vote in decision making for Item 11.5 Airport and Rifle Range Cropping Lease Expressions of Interest, and**
 - b) President Cr GJ Cosgrove to be present, preside, participate in discussions and vote in decision making for Item 11.5 Airport and Rifle Range Cropping Lease Expressions of Interest.**

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 5/0

Cr GJ Cosgrove returned to the meeting at 5:02pm and resumed the role of Presiding Member.

11.5 AIRPORT AND RIFLE RANGE CROPPING LEASE EXPRESSIONS OF INTEREST

Location/Address: Airport Reserve 27425, Mingenew South Road, Mingenew
Rifle Range Reserve 16335, Lot 300 Tip Road, Mingenew
Name of Applicant/s: Mingenew Sports Club, Mingenew Football Club, Mingenew Turf Club and
Mingenew Bowling Club
Disclosure of Interest: Nil
File Reference: CP.LSO.19 (A938) and CP.LSO.16 (A736)
Date: 24 November 2021
Author: Erin Greaves, Governance and Community Manager
Authorising Officer: Nils Hay, Chief Executive Officer
Voting Requirement: Simple Majority

Summary

Following a public notice period for Expressions of Interest for leasing of the cropped portion of the Airport Reserve 27425 and Rifle Range Reserve 16335, Council is to consider submissions and award the leases.

Key Points

- The cropping leases for Airport Reserve 27425 and Rifle Range Reserve 16335 are due to expire 15 December 2021
- An Expression of Interest campaign was undertaken in October / November 2021 to allow Council an opportunity to assess community demand, and creating a more open and transparent process for disposing of the Reserves
- A total of four submissions were received for the cropping leases

OFFICER RECOMMENDATION – ITEM 11.5

That Council:

1. Agrees to dispose of Airport Reserve 27425 and Rifle Range Reserve 16335, by way of a cropping lease for community charity purposes, as follows:

Airport Reserve 27425

_____ [insert applicant name] _____% share

_____ [insert applicant name] _____% share

Rifle Range Reserve 16335

_____ [insert applicant name] _____% share

_____ [insert applicant name] _____% share

For a __-year term, with the option to extend for a further __ years, at an annual lease fee of \$__ ex GST per annum

In accordance with s.3.58 of the *Local Government Act 1995* and Regulation 30 of the *Local Government (Functions and General) Regulations 199*.

2. Authorises the CEO to draft and enter into a formal lease agreement with the above applicants under the conditions stated.

COUNCIL DECISION - ITEM 11.5 – RESOLUTION# 10151221

MOVED: Cr GF Pearse

SECONDED: Cr JD Bagley

That Council:

- 1. Agrees to dispose of Airport Reserve 27425 and Rifle Range Reserve 16335, by way of a cropping lease for community charity purposes, as follows:**

Airport Reserve 27425

Mingenew Turf Club

50% share

Mingenew Sports Club*

50% share

***or the body responsible for management of the Sports Club building**

Rifle Range Reserve 16335

Mingenew Football Club

100% share

For a 5-year term, with the option to extend for a further 5 years, with no annual lease fee.

In accordance with s.3.58 of the *Local Government Act 1995* and Regulation 30 of the *Local Government (Functions and General) Regulations 1996*.

- 2. Authorises the CEO to draft and enter into a formal lease agreement with the above applicants under the conditions stated.**

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

- 11.5.1 Mingenew Turf Club EOI submission and letter
- 11.5.2 Mingenew Football Club EOI submission and letter
- 11.5.3 Mingenew Bowling Club EOI submission
- 11.5.4 Mingenew Sports Club EOI submission
- 11.5.5 Current Airport Reserve Agreement Template

Background

The Rifle Range Reserve and Airport Reserve have historically been leased by the Shire to local community groups to be managed and cropped as a fundraiser for those clubs/groups. The Rifle Range Reserve is currently leased by the Mingenew Football Club and the Airport Reserve is leased jointly by the Mingenew Turf Club and Mingenew Sports Club. There is no record that Council has undergone a public expression of interest process for the lease of these Reserves in the past.

