



# **MINUTES OF THE ORDINARY COUNCIL MEETING**

**20 APRIL 2022**

## MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

### TABLE OF CONTENTS

1.0	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS .....	3
2.0	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE.....	3
3.0	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	3
4.0	PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME .....	3
5.0	APPLICATIONS FOR LEAVE OF ABSENCE .....	3
6.0	PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS .....	3
7.0	CONFIRMATION OF PREVIOUS MEETING MINUTES .....	4
7.1	<b>ORDINARY COUNCIL MEETING HELD 16 FEBRUARY 2022 .....</b>	<b>4</b>
8.0	ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION.....	4
9.0	DECLARATIONS OF INTEREST .....	4
10.0	RECOMMENDATIONS OF COMMITTEES .....	4
10.1	SHIRE OF MINGENEW BUSH FIRE ADVISORY COMMITTEE .....	4
10.1.1	MINUTES OF THE BUSH FIRE ADVISORY COMMITTEE MEETING HELD 14 MARCH 2022	4
10.1.2	ELECTION OF OFFICERS FOR THE 2022/23 FIRE SEASON .....	4
10.1.3	NOMINATIONS FOR SHIRE OF MINGENEW BUSHFIRE CONTROL OFFICERS.....	5
11.0	CHIEF EXECUTIVE OFFICER .....	6
11.1	COUNCILLOR RESIGNATION AND EXTRAORDINARY ELECTION 2022.....	6
11.2	NEW WORK HEALTH AND SAFETY POLICY – LEGISLATION HARMONISATION.....	12
11.3	LOCAL HERITAGE SURVEY – DRAFT FOR PUBLIC CONSULTATION.....	15
11.4	PROPOSED OUTBUILDING – 46 (LOT 111) VICTORIA ROAD .....	18
11.5	ATTRACTION AND RETENTION PLAN.....	26
11.6	COUNCIL POSITION PAPER: POWER RESTORATION DURING FIRE SEASON.....	28
11.7	RFT 8 2021/22 – MINGENEW-MULLEWA ROAD LINEMARKING AND RRPM WORKS .....	30
11.8	RFT 9 2021/22 – SUPPLY & DELIVERY OF PRIME MOVER TRUCK.....	32
12.0	FINANCE .....	34
12.1	FINANCIAL REPORT FOR THE PERIOD ENDED 28 FEBRUARY 2022.....	34
12.2	FINANCIAL REPORT FOR THE PERIOD ENDED 31 MARCH 2022 .....	37
12.3	LIST OF PAYMENTS FOR THE PERIOD 1 FEBRUARY 2022 TO 31 MARCH 2022.....	40
13.0	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....	42
14.0	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING .....	42
14.1	<b>LATE ITEM - CEO RECRUITMENT PROCESS.....</b>	<b>43</b>
15.0	CONFIDENTIAL ITEMS .....	47
16.0	TIME AND DATE OF NEXT MEETING .....	47
17.0	CLOSURE .....	47



**MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN COUNCIL CHAMBERS ON  
20 APRIL 2022 COMMENCING AT 5.00PM**

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

Cr GJ Cosgrove, Presiding Member declared the meeting open at 5.00pm.

**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 AR Smyth	Councillor

**Staff**

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

**Members of the Gallery**

Nil

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

Nil.

**4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME**

Nil

**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 16 FEBRUARY 2022

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 7.1 – RESOLUTION# 01200422

MOVED: Cr HR McTaggart

SECONDED: Cr CV Farr

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 16 February 2022 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

Nil.

10.0 RECOMMENDATIONS OF COMMITTEES

10.1 SHIRE OF MINGENEW BUSH FIRE ADVISORY COMMITTEE

OFFICER RECOMMENDATION AND COUNCIL DECISION EN BLOC- ITEM 10.1 – RESOLUTION# 02200422

MOVED: Cr JR Holmes

SECONDED: Cr AR Smyth

10.1.1 MINUTES OF THE BUSH FIRE ADVISORY COMMITTEE MEETING HELD 14 MARCH 2022

That the Minutes of the Shire of Mingenew Bush Fire Advisory Committee Meeting held on 14 March 2022 be received.

10.1.2 ELECTION OF OFFICERS FOR THE 2022/23 FIRE SEASON

That Council appoints the following persons to the position of Captain or Deputy Captain for the following Bush Fire Brigades:

Yandanooka

- a) Captain: Nick Duane
- b) Deputy Captain: Justin Bagley

Lockier

- a) Captain: VACANT
- b) Deputy Captain: VACANT

Guranu

- a) Captain: Ben Cobley
- b) Deputy Captain: Gavin Elsegood

Mingenew North

- a) Captain: Alex Pearse
- b) Deputy Captain: Andrew Green

Mingenew Town

- a) Captain: Anthony Smyth
- b) Deputy Captain: Trevor Anderson

10.1.3 NOMINATIONS FOR SHIRE OF MINGENEW BUSHFIRE CONTROL OFFICERS

That Council:

1. Appoints Murray Thomas Chief Bushfire Control Officer for the Shire of Mingenew;
2. Appoints Nick Duane Deputy Chief Bushfire Control Officer for the Shire of Mingenew.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

11.0 CHIEF EXECUTIVE OFFICER

11.1 COUNCILLOR RESIGNATION AND EXTRAORDINARY ELECTION 2022

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: GV.ELE  
Date: 1 April 2022  
Author: Erin Greaves, Governance & Community Manager  
Authorising Officer: Nils Hay, Chief Executive Officer  
Voting Requirements: Absolute Majority

Summary

Following receipt of a resignation from Cr Gavin Pearse, Council is required to set a date for an Extraordinary Election.

Key Points

- Cr Gavin Pearse submitted his resignation on and effective from 1 April 2022
- Section 4.57 of the Local Government Act 1995 requires that an extraordinary election be held to fill the vacancy
- The vacancy has occurred in a non-election year therefore the Shire may hold an extraordinary election or seek approval from the Electoral Commissioner to hold the vacancy until the next ordinary local government election
- The statutory election timeframe requires that the polling day for an extraordinary election is held between 2 July and 1 August 2022 – it is proposed that the Election Day be scheduled for 13 July 2022

**OFFICER RECOMMENDATION – ITEM 11.1**

**MOVED:** Cr CV Farr                      **SECONDED:** Cr HR McTaggart

**That Council:**

1. Acknowledges the resignation received by the CEO from Cr Gavin Pearse on 1 April 2022 (effective immediately);
2. By Absolute Majority decision, seeks approval from the Electoral Commissioner to allow the vacancy to remain unfilled until the next local government ordinary election (21 October 2023).

Should the Electoral Commissioner not grant approval for the position to remain vacant until the next election, Council:

- a) Conducts an in-person Extraordinary Election to fill the vacancy, with the term ending 18 October 2025; and
- b) Sets 13 July 2022 as the Extraordinary Election date (polling day), as per s.4.9(b) of the *Local Government Act 1995*.

**VOTING REQUIREMENTS:**

**MOTION LOST 0/6**

**PROPOSED AMENDMENT – ITEM 11.1**

**MOVED:** Cr HR McTaggart

**SECONDED:** -*No seconder received*

That Council:

1. Acknowledges the resignation received by the CEO from Cr Gavin Pearse on 1 April 2022 (effective immediately);
2. Conducts an in-person Extraordinary Election to fill the vacancy, with the term ending 18 October 2025; and
3. Sets 13 July 2022 as the Extraordinary Election date (polling day), as per s.4.9(b) of the *Local Government Act 1995*.
4. If unsuccessful in electing a candidate after holding an Extraordinary Election as above, by Absolute Majority decision, seeks approval from the Electoral Commissioner to allow the vacancy to remain unfilled until the next local government ordinary election (21 October 2023).

**VOTING REQUIREMENTS:**

**MOTION LAPSED**

**AMENDMENT TO THE MOTION – ITEM 11.1 – RESOLUTION# 03200422**

**MOVED:** Cr JD Bagley

**SECONDED:** Cr HR McTaggart

That Council:

1. removes from Point 2 of the Officer's Recommendation, "By Absolute Majority decision, seeks approval from the Electoral Commissioner to allow the vacancy to remain unfilled until the next local government ordinary election (21 October 2023).

Should the Electoral Commissioner not grant approval for the position to remain vacant until the next election, Council:" and

2. Changes 2. a) and b) to become Point 2. and 3. respectively.

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

**AMENDED MOTION AND COUNCIL DECISION - ITEM 11.1 – RESOLUTION# 04200422**

**MOVED:** Cr JD Bagley

**SECONDED:** Cr JR Holmes

That Council:

1. Acknowledges the resignation received by the CEO from Cr Gavin Pearse on 1 April 2022 (effective immediately);
2. Conducts an in-person Extraordinary Election to fill the vacancy, with the term ending 18 October 2025; and
3. Sets 13 July 2022 as the Extraordinary Election date (polling day), as per s.4.9(b) of the *Local Government Act 1995*.

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

### **Background**

The CEO received written notification of Cr Gavin Pearse's resignation on Friday, 1 April 2022, effective immediately. As outlined in s4.8, should the office of a councillor become vacant i.e. by resignation under s.2.32(b), an extraordinary election is to be held.

Section 4.17 indicates that if the Shire has no wards and at least 80% of the number of offices of Council remain filled, Council may seek approval from the Electoral Commissioner to keep the position vacant until the next ordinary election date which is 21 October 2023.

If Council decides to hold an extraordinary election for the vacant position, the polling day must be held at least 92 days from when the vacancy occurs but within 4 months of the resignation, taking into account sufficient time to plan and comply with electoral requirements.

### **Comment**

Given that the Shire had difficulties in filling one of the vacant positions in the 2021 Ordinary Election and was required to conduct an Extraordinary election immediately after, the additional cost to conduct an election again now and the likelihood of finding one or more suitable candidates is low. Therefore, it is recommended the position remain vacant until next years' election.

Should Council wish to proceed with an Extraordinary Election, or the Electoral Commissioner does not grant permission for the position to remain vacant until the October Elections in 2023, a number of scenarios are presented in the table below for the timing of the Election Day.

The Shire would need to hold the Election Day prior to 1 August 2022 to comply with s.4.9(2) (within 4 months of 1 April 2022). The Election could be held as early as 2 July, but the decision is not being presented to Council until 20 days after the resignation therefore, there is insufficient time to consider an alternative election method (if desired). Based on the above, 13 July is the earliest date the Shire could hold an Election (Election Day). The latest date the Shire could hold the election is Friday, 29 July 2022.

It is also recommended the Election day be set on a Wednesday, Thursday or Friday to limit additional staffing requirements / costs and avoid key dates falling on a weekend day (Saturday or Sunday).

Key Actions	Proposed Election Dates			
	Wednesday 5 July 2022	Wednesday 13 July 2022	Thursday 14 July 2022	Wednesday 27 July 2022
Last day to determine if Electoral Commissioner is to conduct the election	16/04/2022	24/04/2022	26/04/2022	08/05/2022
Notice of time and date for close of enrolments	10/05/2022	18/05/2022	20/05/2022	01/06/2022
Notice of call for nominations	10/05/2022	18/05/2022	20/05/2022	01/06/2022
Close of electoral rolls	16/05/2022	24/05/2022	26/05/2022	07/06/2022
Nominations open	22/05/2022	30/05/2022	01/06/2022	13/06/2022
Nominations close	29/05/2022	06/06/2022	08/06/2022	20/06/2022
Last day to prepare electoral rolls	30/05/2022	07/06/2022	09/06/2022	21/06/2022
Election Day	05/07/2022	13/07/2022	15/07/2022	27/07/2022

The Ordinary Council meeting in June is scheduled for 15 June 2022 and is not likely to be impacted by the Election timeline.



Council do not have an Ordinary Council meeting scheduled in July, although a special meeting may be held to consider the 2022/23 Annual Budget and a Concept Forum will be held 20 July 2022. If the election date is set before 20 July, Council could use this meeting to swear in the new Councillor and would provide them with a month to receive an induction and become familiar with Council requirements before attending a formal Council meeting.

### **Statutory Environment**

*Local Government Act 1995*

#### **2.31. Resignation**

- (1) *An elector mayor or president may resign from the office of mayor or president.*
- (2) *A councillor may —*
  - (a) *resign from the office of councillor;*
  - (b) *resign from the office of councillor mayor or president, deputy mayor or deputy president.*
- (3) *Written notice of resignation is to be signed and dated by the person who is resigning and delivered to the CEO.*
- (4) *The resignation takes effect from the date of delivery of the notice or from a later day specified in the notice.*

#### **2.32. How extraordinary vacancies occur in offices elected by electors**

*The office of a member of a council as an elector mayor or president or as a councillor becomes vacant if the member —*

- (a) *dies; or*
- (b) *resigns from the office; or*
- (c) *does not make the declaration required by section 2.29(1) within 2 months after being declared elected to the office; or*
- (d) *advises or accepts under section 2.27 that he or she is disqualified, or is declared to be disqualified by the State Administrative Tribunal acting on an application under section 2.27; or*
- (da) *is disqualified by an order under section 5.113, 5.117 or 5.119 from holding office as a member of a council; or*
- (db) *is dismissed under section 8.15L or 8.25(2); or*
- (e) *becomes the holder of any office or position in the employment of the local government; or*
- (f) *having been elected to an office of councillor, is elected by the electors to the office of mayor or president of the council.*

### **Division 4 — Extraordinary elections**

#### **4.8. Extraordinary elections**

- (1) *If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32 an election to fill the office is to be held.*
- (2) *An election is also to be held under this section if section 4.57 or 4.58 so requires.*
- (3) *An election under this section is called an extraordinary election.*

#### **4.9. Election day for extraordinary election**

- (1) *Any poll needed for an extraordinary election is to be held on a day decided on and fixed —*
  - (a) *by the mayor or president, in writing, if a day has not already been fixed under paragraph (b); or*
  - (b) *by the council at a meeting held within one month after the vacancy occurs, if a day has not already been fixed under paragraph (a).*
- (2) *The election day fixed for an extraordinary election is to be a day that allows enough time for the electoral requirements to be complied with but, unless the Electoral Commissioner approves or section 4.10(b) applies, it cannot be later than 4 months after the vacancy occurs.*
- (3) *If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —*

- (a) *fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and*
- (b) *advise the CEO of the day fixed.*

**4.10. Extraordinary election can be held before resignation has taken effect**

*If a member resigns —*

- (a) *the vacancy is to be regarded for the purposes of sections 4.8(1) and 4.9 as occurring when the CEO receives the notice of resignation even if the resignation takes effect on a later day; but*
- (b) *the election day fixed for the extraordinary election cannot be earlier than one month before the resignation actually takes effect.*

**4.16. Postponement of elections to allow consolidation**

- (1) *This section modifies the operation of sections 4.8, 4.9 and 4.10 in relation to the holding of extraordinary elections.*
- (2) *If a member's office becomes vacant under section 2.32 (otherwise than by resignation) on or after the third Saturday in July in an election year and long enough before the ordinary elections day in that year to allow the electoral requirements to be complied with, any poll needed for the extraordinary election to fill the vacancy is to be held on that ordinary election day.*
- (3) *In the case of a member's office becoming vacant under section 2.32 by resignation, if —*
  - (a) *the resignation takes effect, or is to take effect, on or after the third Saturday in July in an election year but not later than one month after the ordinary elections day in that year; and*
  - (b) *the CEO receives notice of the resignation long enough before that ordinary elections day to allow the electoral requirements to be complied with, any poll needed for the extraordinary election to fill the vacancy is to be held on that ordinary elections day.*
- (4) *If a member's office becomes vacant under section 2.32 —*
  - (a) *after the third Saturday in January in an election year; but*
  - (b) *before the third Saturday in July in that election year, the council may, with the approval of the Electoral Commissioner, fix the ordinary elections day in that election year as the day for holding any poll needed for the extraordinary election to fill that vacancy.*

**4.17. Cases in which vacant offices can remain unfilled**

- (1) *If a member's office becomes vacant under section 2.32 on or after the third Saturday in July in the election year in which the term of the office would have ended under the Table to section 2.28, the vacancy is to remain unfilled and the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*
- (2) *If a member's office becomes vacant under section 2.32 —*
  - (a) *after the third Saturday in January in the election year in which the term of the office would have ended under the Table to section 2.28; but*
  - (b) *before the third Saturday in July in that election year, the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*
- (3) *If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow\* the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

*\* Absolute majority required.*

*(4A) Subsection (3) applies —*

- (a) *if —*
  - (i) *the office is for a district that has no wards; and*

- (ii) *at least 80% of the number of offices of member of the council in the district are still filled; or*
- (b) *if —*
  - (i) *the office is for a ward for which there are 5 or more offices of councillor; and*
  - (ii) *at least 80% of the number of offices of councillor for the ward are still filled.*
- (4) *If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.*

#### **4.61. Choice of methods of conducting election**

- (1) *The election can be conducted as a —*
  - postal election** *which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or*
  - voting in person election** *which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.*
- (2) *The local government may decide\* to conduct the election as a postal election.*  
*\* Absolute majority required.*
- (3) *A decision under subsection (2) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.*
- (4) *A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration*
- (5) *A decision made under subsection (2) on or before the 80th day before election day cannot be rescinded after that 80th day.*
- (6) *For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.*
- (7) *Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.*

#### **Policy Implications**

Nil.

#### **Financial Implications**

Should the position remain vacant to 2023, there will some savings in not paying Elected Member Fees.

Should an Extraordinary Election be held there will be some postage, printing, administration and advertising costs.