The Agreements were scheduled to expire 30 June 2021 however, correspondence was issued to the current lease holders advising of a proposed extension to 15 December 2021 to ensure the end of a cropping cycle could be captured within the lease period and to allow some flexibility should community needs change and a lease be awarded to a new lessee.

The purpose of seeking Expressions of Interest (EOIs) was to ensure the process of leasing to community groups is open, transparent and allows Council to make an informed decision that is in the best interest of the community.

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Existing lease holders have demonstrated sound capacity to manage the leases to-date and the community have benefited from the management by these groups. Current lessees were provided the opportunity to confirm their interest, capacity and demonstrate community benefit, and were encouraged to outline existing management plans / arrangements by completing the EOI or by providing a written submission; extending upon previous correspondence provided to the Shire in regard to the group's future plans for the cropped area.

EOIs were sought from local community groups interested in taking on the cropping leases via public notice over October and November. EOI submissions closed at 9am on 29 November 2021.

The advertised criteria for assessing submissions was:

- Alignment with Community Strategic Plan and/or your organisation's goals (50%)
- Experience and capacity to responsibly manage land/crop (35%)
- Risk management planning (15%)

The EOI Information Package also outlined: "Submissions that demonstrate an understanding of their organisation, their ability to manage the lease, sound land management practices and offer viable benefits to the community will be considered more highly than writing style and quantity of content."

Comment

Three EOI submissions were received by the deadline from the Mingenew Bowling Club, Mingenew Football Club and Mingenew Turf Club, and a late submission was received from the Mingenew Sports Club (the Shire was contacted prior to the deadline advising of their intent to make a submission but the written submission was expected to be late).

A summary of each submission is provided below:

Mingenew Turf Club	
Date received:	10 November 2021
Proposed structure	Continue to share lease of Airport Reserve 50% share
Term	5 years plus 5-year extension
Proposed Outcomes	<ul style="list-style-type: none"> • Carpet and line internal walls of the office of Turf Club • Replacement of railing • Extend verandah off bar towards the playground
Selection Criteria	
Previous experience / capacity (35%)	Current lessee of Airport Reserve (shared) - for over 30 years Managed by Committee and Erregulla Farms (Daybreak)
Risk Planning (15%)	<ul style="list-style-type: none"> • Insurance • Postpone improvement plans based on yield • Strong volunteer base / Committee
SCP Alignment (50%)	<p><i>Not specified but implied alignment based on previous achievements and proposed outcomes</i></p> <p>1.1.2 Provide buildings, facilities and services to meet community needs</p> <p>2.1.2 Develop health care and recreation services for all the community to ensure the well-being and all age groups within the community</p>

Mingenew Football Club	
Date received:	24 November 2021
Proposed structure	Continue to lease Rifle Range Reserve 100%
Term	5 years plus 5-year extension
Proposed Outcomes	<ul style="list-style-type: none"> • Additional lighting to attract night games • Subsidised fees for members • Administrative costs (insurance, annual maintenance fees etc)

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	<ul style="list-style-type: none"> • Umpires, first aid, sporting equipment
Selection Criteria	
Previous experience / capacity (35%)	Current lessee of Rifle Range Reserve - for over 40 years Managed by Sub-Committee Strong member / volunteer base
Risk Planning (15%)	<ul style="list-style-type: none"> • Sub Committee manages • Strong member / volunteer base tied with association competitions • Outlines good cropping management program • Cost to manage crop is largely covered through sponsorship and donations
SCP Alignment (50%)	1.1.2 Provide buildings, facilities and services to meet community needs 1.1.3 Protect and promote the Shire's diverse culture and heritage 2.1.2 Develop healthcare and recreation services for all community to ensure the well-being and health of all age groups within the community 2.3.3 Enhance our natural and built environment and promote and protect the history and heritage within Mingenew 2.4.1 Support community volunteers to maximise impact of their contributions 4.2.1 Facilitate the sustainability and growth of existing community and regional events, and encourage new ones to develop