Typically, the Shire of Mingenew has conducted elections as voting in-person elections rather than a postal election, as per s.4.61 of the Act. The cost of conducting a postal election is comparatively high (mainly due to additional postage costs) and there have been reasonable participation rates for previous local government elections held in person for the Shire of Mingenew.

#### **Strategic Implications**

Strategic Community Plan 2019-29

- 1.1.3 Protect and promote the Shire's diverse culture and heritage
- 2.3.3 Enhance our natural and built environment and promote and protect the history and heritage within Mingenew

## 11.2 NEW WORK HEALTH AND SAFETY POLICY – LEGISLATION HARMONISATION

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	PE.OSH.5
Date:	4 April 2022
Author:	Erin Greaves, Governance & Community Manager
Authorising Officer:	Nils Hay, Chief Executive Officer
Voting Requirements:	Simple Majority

## Summary

Following the commencement of the new *Work Health and Safety Act 2020*, the Shire is working through its suite of policy and procedure documents to align with legislation changes. A new Work Health and Safety Policy is proposed to replace Council's existing Occupational Health, Safety and Environment Policy to clarify its commitment to maintaining a safe work environment and systems to reflect the Act and associated regulations.

### Key Points

- The new Work Health and Safety Act 2020 and Regulations came into effect 31 March 2022
- The new Act and Regs combine health and safety law for all industries and are harmonised with other States and Territories
- The existing Occupational Health, Safety and Environment Policy has been updated to reflect the legislation change and provides clarification of responsibilities

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.2 – RESOLUTION# 05200422  
MOVED: Cr CV Farr                      SECONDED: Cr AR Smyth

That Council adopts the new 1.2.5 'Work Health and Safety Policy' (as attached) in accordance with the new *Work Health and Safety Act 2020* and associated regulations for incorporation into Council's Policy Manual, replacing the 1.2.5 'Occupational Health, Safety and Environment Policy' last reviewed 16 December 2018.

**VOTING REQUIREMENTS:** CARRIED BY SIMPLE MAJORITY 6/0

## Attachments

### 11.2.1 Current Policy 1.2.5 Occupational Health Safety and Environment Policy

### 11.2.2 Proposed new Policy 1.2.5 Work Health and Safety Policy

## Background

The Department of Mines, Industry Regulation and Safety (DMIRS) have developed an Overview of the new *Work Health and Safety Act 2020* (the Act) which is available at [https://www.dmirs.wa.gov.au/sites/default/files/atoms/files/overview\\_wa\\_whs\\_act\\_0\\_0.pdf](https://www.dmirs.wa.gov.au/sites/default/files/atoms/files/overview_wa_whs_act_0_0.pdf).

As indicated in the Guide above, the key features of the WHS Act are:

- The primary duty holder is the 'person conducting a business or undertaking' (PCBU) which is intended to capture a broader range of contemporary workplace relationships.
- A primary duty of care requiring PCBUs to, so far as is reasonably practicable, ensure the health and safety of workers and others who may be affected by the carrying out of work.
- Duties of care for persons who influence the way work is carried out, as well as the integrity of products used for work, including the providers of WHS services.

## MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

- A requirement that ‘officers’ exercise ‘due diligence’ to ensure compliance.
- The new offence of industrial manslaughter, which provides substantial penalties for PCBU’s where a failure to comply with a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.
- The voiding of insurance coverage for WHS penalties, and imposition of penalties for providing or purchasing this insurance.
- The introduction of WHS undertakings, which are enforceable, as an alternative to prosecution.
- Reporting requirements for ‘notifiable incidents’ such as the serious illness, injury or death of persons and dangerous incidents arising out of the conduct of a business or undertaking.
- A framework to establish a general scheme for authorisations such as licences, permits and registrations (for example, for persons engaged in high risk work or users of certain plant or substances), including provisions for automated authorisations.
- Provision for consultation on WHS matters, participation and representation.
- Provision for the resolution of WHS issues.
- Protection against discrimination for those who exercise or perform or seek to exercise or perform powers, functions or rights under the Act.
- Provision for enforcement and compliance, including a compliance role for WHS inspectors.
- Establishment of Western Australia’s peak tripartite consultative bodies:
  - Work Health and Safety Commission (WHSC), replacing the Commission for Occupational Safety and Health (COSH)
  - Mining and Petroleum Advisory Committee (MAPAC), replacing the Mining Industry Advisory Committee (MIAC), which covered mining only.

Under the new legislation, local governments are considered a PCBU, replacing the term ‘employer’ in previous legislation. An ‘officer’, in the new legislation, is a person who makes, or participated in making, decisions that affect the whole, or a substantial part, or the business or undertaking e.g. CEO’s, Managers. And a ‘worker’ is classified as all other employees, contractors, volunteers to capture working relationships. All persons have a responsibility to exercise positive due diligence so far as reasonably practicable.

The new legislation also outlines a specific responsibility for identifying and mitigating psychological hazards.

### Comment

In order to reinforce the organisational commitment to the legislation’s intended top-to-bottom, side-to-side and bottom-to-top approach to work health and safety, the Policy has been reviewed and amended, and includes responsibilities for each tier of the organisation.

It is necessary for Council to review its policies on a regular basis to ensure they remain relevant and any changes to legislation are considered.

WorkSafe WA have recently revealed that they will ‘adopt a supportive and educative approach’ to technical or low risk breaches over the next 12 months to assist workplaces, however this will only be in relation to ‘new’ duties involving significant change.

### Consultation

LGIS

### Statutory Environment

Local Government Act 1995

Work Health and Safety Act 2020

Work Health and Safety (General) Regulations 2022

**Policy Implications**

The adoption of a new Policy under the new legislation means that the existing Policy 1.2.5 Occupational Health, Safety and Environment will be replaced.

According to Council's Policy review schedule, the Shire's Occupational Health Safety and Environment Policy was due for review in November 2022 (originally adopted 21 March 2018 and last reviewed in December 2020). It was necessary however, to consider changes to align with the timing of the new Work Health and Safety Act 2020 and Regulations to come into force.

**Financial Implications**

There are no financial implications identified with regard to adopting a replacement policy.

**Strategic Implications**

Strategic Community Plan 2019-29

- 1.2.3 Provide sound corporate governance of Shire and create an attractive work environment
- 1.3.2 Provide services and processes to enhance public safety

### 11.3 LOCAL HERITAGE SURVEY – DRAFT FOR PUBLIC CONSULTATION

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** DB.REG.2  
**Date:** 25 March 2022  
**Author:** Erin Greaves, Governance & Community Manager  
**Authorising Officer:** Nils Hay, Chief Executive Officer  
**Voting Requirements:** Simple Majority

#### Summary

To consider the draft Local Heritage Survey and make it available for public comment.

#### Key Points

- Local heritage surveys (formerly local heritage inventories or municipal inventories) identify and record places that are, or that might become, of cultural heritage significance
- The Shire last undertook a review in 1996 when the Municipal Inventory of Heritage Places was developed
- The local heritage survey (LHS) is a starting resource for local heritage planning and in itself has no statutory role. The LHS helps local governments make decisions that reflect local heritage values and supports the creation of a heritage list or heritage areas, which identify places to be protected under the Local Planning Scheme.
- Having an updated Local Heritage Survey will demonstrate to funding providers the Shire's priorities in terms of cultural heritage and will assist in supporting future grant applications.

#### **OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.3 – RESOLUTION# 06200422**

**MOVED:** Cr HR McTaggart

**SECONDED:** Cr JD Bagley

#### **That Council:**

1. Endorses the draft Local Heritage Survey, as presented; and
2. Invites public comment, with submissions closing 9am Monday, 23 May 2022.

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

#### Attachments

11.3.1 Local Heritage Survey – Primary Report

11.3.2 Local Heritage Survey – Appendix 1 (Local Heritage Survey)

11.3.3 Local Heritage Survey – Appendix 2 (Heritage List)

#### Background

Laura Gray of Heritage Intelligence (WA) has been contracted to undertake a review of the 1996 Shire of Mingenew Municipal Inventory of Heritage Places, with a view to forming a new Local Heritage Survey (LHS) that identifies and prioritises places of local heritage significance. The LHS also includes a Heritage List that provides some protection and management guidance for the identified places under the Shire's Local Planning Scheme.

The review is undertaken in consideration of the Department of Planning, Lands and Heritage's guidelines, 'Criteria for the assessment of local heritage places and areas as recommended in 'State Planning Policy 3.5 Historic Heritage Conservation'.

## MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

Assessments determine levels of significance for each place in consideration of the overall context of the Shire's towns and district. The levels of significance are consistent with the required categories under the *Heritage Act 2018*, including aesthetic, historic, research and social value and considers rarity and representativeness (see pages 3-4 of the Draft LHS for definitions).

Places considered for the Heritage List will be split into categories of significance. Category 1 places are those which are considered to have exceptional cultural heritage significance to the Shire of Mingenew and the State of Western Australia, with all development applications to be referred to the Heritage Council before any works commence. Any places proposed for the Heritage List that are considered Category 2 places, will have protection and recognition through the Shire of Mingenew's Planning Scheme and will require a development application to be submitted prior to any works are undertaken. Category 3 and 4 places have no constraints on development however minor requirements may apply if a planning application is submitted.

Laura initially presented an overview of the LHS process to Councillors in July 2021 and discussed the implications associated with developing the Heritage List. Since then, a full review of the Municipal Inventory was undertaken and a draft LHS prepared. Laura then presented on the prepared draft Local Heritage Survey in March 2022.

The draft report comprises recommendations for the Local Heritage Survey and the places within that survey that form the Heritage List for conservation guidance through the provisions of the Shire's planning scheme and a local planning policy.

### Comment

105 places are recommended in the draft Local Heritage Survey, most of which were mentioned in the 1996 heritage inventory. Some places still require information to identify and/or inform of their history.

The draft LHS identifies 1 place of local and State significance (Category 1) to be included on the Heritage List; incorporating sites that form part of the Mingenew Police Station group (including the Police Station, old Courthouse and Residence).

Council's endorsement of the draft report for community consultation is an important part of the review process as it engages with the community to further understand, provide information, make corrections and amend the draft document. Laura Gray has advised that she would welcome the opportunity to discuss any implications or proposed changes with property owners or interested community members or groups, particularly with regard to the proposed Heritage List.

Public submissions will be open for a three week period to allow for submissions to be collated and considered for the final Local Heritage Survey and Heritage List to be prepared for the June Ordinary Council meeting.

### Consultation

Laura Gray, Heritage Intelligence (WA)

There has been no broad consultation with community members to-date. As stated, the community consultation is an important element in finalising the Plan and will commence with direct contact with affected landowners, the Mingenew Historical Society and general promotion to the broader community.

### Statutory Environment

Local Government Act 1995

Heritage Act 2018 (Part 8)

Planning and Development Act 2005

State Planning Policy 3.5 Historic Heritage Conservation



**Policy Implications**

A Local Planning Policy relevant to the Heritage List will be prepared as an integral part of the review process.

**Financial Implications**

Nil.

**Strategic Implications**

Strategic Community Plan 2019-29

1.1.3 Protect and promote the Shire's diverse culture and heritage

2.3.3 Enhance our natural and built environment and promote and protect the history and heritage within Mingenew

#### 11.4 PROPOSED OUTBUILDING – 46 (LOT 111) VICTORIA ROAD

**Location/Address:** 46 (Lot 111) Victoria Road, Mingenew  
**Name of Applicant:** Shoreline Outdoor World for Adji Nominees Pty Ltd  
**Disclosure of Interest:** Nil  
**File Reference:** A805  
**Date:** 13 April 2022  
**Author:** Simon Lancaster, DCEO/Planning Advisor, Shire of Chapman Valley  
**Authorising Officer:** Jeremy Clapham, Acting CEO  
**Voting Requirements:** Simple Majority

##### Summary

Council is in receipt of an application for an outbuilding upon the vacant property of 46 (Lot 111) Victoria Road in the Mingenew townsite. The applicant has been presented to Council for its consideration as it exceeds the delegated authority of Shire staff under the Shire of Mingenew 'Outbuildings' Local Planning Policy relating to its proposed size and also as it is proposed to be constructed upon a Residential zoned property that does not presently contain a residence. The application has been advertised for comment and no objections were received. This report recommends that Council approve the application, subject to the works not commencing until work has commenced upon the residence.

##### Key Points

- The applicant is seeking to construct a 128m<sup>2</sup> outbuilding upon 46 (Lot 111) Victoria Road.
- The Shire of Mingenew 'Outbuildings' Local Planning Policy sets a maximum 80m<sup>2</sup> floor area (for lots less than 1,500m<sup>2</sup>) requirement for outbuildings to be determined by Shire staff under delegated authority. Applications proposing larger outbuildings are required to be advertised for comment to surrounding landowners prior to being placed before a meeting of Council for determination.
- Lot 111 is presently a vacant property and also therefore does not meet with the Local Planning Policy requirement that outbuildings should not be approved on Residential zoned lots that do not contain a dwelling.
- The landowner's home builder has lodged a building permit application to site a new, transportable residence upon Lot 111. Council may wish (in the event that it were to approve the outbuilding) to apply as a condition of approval that the building works for the outbuilding may start concurrently with those of the residence rather than have to await their completion.

**OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.4 – RESOLUTION# 07200422**  
**MOVED: Cr HR McTaggart**                      **SECONDED: Cr JR Holmes**

**That Council grant formal planning approval for an outbuilding to be constructed upon 46 (Lot 111) Victoria Road, Mingenew subject to the following:**

##### **Conditions**

- 1**      Development shall be in accordance with the plans included within Attachment 11.4.1 to the April 2022 Council Agenda Report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2**      Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) considered by the Shire CEO to represent significant variation from the approved development plan may require further application and planning approval for that use/addition.

- 3 The construction of the outbuilding must not commence until a building permit has been issued by the local government for a residence upon Lot 111 and siting of, or work upon, the residence has commenced to the satisfaction of the local government (although variation to this is permitted where the concrete slabs for the residence and outbuilding are being poured concurrently).
- 4 The walls and roof of the outbuilding must be of materials, finish and colours that are non-reflective (i.e. not zincalume) and complementary to the residence upon Lot 111 to the approval of the local government.
- 5 The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and must not be used for habitation, commercial or industrial purposes.
- 6 All stormwater is to be disposed of on-site to the approval of the local government.
- 7 Any soils disturbed or deposited on-site shall be stabilised to the approval of the local government.
- 8 The location, design and construction of the access point(s) onto the local road network shall be to the approval of the local government.
- 9 The applicant is responsible to ensure that no parking of vehicles associated with the development/property occurs within the road reserve, including the road verge.
- 10 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination, the approval shall lapse and be of no further effect.

Notes:

- (a) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.
- (b) If an applicant is aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

Attachments

11.4.1 Development application & Shire of Mingenew 'Outbuildings' Local Planning Policy.

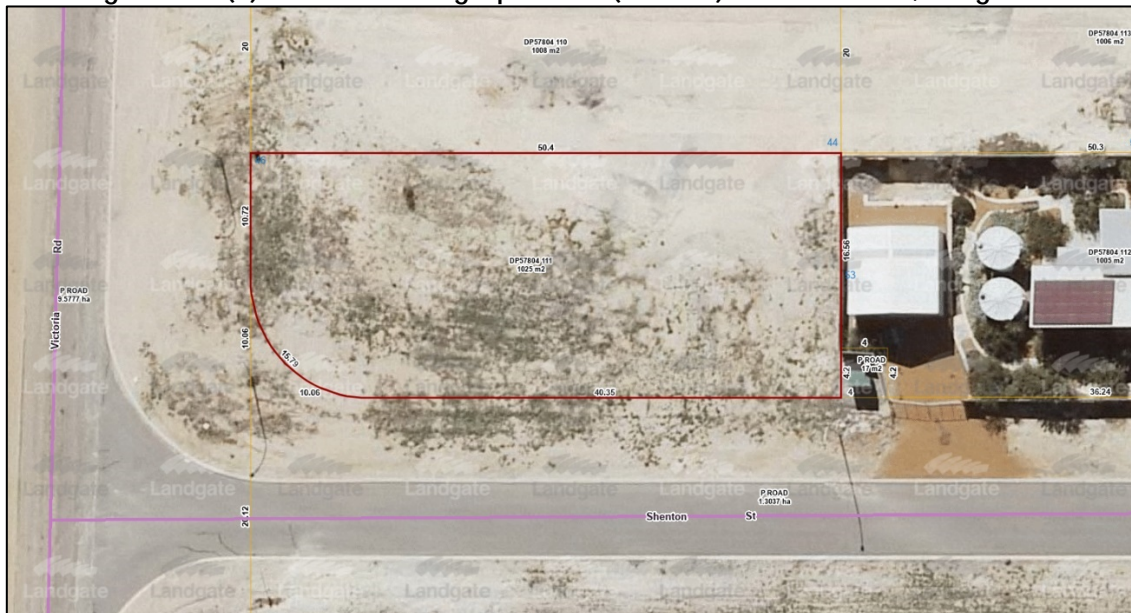
### **Background**

Lot 111 is a 1,025m<sup>2</sup> vacant property on the corner of Victoria Road and Shenton Street at the southern end of the Mingenew townsite.

**Figure 11.4(a) – Location Plan for 46 (Lot 111) Victoria Road, Mingenew**



**Figure 11.4(b) – Aerial Photograph of 46 (Lot 111) Victoria Road, Mingenew**



The applicant is seeking approval to construct a 128m<sup>2</sup> outbuilding (comprising 64m<sup>2</sup> enclosed garage & 64m<sup>2</sup> open bay carport floor area) upon 46 (Lot 111) Victoria Road, Mingenew. The shed would have a wall height of 3.4m and a total gable height of 4.1m and be clad in 'Surfmist' colorbond.