Mingenew Bowling Club	
Date received:	29 October 2021
Proposed structure	Propose to share lease of Airport Reserve 50% (Letter of Support provided by Mingenew Turf Club)
Term	5 years plus 5-year extension
Outcomes	<ul style="list-style-type: none"> • New lighting structures to support night games • Upgrade to shelter structures (northern end)
Selection Criteria	
Previous experience / capacity (35%)	Not a current lease holder but previously leased property from P Newton under private arrangement Large farming community member base Strong member base, tied with association competitions
Risk Planning (15%)	<ul style="list-style-type: none"> • Trending successful harvests • Insurance • Majority of member-base from farming industry
SCP Alignment (50%)	Strategy 2 Develop health care and recreation services for all the community to ensure the well-being and all age groups within the community

Mingenew Sports Club	
Date received:	30 November 2021 (<i>received after close of submissions</i>)
Proposed structure	Propose to lease both Airport Reserve and Rifle Range Reserve 100%, and serve as an oversight body for distributing funds to other sporting groups
Term	3 years
Outcomes	<ul style="list-style-type: none"> • \$40,000 per annum to cover repair and maintenance costs to Sports Club building. • Remaining funds distributed to other groups as required, upon application. • Consolidate sporting groups and administration – form management committee to oversee distribution of cropping profits
Selection Criteria	
Previous experience / capacity (35%)	Current lessee (shared) - Airport Reserve Managed by local farming business (Cosgrove Farming Company)

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Risk Planning (15%)	<ul style="list-style-type: none">• Sub-Committee to oversee – cropping managers to have authority• Reserve portion of funds
SCP Alignment (50%)	<i>Not specified but implied alignment based on previous achievements and proposed outcomes</i> Ensure collaboration of sporting groups Transparency

Council has the option to:

- Maintain the status quo - Airport Lease 50% / 50% between the Mingenew Turf Club and Mingenew Sports Club. Rifle Range Reserve leased to Mingenew Football Club.
- Award the Cropping leases to another body to then manage and distribute funds
- Award the cropping leases under a new model / split

Any lease agreement terms and conditions will be captured within a more formal lease agreement document.

Statutory Environment

Local Government Act 1995 s.3.58 Disposal of Property

Local Government (Functions and General) Regulations 1996

30. Dispositions of property excluded from Act s. 3.58

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if —
 - (a) the land is disposed of to an owner of adjoining land (in this paragraph called the transferee) and —
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
 - or
 - (b) the land is disposed of to a body, whether incorporated or not —
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

Policy Implications

Nil.

Financial Implications

It is expected that the leasing out of the cropping leases will have a Nil affect to Council as it is proposed the reserves will be leased at a Nil or "peppercorn" contribution.

Strategic Implications

Strategic Community Plan 2019-2029 Strategies

- 1.2.1 Manage organisation in a financially sustainable manner
- 2.1.1 Develop health care and recreation services for all the community to ensure well-being and health of all age groups within the community
- 2.4.1 Support community volunteers to maximise impact of their contributions
- 2.4.2 Continue programs to improve the look and feel of the community public spaces, places and services to support an active and inclusive lifestyle

Comment

The proposed projects reflect those:

- Previously endorsed by Council through the adoption of the FY21/22 budget and/or Corporate Business Plan
 - o Mingenew Tennis Clubhouse
 - This figure represents Council's co-contribution to the project, along with the Mingenew Tennis Club and CSRFF funding (pending approval)
 - o Town Centre Signage
 - o Transfer Station Monitoring Bores
 - o Childcare Centre Upgrade
 - This figure will be matched by the Mingenew CRC, with other external funding being sought to complete the project
- Previously endorsed by Council through the adoption of the current 5-Year Road Plan
 - o Coalseam Road RRG Project
 - Co-funded by Main Roads WA Road Project Grant
 - o Yandanooka NE Road Works
 - Co-funding will be sought to leverage the LRCI contribution as much as practicable
- Supported by the 2019-29 Strategic Community Plan
 - o Post Office/Bank External Repaint
 - This work was initially budgeted, but diverted to complete emergency septic works during the heavy rain earlier this year

It should be noted (as per the attached project funding allocation list) that some of these items will be completed in FY21/22 and others in FY22/23

Consultation

- Drought Communities Programme project officers
- Councillors

Statutory Environment

Nil

Policy Implications

When conducting final procurement for projects, the Shire's Purchasing Policy requirements must be met. Multiple quotes have already been sought for several of the components, including a tender undertaken for the Daycare Centre project.

Financial Implications

The funding implications of this allocation will be reflected as part of the Budget Review process in early 2022, and development of the FY2022/23 budget – noting that several of the projects are already incorporated in the current budget. No additional allocation of municipal funds is required as part of this project allocation.

Strategic Implications

See various SCP and BCP references on attached project funding allocation list.

11.7 RFT 5 2021/22 – AGRN965-EPAR-WORKS FOR THE SHIRE OF MINGENEW

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: FM.TEN.21.22
Date: 6 December 2021
Author: Nils Hay, CEO
Voting Requirement: Simple Majority

Summary

We have sought tenders for the completion of Essential Public Asset Repair (EPAR) works on Shire of Mingenew Roads, to repair damage relating to Tropical Cyclone Seroja (declared event AGRN965).

Key Points

- RFT issued with two responses
- Both contractors scored well on qualitative considerations
- Works must be completed by 30 June 2023

OFFICER RECOMMENDATION – ITEM 11.7

That Council:

1. Accepts the Tender submission for RFT5 2021/22 AGRN965 EPAR Works for the Shire of Mingenew, received from {_____}, named as Tenderer 1 in the Evaluation Report recommendation detailed in Confidential Attachment 11.7.2 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 RFT5 2021/22 AGRN965 EPAR Works for the Shire of Mingenew 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 RFT5 2021/22 AGRN965 EPAR Works for the Shire of Mingenew with Tenderer 1 identified in Evaluation Panel Report recommendation shown in Confidential Attachment 11.7.2 as the most advantageous, then the Shire of Mingenew accepts the tender submission received from Tenderer 1, identified as the next most advantageous in the Evaluation Panel Report recommendation shown in Confidential Attachment 11.7.2.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.7 – RESOLUTION# 12151221

MOVED: Cr HR McTaggart

SECONDED: Cr JD Bagley

That Council:

1. Accepts the Tender submission for RFT5 2021/22 AGRN965 EPAR Works for the Shire of Mingenew, received from Red Dust Holdings, named as Tenderer 1 in the Evaluation Report recommendation detailed in Confidential Attachment 11.7.2 and identified as the most advantageous for a lump sum of \$2,100,000 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 RFT5 2021/22 AGRN965 EPAR Works for the Shire of Mingenew 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 RFT5 2021/22 AGRN965 EPAR Works for the Shire of Mingenew with Tenderer 1 identified in Evaluation Panel Report recommendation shown in Confidential Attachment 11.7.2 as the most advantageous, then the Shire of Mingenew accepts the tender submission received from Tenderer 1, identified as the next most advantageous in the Evaluation Panel Report recommendation shown in Confidential Attachment 11.7.2.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

11.7.1 Request for Tender Documentation

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

Background

Following Tropical Cyclone Seroja in April 2021 (declared event AGRN965), the Shire's road assets were assessed and a claim for repair work was lodged with the Disaster Relief Funding Arrangements (DRFA). This claim was ultimately accepted, and RFT5 2021/22 released to secure a contractor to complete the work.