The shed would be sited 5.7m back from the Shenton Street boundary (in-line with the proposed residence), 2m from the proposed residence and 8m from the closest (eastern) side boundary.



MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

The applicant's submitted site, elevation and floor plans and supporting correspondence are provided as **separate Attachment 11.4.1** along with plans relating to the proposed residence, separate to this application.

**Figure 11.4(c) – Site plan for residence and outbuilding upon 46 (Lot 111) Victoria Road**

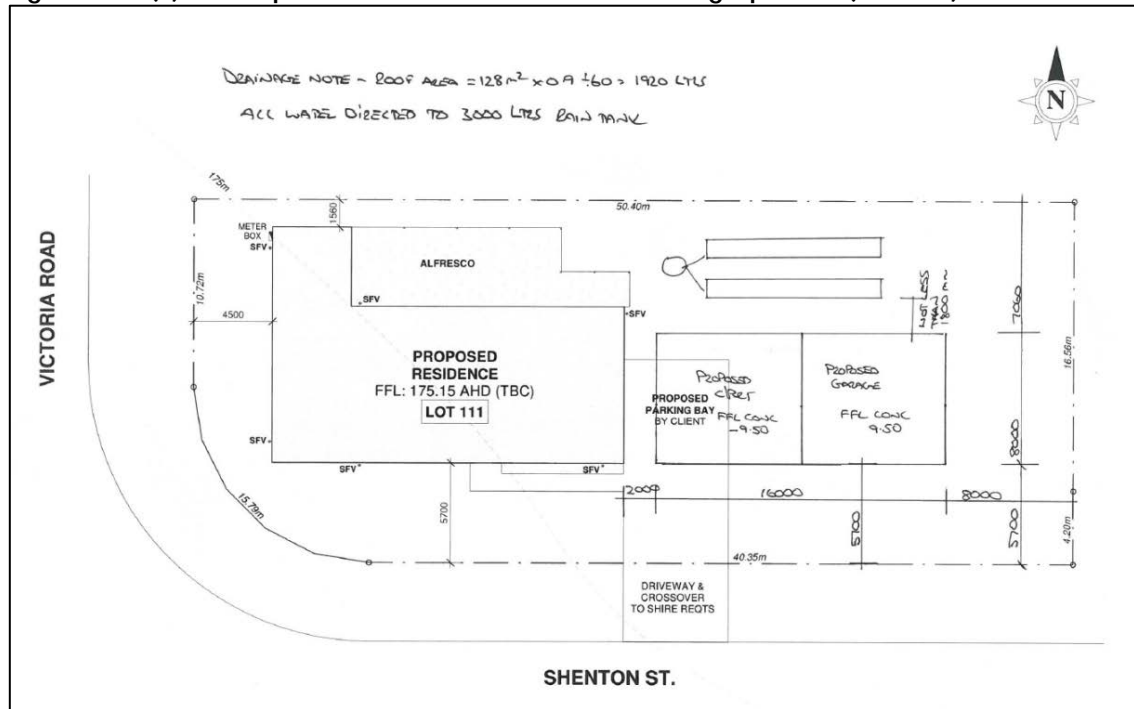


Figure 11.4(d) – View of Lot 111 looking east from corner of Victoria Road and Shenton Street



Figure 11.4(d) – View of Lot 137 looking north-west from Shenton Street



#### Comment

It is considered that conditional approval of the application is warranted in this instance, based upon the following:

- whilst the proposed 128m<sup>2</sup> total outbuilding area exceeds the 80m<sup>2</sup> Outbuildings Policy requirement (for lot under 1,500m<sup>2</sup>) it is noted that half (64m<sup>2</sup>) of the outbuilding would be enclosed and the other half open-sided thereby slightly reducing its bulk and visual appearance from Shenton Street;
- the proposed 3.4m wall height and 4.1m total/gable height outbuilding would meet with the Outbuildings Policy maximum 4m wall height and 5m roof height requirements (the total shed height would also match the 4.1m total building height for the residence that is proposed to be located immediately alongside);
- the outbuilding would accommodate the applicant's possessions and vehicles and it is considered preferable for these items to be secured out of the weather rather than about the property, not just for the applicant but also for general amenity and appearance;
- the outbuilding would be clad in 'Surfmist' colorbond which is complementary to the existing fencing on surrounding lots;
- the acceptance of the proposed outbuilding as being within the character of the surrounding area may be considered to have been demonstrated through no objections being received when the application was advertised for comment.;
- there is the ability for Council to set condition that the outbuilding not commerce construction until such time as a building permit has been issued by the Shire for the residence and works commenced upon the residence (this would allow the shed to be completed prior to the residence but provide some assurance to Council in that works have commenced and are ongoing on the accompanying residence).

#### Consultation

The Shire advertised the application for comment from 25 March 2022 until 11 April 2022 by writing to the landowners of the 5 surrounding properties providing details of the application and inviting comment, a sign was also erected on-site to advise of the received application and the opportunity for comment.

At the conclusion of the advertising period, no objections had had been received, and 1 submission expressing support was received, stating as follows:

*"I am happy to support on the condition (para 3 of notice) that "it be a condition of an approval that the building works for the outbuilding could start concurrently with those of the residence rather than have to await the application". This would prevent setting a precedent in these times when labour and materials are hard to come by."*

### **Statutory Environment**

Lot 111 corner Victoria Road and Shenton Street, Mingenew is zoned 'Residential R12.5' under the Shire of Mingenew Local Planning Scheme No.4.

Table 2 of the Scheme lists the objectives of the 'Residential' zone as being:

- "• To provide for a range of housing and a choice of residential densities to meet the needs of the community.*
- To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.*
- To provide for a range of non-residential uses, which are compatible with and complementary to residential development."*

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

- "(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(g) any local planning policy for the Scheme area;...*
- ...(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following —*
  - (i) environmental impacts of the development;*
  - (ii) the character of the locality;*
  - (iii) social impacts of the development;...*
- ...(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) any submissions received on the application;...*
- ...(zb) any other planning consideration the local government considers appropriate."*

### **Policy Implications**

The Shire of Mingenew 'Outbuildings' Local Planning Policy was adopted by Council at its 17 April 2019 meeting and reviewed at its 21 August 2019 meeting. A copy of the policy has been included within **separate Attachment 11.4.1**.

The Shire of Mingenew Outbuildings Local Planning Policy sets a maximum outbuilding area of 80m<sup>2</sup> for Mingenew townsite lots that are less than 1,500m<sup>2</sup> (and 200m<sup>2</sup> for lots greater than 1,500m<sup>2</sup>). Lot 111 is 1,025m<sup>2</sup> in area and as the application proposes variation to the floor area requirements policy it is unable to be determined by Shire staff under delegated authority and is presented to Council for its consideration.

The proposed shed would comply with the 4m maximum wall height and 5m maximum total roof height set by the Outbuildings Policy.

The Outbuildings Policy lists the following:

*“Objectives*

- 1 To provide development standards for outbuildings specific to the Shire of Mingenew, as appropriate.*
- 2 To provide a clear definition of what constitutes an “outbuilding”.*
- 3 To ensure that outbuildings are not used for habitation, commercial or industrial purposes by controlling building size and location.*
- 4 To limit the visual impact of outbuildings.*
- 5 To encourage the use of outbuilding materials and colours that complement the landscape and amenity of the surrounding areas.*
- 6 To ensure that the outbuilding remains an ancillary use to the main dwelling or the principle land use on the property.”*

*“Policy Provisions*

*General*

- 1 Pre-fabricated garden sheds, “cubby houses”, kennels and other animal enclosures (such as aviaries, stables) less than 9m<sup>2</sup> in total aggregate area and less than 2.5m in height (measured from natural ground level) are exempt from this policy provided they are located to the rear of the house, and of a design and colour considered in keeping with the amenity of the area by the local government.*
- 2 Other than for general storage and/or agricultural purposes an outbuilding shall not be used for any commercial or industrial use without prior approval from Council.*
- 3 The storage of accumulated personal items and any items in connection with a commercial or industrial operation (e.g. building materials, earthmoving equipment etc.) is considered contrary to the objectives of this policy and is therefore not considered sufficient justification for an increase in the maximum standards prescribed.*

*Height, Size and Setbacks*

*Outbuildings within the Residential, Rural Townsite or Tourism zones shall;*

- (a) be single storey;*
- (b) be located behind any dwelling on site;*
- (c) meet all setback requirements set out in the Local Planning Scheme and this policy;*
- (d) **not be approved by the local government on a lot not containing a dwelling;***
- (e) be attached to, or setback 1.8m from any dwelling and 1.2m from any septic tank.”*

The Outbuildings Local Planning Policy maintains a presumption against sheds being constructed prior to residences upon Residential zoned properties. In the formulation of the Scheme and Policy it was considered that the purpose of a shed in a Residential area is to be incidental/ancillary to a main residence. The establishment of sheds upon vacant lots creates the potential for them to become used for either habitation or commercial purposes leading to amenity issues with the surrounding residential area.

The landowner has engaged Trans Homes to site a new modular transportable residence upon Lot 111 and a certified building permit application has been received (at time of writing the Shire was awaiting the accompanying septic application prior to issue).

On this basis it is suggested that Council may wish to approve the outbuilding applicant subject to the following condition:



## MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

*"The construction of the outbuilding must not commence until a building permit has been issued by the local government for a residence upon Lot 111 and siting of, or work upon, the residence has commenced to the satisfaction of the local government (although variation to this is permitted where the concrete slabs for the residence and outbuilding are being poured concurrently)."*

A Local Planning Policy does not bind the local government in respect of any application for planning approval, but the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

In most circumstances the Council will adhere to the standards prescribed in a Local Planning Policy, however, the Council is not bound by the policy provisions and has the right to vary the standards and approve development where it is satisfied that sufficient justification warrants a concession and the variation granted will not set an undesirable precedent for future development.

### **Financial Implications**

The application would not have a budgetary impact to Council.

### **Strategic Implications**

The Mingenew Townsite Local Planning Strategy notes in Section 4.26 'Architectural Style' that:

*"In keeping with the rural nature of the community many homes have open style fencing, larger sheds and outbuildings, rain water tanks and other modern improvements."*

## 11.5 ATTRACTION AND RETENTION PLAN

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** PE.POL  
**Date:** 7 April 2022  
**Author:** Erin Greaves, Governance & Community Manager  
**Authorising Officer:** Nils Hay, Chief Executive Officer  
**Voting Requirements:** Simple Majority

### Summary

An Attraction and Retention Plan has been developed for Council consideration, as a strategy outcome from the Shire's Workforce Plan 2021-2025.

### Key Points

- Council included the preparation of an Attraction and Retention Plan as a Workforce Plan strategy to identify opportunities for improving attraction and recruitment and effectively promote the Mingenew Shire as a desirable place to live and work
- The Shire's Workforce Plan and Efficiency Audit have significantly guided the development of this Plan
- The basis of the Plan is for Council to adopt strategic-level recommendations but there are various operational strategies provided that can be implemented through the CEO and adapted at an individual level (for individual roles and/or candidates) so that the Shire is targeting its efforts to the target candidates or employees

**OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.3 – RESOLUTION# 08200422**  
**MOVED: Cr JR Holmes**                      **SECONDED: Cr CV Farr**

That Council receives the Attraction and Retention Plan for the Shire of Mingenew, provided as a separate, confidential attachment in accordance with s.5.23(a) and (e)(i).

**VOTING REQUIREMENTS:**    **CARRIED BY SIMPLE MAJORITY 6/0**

### Attachment

11.5.1 Attraction and Retention Plan (provided under separate, confidential cover)

### Background

In developing the Shire's Workforce Plan 2021-2025 (endorsed by Council in February 2021), it was determined that an Attraction and Retention Plan would assist to identify potential barriers to and incentives for employees working and living locally.

### Comment

The Attraction and Retention Plan reviews the Shire's current practices with regard to employee recruitment, selection, performance management, training and development, terminations and exit interviews, housing / accommodation options, advertising and funding. It presents Council with strategic direction and the administration with strategies to take advantage of the qualities the Shire (as an organisation and as a community) can offer new recruits and existing employees.

The Attraction and Retention Plan makes recommendations regarding:

- Budgeting and planning
- Employee Remuneration and Benefits

## MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

- Training and Development
- Marketing
- Housing

The Plan has been provided confidentially to Councillors due to the Plan containing confidential employee information and proposed strategies that will allow the Shire to compete in the employment market, that if disclosed publicly, may impact its competitive advantage.

The Plan recognises that a one-size-fits-all approach to attraction and retention is not necessarily effective as people are motivated based on their own individual values and needs. Therefore, the Plan offers options for different scenarios.

### **Statutory Environment**

Local Government Act 1995

Local Government Industry Award 2020

### **Policy Implications**

Nil

### **Financial Implications**

The preparation of the Attraction and Retention Plan was conducted internally, saving the Shire potential external consultant fees.

There may be employment benefits offered as an attraction or retention strategy that Council may wish to budget for in future.

### **Strategic Implications**

Strategic Community Plan 2019-29

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

Workforce Plan 2021-2025

1.1 Effectively promote the Mingenew Shire as a desirable place to live and work

## 11.6 COUNCIL POSITION PAPER: POWER RESTORATION DURING FIRE SEASON

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: FM.TEN.21.22  
Date: 30 March 2022  
Author: Nils Hay, CEO  
Voting Requirement: Simple Majority

### Summary

Following discussion of the issue at the February WALGA Northern Country Zone (NCZ) meeting and with the Minister for Emergency Services, a position paper has been prepared regarding Western Power restoration activities during fire season. It is being put forward for endorsement and subsequent consideration by the Northern Country Zone of WALGA.

### Key Points

- The negative impacts of power outages are often extended during fire season, as weather conditions delay reconnection
- Western Power have a number of exemptions to restore power during period of high fire danger
- These exemptions are not always used
- There may be capacity for local governments of volunteer bushfire brigades to assist Western Power to manage bushfire risk and allow for power to be restored under fire danger circumstances

### **OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.6 – RESOLUTION# 09200422**

**MOVED: Cr JD Bagley**

**SECONDED: Cr AR Smyth**

#### **That Council:**

1. Endorses the position in the attached Issue Paper; and
2. Directs the Chief Executive Officer to put the attached Issue Paper forward at the next WALGA Northern Country Zone meeting for consideration of regional endorsement.

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

### Attachment

11.6.1 Draft Issue Paper: Power Restoration During Fire Season

### Background

The issue of power restoration during fire season has been a topic of regional discussion for some time. It was last considered by the NCZ in April 2020.

Following the matter being re-raised by Pr Cosgrove at the February 2022 NCZ meeting, it was suggested that the Shire prepare a paper for Zone consideration.

### Comment

Details of the issue and proposed methods to address it are outlined in the attached Issue Paper.

### Consultation

Western Power

### Statutory Environment

## MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

There are several exemptions under the *Bush Fires Act 1954*, outlined in the attached Issue Paper which provide power to utility providers to conduct works during period of high fire danger.

It is noted that WA's Emergency-related legislation is slated for review and condensing into a single Act. Any work done on this matter now may help to inform a future Shire position on any legislative change in this area.

### **Policy Implications**

Nil

### **Financial Implications**

Nil at this stage.

Should the proposal ultimately be accepted, there may need to be some future budgetary allocation made to enable either Shire or Bush Fire Brigade volunteers and equipment available to support power restoration efforts in the Shire.

### **Strategic Implications**

Strategic Community Plan 2019-2029:

- 1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders
- 1.4.3 Adapt to and mitigate climate change drivers

## 11.7 RFT 8 2021/22 – MINGENEW-MULLEWA ROAD LINEMARKING AND RRPM WORKS

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: FM.TEN.21.22  
Date: 29 March 2022  
Author: Nils Hay, CEO  
Voting Requirement: Absolute Majority

### Summary

As part of the Regional Road Safety Program (RRSP) project to widen Mingenew-Mullewa Rd, we are required to install linemarking and Raised Reflective Pavement Markers (RRPMs). We have sought tenders for this work.

### Key Points

- RFT issued with one responses
- Single response was compliant and within budget
- Works must be completed by 30 June 2022

**OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.7 – RESOLUTION# 10200422**  
**MOVED: Cr HR McTaggart                      SECONDED: Cr JR Holmes**

#### **That Council:**

1. Accepts the Tender submission for RFT8 2021/22 Mingenew-Mullewa Road Linemarking and RRPM Works, received from Red Dust Holdings, 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 \$510,631 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 RFT8 2021/22 Mingenew-Mullewa Road Linemarking and RRPM Works 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

11.7.1 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

The Shire was awarded funding to widen Mingenew-Mullewa Road as part of the Regional Roads Safety Program Tranche 3. Council previously awarded the construction component of this work at its 17 November 2021 Meeting (Resolution # 06171121). That work is currently under way.

To satisfy the funding requirements, line-marking and RRPMs must be installed on the road.

A public tender process for this work opened on 2 March 2022. Tenders closed at 10.00am on Thursday 17 March 2022. One response was received.

### 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**

An additional portion of RRSP funding was secured to cover the cost of linemarking and RRPM works; this tender is within amount initially allocated to that activity and, therefore, is within the current project budget and does not require any additional Shire funding.