As per DRFA guidelines, the works must be completed by 30 June 2023.

Comment

See the attached tender assessment report, prepared by our consulting engineers GHD for details relating to this tender.

Consultation

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

Whilst initially budgeted for in the FY21/22 budget, it is likely that these works will be completed across FY21/22 and FY22/23. The Shire will work with the successful tenderer and project superintendent to determine the appropriate cost breakdown and amend the budget accordingly as part of the budget review process.

The works completed through this program will be claimed back through DRFA, with the project superintendent to manage claims and acquittals.

Strategic Implications

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Strategic Community Plan 2019-2029:

1.1.1 Provide and support cost effective transport networks

11.8 RFT 6 2021/22 – MINGENEW RAILWAY STATION RENOVATION

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: FM.TEN.21.22
Date: 6 December 2021
Author: Nils Hay, CEO
Voting Requirement: Simple Majority

Summary

We have sought tenders for the restoration of the Mingenew Railway Station, a project to be jointly funded by the Shire, Building Better Regions Fund and LotteryWest

Key Points

- RFT issued with one response
- Single respondent meets tender requirements
- Capacity to reduce project costs by \$10,00-\$15,000 through provision of Shire accommodation
- Given ongoing cost increases in construction sector, timely awarding of the contract is desirable

OFFICER RECOMMENDATION – ITEM 11.8

That Council:

1. Accepts the Tender submission for RFT6 2021/22 Mingenew Railway Station Renovation, received from {____}, named as Tenderer 1 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 Railway Station Renovation before and / or after its execution in accordance Regulations 20 and 21A of the Local Government (Functions and General) Regulations 1996.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.8 – RESOLUTION# 13151221

MOVED: Cr CV Farr SECONDED: Cr HR McTaggart

That Council:

1. Accepts the Tender submission for RFT6 2021/22 Mingenew Railway Station Renovation, received from Building Base, named as Tenderer 1 in the Evaluation Report recommendation detailed in Confidential Attachment 11.3.2 and identified as the most advantageous for a lump sum of \$340,443 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 Railway Station Renovation before and / or after its execution in accordance Regulations 20 and 21A of the Local Government (Functions and General) Regulations 1996.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

11.8.1 Request for Tender Documentation

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

Background

After securing Building Better Regions Fund (BBRF) Round 4 funding for this project, the Shire undertook RFT2 2020/21 in April 2021. That tender process revealed that construction costs had risen significantly since the initial cost project cost estimates were undertaken. As a result, the tender was not awarded and additional funding was sought.

In November 2021, further funding was secured through LotteryWest and the project was retendered. This time, only a single response was received (attached).

Comment

Tenderer 1 has provided a compliant response, that is close to the budgeted figure for the project (which was based upon previous tender responses from RFT2 2020/21). Given the currently volatile nature of the building industry, this figure appears to be reasonable.

More detail regarding the suitability of the tenderer is provided in the attached Evaluation Report.

Consultation

Eastman Poletti Sherman Architects (preparation of tender documentation)
Lotterywest

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 project initially had \$200,000 budgeted in the current financial year, with an additional \$108,000 secured through Lotterywest, as such budget amendment was going to be required for this project.

The preferred tender amount is above the budgeted amount with the addition of Lotterywest funding.

Through initial enquiries made with the tenderer, it may be possible to reduce the overall project cost by \$10,000-\$15,000 by renting them a vacant Shire-owned house, rather than having them commercially accommodated.

At the same time, we have approached Lotterywest about potentially jointly increasing their contribution to the project if the Shire is required to do so. This application is going to their 16 December 2021 Board Meeting.

If this tender is accepted, additional funds may need to be allocated to the project through the budget review process, or minor variations to scope may be required to bring the project with the current budget. These negotiations can take place ahead of the budget review in early 2022.