**Strategic Implications**

Strategic Community Plan 2019-2029:

1.1.1 Provide and support cost effective transport networks

## 11.8 RFT 9 2021/22 – SUPPLY & DELIVERY OF PRIME MOVER TRUCK

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: FM.TEN.21.22  
Date: 29 March 2022  
Author: Nils Hay, CEO  
Voting Requirement: Absolute Majority

### Summary

Following the write-off of one of the Shire's prime movers, Council is being asked to consider the preferred method for its replacement, with a tender process having been conducted to provide pricing information on new truck purchases.

### Key Points

- A tender process (through WALGA equotes) was undertaken for a new prime mover
- In the intervening period, operational changes were proposed which would mean that no new prime mover would be required for the 2022/23 financial year
- Whilst two compliant responses were received, it is recommended that Council accept neither
- Funds that were slated for this purchase are proposed to be allocated to the Plant Replacement Reserve

### **OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 11.8 – RESOLUTION# 11200422**

**MOVED: Cr JR Holmes**

**SECONDED: Cr JD Bagley**

**That Council:**

1. Notes the Tender submissions for RFT9 2021/22 Supply and Delivery of Prime Mover Truck; and
2. Does not accept any of the tender submissions; and
3. Transfers \$113,400 from account 4120130 to the Plant Replacement Reserve

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

### Attachments

11.8.1 Request for Tender Specification and Tender Response Summary

11.8.3 CONFIDENTIAL - Tender Summary and Evaluation RFT7 21-22 Prime Mover; separate confidential attachment as per s.5.23(2)(e)(ii)(iii)

### Background

Following the write-off of the Shire's prime mover and water tanker trailer in late 2021, the Shire elected to retain and repair the trailer, however a new prime mover is required. In light of this there are several options available:

- Use part or all of the proceeds from the insurance write-off (less anticipated repair costs for the trailer) to purchase a second-hand prime mover, to hold the Shire over until a new truck is purchased
- Purchase a new prime mover (which will require the use of the proceeds of the write-off, in addition to other funds from either the municipal account or a loan)
- Choose not to replace the prime mover and, instead, dry or wet hire plant as required

At the February 2022 Ordinary Meeting, item 12.5, which considered a prime mover with lower specifications lapsed without decision. An updated tender was released through WALGA eQuotes with different specification.



Concurrently, a proposal for an alternate operating methodology for the Shire's road maintenance (particularly gravel haulage) was proposed to be trialed at the March 2021 Concept Forum. This trial does not require a new prime mover.

### **Comment**

Given that Council will be trialling a road maintenance program which does not require a second prime mover for the 2022/23 financial year, it has been recommended that we do not purchase a new prime mover at this stage. We can reconsider this purchase:

If the trial is not successful

As future replacement for the Shire's other prime mover

### **Consultation**

Works Manager

### **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 for a new vehicle have been met. Our Local Price Preference Policy was also applied in the attached tender assessment document.

In purchasing a second-hand vehicle for a purchase of up to \$100,000 three quotes are required, for a purchase of \$100,000 to \$250,000 a formal RFQ, seeking three quotes, would be required. A compliant process will be undertaken should Council elect this option.

### **Financial Implications**

Council received a total of \$136,505 for the write off of the truck and water tanker trailer. Of this, approximately \$35,000 will be utilized to repair and re-licence the trailer (leaving approximately \$100,000 for the purchase of a replacement truck).

As no purchase decision is being made at this time, the funds which were slated for this purchase can be reallocated to the Plant Replacement Reserve to be put towards the cost of a future purchase of Prime Mover, or other plant.

### **Strategic Implications**

Strategic Community Plan 2019-2029:

- 1.1.1 Provide and support cost effective transport networks
- 1.2.1 Manage organisation in a financially sustainable manner

## 12.0 FINANCE

## 12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 28 FEBRUARY 2022

<b>Location/Address:</b>	Shire of Mingenew
<b>Name of Applicant:</b>	Shire of Mingenew
<b>File Reference:</b>	FM.FRP
<b>Attachment/s:</b>	Monthly Financial Report – February 2022
<b>Disclosure of Interest:</b>	Nil
<b>Date:</b>	6 April 2022
<b>Author:</b>	Helen Sternick, Senior Finance Officer
<b>Approved by:</b>	Jeremy Clapham, Finance & Administration Manager
<b>Voting Requirement:</b>	Simple Majority

## Summary

This report recommends that the Monthly Financial Report for the period ending 28 February 2022 as presented to the Council be received.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.1 – RESOLUTION# 12200422  
MOVED: Cr JR Holmes                      SECONDED: Cr JD Bagley

That the Monthly Financial Report for the period 1 July 2021 to 28 February 2022 be received.

**VOTING REQUIREMENTS:** CARRIED BY SIMPLE MAJORITY 6/0

## Attachments

### 12.1.1 Monthly Financial Report for period ending 28 February 2022

## Background

The Monthly Financial Report to 28 February 2022 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

## MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

- Budget Amendments
- Explanation of Material Variances

### Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 28 February 2022	
Municipal Funds – Corporate cheque account	\$141,666
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$1,235,637
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 been audited and the opening surplus for the 2021/22 financial year has been adjusted as per audit requirements.

### 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 —

- annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
- budget estimates to the end of the month to which the statement relates; and
- actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
- material variances between the comparable amounts referred to in paragraphs (b) and (c); and
- 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 —

- 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
- an explanation of each of the material variances referred to in sub regulation (1)(d); and
- 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 FINANCIAL REPORT FOR THE PERIOD ENDED 31 MARCH 2022

<b>Location/Address:</b>	Shire of Mingenew
<b>Name of Applicant:</b>	Shire of Mingenew
<b>File Reference:</b>	FM.FRP
<b>Attachment/s:</b>	Monthly Financial Report – March 2022
<b>Disclosure of Interest:</b>	Nil
<b>Date:</b>	6 April 2022
<b>Author:</b>	Helen Sternick, Senior Finance Officer
<b>Approved by:</b>	Jeremy Clapham, Finance & Administration Manager
<b>Voting Requirement:</b>	Simple Majority

## Summary

This report recommends that the Monthly Financial Report for the period ending 31 March 2022 as presented to the Council be received.

OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.2 – RESOLUTION# 13200422  
MOVED: Cr CV Farr                      SECONDED: Cr AR Smyth

That the Monthly Financial Report for the period 1 July 2021 to 31 March 2022 be received.

**VOTING REQUIREMENTS:** CARRIED BY SIMPLE MAJORITY 6/0

## Attachment

### 12.2.1 Monthly Financial Report for period ending 31 March 2022

## Background

The Monthly Financial Report to 31 March 2022 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

## MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

- Explanation of Material Variances

### Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 31 March 2022	
Municipal Funds – Corporate cheque account	\$991,396
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$1,586,038
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 been audited and the opening surplus for the 2021/22 financial year has been adjusted as per audit requirements.

### 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

### 12.3 LIST OF PAYMENTS FOR THE PERIOD 1 FEBRUARY 2022 TO 31 MARCH 2022

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**File Reference:** FM.CRD  
**Attachment/s:** List of Payments – February 2022 and March 2022  
**Disclosure of Interest:** Nil  
**Date:** 6 April 2022  
**Author:** Helen Sternick, Senior Finance Officer  
**Approved by:** Jeremy Clapham Finance & Admin Manager  
**Voting Requirement:** Simple Majority

#### Summary

This report recommends that Council receive the list of payments for period 1 February 2022 to 31 March 2022 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

**OFFICER RECOMMENDATION AND COUNCIL DECISION - ITEM 12.3 – RESOLUTION# 14200422**  
**MOVED: Cr AR Smyth                      SECONDED: Cr JR Holmes**

That Council receive the attached list of payments for the period of 1 February 2022 to 31 March 2022 as follows:

\$640,977.55 Municipal EFTs;  
\$137,322.30 Municipal Direct Debit Department of Transport (Licencing) Payments;  
\$13,536.15 Municipal Direct Debit Other;  
\$3,440.63 Municipal Other Charges;  
\$194,476.37 Net Salaries  
\$1,108,753.00 Total Payments

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 6/0**

#### Attachment

12.3.1 List of Payments – February 2022 and March 2022

#### Background

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

#### Comment

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

#### Consultation

Nil

#### Statutory Environment

Local Government Act 1996, Section 6.4

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

#### Policy Implications



Payments have been made under delegation.

**Financial Implications**

Funds available to meet expenditure.

**Strategic Implications**

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

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

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN  
Nil.

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

PROCEDURAL MOTION - ITEM 14.0 – RESOLUTION# 15200422

MOVED: Cr JD Bagley

SECONDED: Cr HR McTaggart

That Council accepts the late item 14.1 CEO Recruitment Process for consideration.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 6/0

#### 14.1 LATE ITEM - CEO RECRUITMENT PROCESS

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: PE.RCR.3  
Date: 19 April 2022  
Author: Erin Greaves, Governance & Community Manager  
Authorising Officer: Gary Cosgrove, Shire President  
Voting Requirements: Absolute Majority

##### Summary

To formalise the process for the recruitment of a CEO and make provisions for an Acting CEO appointment.

##### Key Points

- Mr Nils Hay submitted his resignation effective following 17 June 2022
- Quotes have been sought from recruitment professionals to undertake the CEO recruitment process on behalf of Council and they are presented for assessment and engagement
- No budget allocation has been made in 2021/22 for CEO Recruitment services therefore an amendment is proposed
- A CEO Recruitment and Selection Panel is proposed for overseeing the process and making recommendations to Council on the appointment, including an Independent Member

##### **SHIRE PRESIDENT RECOMMENDATION AND COUNCIL RESOLUTION – ITEM 14.1 – RESOLUTION# 16200422**

That Council, by Absolute Majority:

1. Formally accepts the resignation of Nils Hay as Chief Executive Officer, authorising the early termination of the CEO's Employment Contract 2021-2024 in accordance with Clause 11.5 and his final working day being accepted as 17 June 2022;
2. Accepts the quotation received from LO-GO Appointments as the most advantageous to undertake the CEO recruitment process for the lump sum of \$5,763 excluding GST;
3. Amends the 2021/22 Budget to include \$10,000 in 2140205 Admin - Recruitment account for CEO Recruitment expenses;
4. Establishes a CEO Recruitment Panel to oversee the recruitment and selection of the CEO and appoints Cr GA Cosgrove, Cr JD Bagley, Cr HR McTaggart and Cr JR Holmes, and Mr Maurice Battilana as the Independent Member, with Terms of Reference to be developed in accordance with the Shire's 'CEO Standards for Recruitment, Performance and Termination' Policy (1.1.7).

**VOTING REQUIREMENTS:**

**CARRIED BY ABSOLUTE MAJORITY 6/0**

*NOTE: Councillors requested that a Councillor Workshop be coordinated at the earliest convenience, with an independent facilitator, the Independent Panel Member and the nominated recruiter from LO-GO Appointments in attendance, to discuss Council's strategy for the role.*

##### Attachment

14.1.1 Confidential – Quotations for CEO Recruitment Services

14.1.2 Confidential – Curriculum Vitae (CV) for potential Independent Member

##### Background

## MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

After 4 years in the role of Chief Executive Officer for the Shire of Mingenew, Mr Nils Hay has submitted his resignation, effective 17 June 2022.

In 2021 Council adopted a set of standards for the CEO Recruitment, Performance and Termination that were required under the *Local Government (Model Code of Conduct) Regulations 2021*. These Standards provide clear guidance to Council on the recruitment and selection process carried out for the employment of a person in the position of CEO.

To expedite the process, the Shire President requested, through the Acting CEO, Jeremy Clapham, to seek a minimum of two quotes for conducting CEO Recruitment Services in 2022 for Council to consider at this meeting.

### Comment

The Governance & Community Manager contacted three suitable providers to obtain a quote. One provider indicated that whilst they would be willing to perform recruitment services for the Shire, they would not be able to commence immediately due to other commitments and would be happy for quotations to be sought elsewhere if Council was seeking a relatively quick resolution. Therefore, only two quotations have been received to-date. An additional provider did make contact indicating interest to quote for performance of the CEO recruitment services however the quotation was not received at the time of issuing this report.

All quotations received have been provided to Councillors confidentially prior to the meeting ("in commercial confidence").

Advice from WALGA is that Council, as a first step, conducts a facilitated workshop to discuss the Shire's strategic needs and assist in developing selection criteria, a job description and the key performance indicators for the new CEO position. WALGA have indicated that they have suitably qualified staff available to undertake this process at relatively short notice (the workshop could be conducted remotely if required). External parties could also be sought to undertake this work.

The selection of a CEO is ultimately one of the most important decisions that Council is responsible for making. As such, it is important to ensure that the process is both rigorous and defensible.

The following order of actions is proposed, assuming Council endorsement of the enclosed resolution:

1. Establish CEO Recruitment and Selection Panel
2. Engage a Recruitment Services provider
3. Conduct facilitated workshop to develop section criteria, job description and KPIs (recruiter and Selection Panel members to attend – facilitator to be separate to avoid actual or perceived bias)
4. Using criteria and documentation developed in workshop, Recruiter to undertake recruitment process in consultation with CEO Recruitment and Selection Panel
5. CEO Recruitment and Selection Panel, working with Recruiter, provide recommendation to Council for new CEO
6. Recruiter, with advice from CEO Recruitment and Selection Panel undertakes negotiations to secure new CEO
7. During any interim period after Mr Hay has left, but before the new CEO commences, the vacancy can be managed through any combination of existing authorised staff serving as Acting CEO and a separately appointed Temporary CEO. This decision can be made on the basis of length of time required, as well as any additional workload considerations for existing staff serving as Acting CEO for extended periods.

It is also important to note that Council have an established Policy with regard to the process of appointing a Temporary CEO, which can either be an internal appointment or through an external recruitment process. It is recommended that Council give consideration to the most appropriate process in the circumstances; to

align with the Policy process or deviate whilst ensuring suitable evidence can be provided that the actions are in the Shire's best interest.

### **Statutory Environment**

*Local Government Act 1995*

#### **5.36. Local government employees**

- (1) A local government is to employ —
  - (a) a person to be the CEO of the local government; and
  - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
  - (a) believes that the person is suitably qualified for the position; and
  - (b) is satisfied\* with the provisions of the proposed employment contract.

\* Absolute majority required.

- (3) A person is not to be employed by a local government in any other position unless the CEO —
  - (a) believes that the person is suitably qualified for the position; and
  - (b) is satisfied with the proposed arrangements relating to the person's employment.
- (4) Unless subsection (5A) applies, if the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (5A) Subsection (4) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.
- (5) For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.

Note: As per the above, the same person cannot serve simultaneously as the Independent Member on a selection panel and as a Temporary CEO.

#### **5.39. Contracts for CEO and senior employees**

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.

*Western Australia Salaries and Allowances Act 1975 – Determination for Local Government Chief Executive Officers*

### **Policy Implications**

Policy 1.1.7 CEO Standards for Recruitment, Performance and Termination

#### **8. Establishment of selection panel for employment of CEO**

- (1) In this clause —

**independent person** means a person other than any of the following —

  - (a) a council member;
  - (b) an employee of the local government;
  - (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —
  - (a) council members (the number of which must be determined by the local government); and
  - (b) at least 1 independent person.

Policy 1.2.4 Temporary Employment or Appointment of CEO

*Definitions:*

- (1) **Acting CEO** means a person employed or appointed to fulfil the statutory position of CEO during a period where the substantive CEO remains employed, but is on planned or unplanned leave.
- (2) **Temporary CEO** means a person employed or appointed to fulfil the statutory position of CEO for the period of time between the end of the substantive CEO's employment and the appointment and commencement of a newly appointed substantive CEO.

**5. Appoint Temporary CEO – Substantive Vacancy**

- (1) In the event that the substantive CEO's employment with the Shire of Mingenew is ending, the Council when determining to appoint a Temporary CEO may either:
- a) by resolution, appoint Finance and Administration Manager, Governance and Community Manager, or Works Manager as the Temporary CEO for the period of time until the substantive CEO has been recruited and commences their employment with the Local Government; or
  - b) by resolution, appoint Finance and Administration Manager, Governance and Community Manager, or Works Manager as the interim Temporary CEO for the period of time until an external recruitment process for a Temporary CEO can be completed; or
  - c) following an external recruitment process in accordance with the principles of merit and equity prescribed in section 5.40 of the Act, appoint a Temporary CEO for the period of time until the substantive CEO has been recruited and commences employment with the Local Government.
- (2) The President will liaise with the Governance and Community Manager to coordinate Council reports and resolutions necessary to facilitate a Temporary CEO appointment.
- (3) The President is authorised to execute in writing the appointment of a Temporary CEO in accordance with Council's resolution/s, with administrative assistance from the Governance and Community Manager.

**Financial Implications**

The Shire has no budget allocation for the recruitment of the CEO and is therefore recommended that a suitable budget is allocated for the expense. In 2017, the cost of recruitment services for the CEO was approximately \$8,000.

The Shire's Employee Costs should have adequate funds to cover the expense of employing a temporary CEO.

**Strategic Implications**

Strategic Community Plan 2019-29

1.1.3 Protect and promote the Shire's diverse culture and heritage

2.3.3 Enhance our natural and built environment and promote and protect the history and heritage within Mingenew

MINGENEW SHIRE COUNCIL ORDINARY MEETING MINUTES – 20 April 2022

**15.0 CONFIDENTIAL ITEMS**

Nil.

**16.0 TIME AND DATE OF NEXT MEETING**

Next Ordinary Council Meeting to be held on Wednesday 15 June 2022 commencing at 5.00pm.

**17.0 CLOSURE**

The meeting was closed at 5:44pm.

These minutes were confirmed at an Ordinary Council meeting on 15 June 2022.

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

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