Strategic Implications

Strategic Community Plan 2019-2029:

Strategy 4 KPI:

1 x Railway precinct development and exchange, hub, arts space development

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 30 November 2021	
Municipal Funds – Corporate cheque account	\$198,254
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$3,634,467
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 NOVEMBER TO 30 NOVEMBER 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: FM.CRD
Attachment/s: List of Payments – November 2021
Disclosure of Interest: Nil
Date: 7 December 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 November to 30 November 2021 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.2 – RESOLUTION# 15151221
MOVED: Cr CV Farr SECONDED: Cr JR Holmes

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

\$429,806.42 Municipal EFTs;
\$30,808.95 Municipal Direct Debit Department of Transport (Licencing) Payments;
\$26,670.34 Municipal Direct Debit Other;
\$1,291.64 Municipal Other Charges;
\$74,885.97 Net Salaries
\$563,463.32 Total Payments

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Background

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

Comment

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

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

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 15 December 2021

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 RECORDKEEPING PLAN 2021

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: IM.REC.3
Attachment/s: Recordkeeping Plan 2021
Disclosure of Interest: Nil
Date: 29 November 2021
Author: Helen Sternick, Senior Finance Officer
Authorising Officer: Jeremy Clapham, Finance & Administration Manager
Voting Requirement: Simple Majority

Summary

To adopt the reviewed and amended Shire's Recordkeeping Plan.

Key Points

- The last Recordkeeping Plan prepared by the Shire was adopted in February 2015
- Local Governments are required to undertake a review of the Plan every 5 years
- A review was done in August 2020 and submitted to the State Records Office and an updated Plan was submitted in October 2021
- The State Records Office has reviewed the updated Plan and it is now presented to Council for formal adoption

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.3 – RESOLUTION# 16151221
MOVED: Cr CV Farr SECONDED: Cr HR McTaggart

That Council adopt the Shire of Mingenew Recordkeeping Plan 2021, provided under separate cover, and endorse the submission of this Plan to the State Records Office.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Attachment

12.3.1 Record Keeping Plan

Background

The Shire of Mingenew developed a Recordkeeping Plan (RKP), as required by the State Records Act 2000 and Council adopted the first version on 21 February 2007. The current RKP was approved at the Ordinary Council Meeting held on 18 February 2015 and approved by the State Records Commission on 7 August 2015.

Under the State Records Act 2000, the Recordkeeping Plan is to be reviewed at least once every five years of the approval date and a report of the review submitted to the State Records Commission. The purpose of the review is to enable government organisations to comply with Section 28 of the Act and to ensure that their recordkeeping systems are continually evaluated and improved in order to meet compliance requirements. The Recordkeeping Plan 2015 has been reviewed and amended to reflect the changes to current policies and procedures.

Comment

The current RKP 2015 has been reviewed and amended to reflect the changes in records management legislation, practices and processes. The RKP 2015 identified various areas of improvement including the

development of policies, procedures and staff training. Major improvement of these areas of deficiencies have occurred resulting in an amended RKP to reflect the changes and/or development.

The amended RKP 2021 was forwarded to the State Records Office for their approval on Thursday 28 October 2021.

The State Records Office approved the amended RKP 2021 at its meeting on 16 November 2021, the next review is due by 16 November 2026.

Consultation

State Records Office.

Statutory Environment

State Records Act 2000. Section 28.

Policy Implications

1.2.1 Records Management Policy.

Financial Implications

Nil.

Strategic Implications

Strategic Community Plan 2019-2029 Strategies

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

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 15 December 2021

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

15.0 CONFIDENTIAL ITEMS

Nil.

16.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 16 February 2022 commencing at 5.00pm.

17.0 CLOSURE

The meeting was closed at 5:31pm.

These minutes were confirmed at an Ordinary Council meeting on 16 February 2022.

Signed _____
Presiding Officer

Date: _____