



AGENDA FOR THE ORDINARY COUNCIL MEETING

19 OCTOBER 2022



Ordinary Council Meeting Notice Paper

19 October 2022

An Ordinary Meeting of Council is called for Wednesday, 19 October 2022, in the Council Chambers, Victoria Street, Mingenev, commencing at 5.00 pm. Members of the public are most welcome to attend.

Matt Fanning
Chief Executive Officer
14 October 2022

DISCLAIMER

The purpose of Council Meetings is to discuss, and where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (Section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person. The Shire of Mingenev expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

PROCEDURE FOR PUBLIC QUESTION TIME, DEPUTATIONS, PRESENTATIONS AND PETITIONS AT COUNCIL MEETINGS

Council thanks you for your participation in Council Meetings and trusts that your input will be beneficial to all parties. Council has a high regard for community input where possible, in its decision making processes.

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

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

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

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

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

A Deputation invited to attend a Council meeting:

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

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

PROCEDURE FOR PRESENTATION

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

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

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

PROCEDURE FOR PETITIONS

Please note the following protocol for submissions of petitions. Petitions must:

- be addressed to the Shire President.
- be made by electors of the district.
- state the request on each page of the petition.
- contain the names, addresses and signatures of the elector(s) making the request, and the date each elector signed.
- contain a summary of the reasons for the request.
- state the name and address of the person whom arranged the petition for correspondence to be delivered to, as correspondence is not sent to all the signatures on the petition.

Where a petition does not relate to or conform to the above it may be treated as an 'informal' petition and the Chief Executive Officer may at his discretion forward the petition to Council accompanied by an officer report.

PROCEDURE FOR PUBLIC QUESTION TIME

The Council extends a warm welcome to you in attending any meeting of the Council. Council is committed to involving the public in its decision-making processes whenever possible, and the ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective.

Council (as required by the Local Government Act 1995) sets aside a period of 'Public Question Time' to enable a member of the public to put up to two (2) questions to Council. Questions should only relate to the business of Council and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Shire President may either answer the question or direct it to a Councillor or an Officer to answer, or it will be taken on notice.

Having regard for the requirements and principles of Council, the following procedures will be applied in accordance with the Shire of Mingenew Standing Orders Local Law 2017:

1. Public Questions Time will be limited to fifteen (15) minutes.
 2. Public Question Time will be conducted at an Ordinary Meeting of Council immediately following "Responses to Previous Public Questions Taken on Notice".
 3. Each member of the public asking a question will be limited to two (2) minutes to ask their question(s).
 4. Questions will be limited to two (2) per person.
 5. Please state your name and address, and then ask your question.
 6. Questions should be submitted to the Chief Executive Officer in writing by 5pm on the day before the meeting and be signed by the author. This allows for an informed response to be given at the meeting.
 7. Questions that have not been submitted in writing by 5pm on the day before the meeting will be responded to if they are straightforward.
 8. If any question requires further research prior to an answer being given, the Presiding Member will indicate that the "question will be taken on notice" and a response will be forwarded to the member of the public following the necessary research being undertaken.
 9. Where a member of the public provided written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
 10. A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.
- During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.
 - Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.
 - Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.

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**AGENDA FOR THE ORDINARY MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON
19 OCTOBER 2022 COMMENCING AT 5.00PM**

- 1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS
- 2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE
- 3.0 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE
Nil.
- 4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME
- 5.0 APPLICATIONS FOR LEAVE OF ABSENCE
- 6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS
Nil.
- 7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES
 - 7.1 ORDINARY COUNCIL MEETING HELD 17 AUGUST 2022

OFFICER RECOMMENDATION - ITEM 7.1

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 17 August 2022 be confirmed as a true and accurate record of proceedings.

- 8.0 ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION
- 9.0 DECLARATIONS OF INTEREST

10.0 RECOMMENDATIONS OF COMMITTEES

10.1 SHIRE OF MINGENSHIRE AUDIT & RISK COMMITTEE

10.1.1 MINUTES OF THE AUDIT & RISK COMMITTEE MEETING HELD 21 SEPTEMBER 2022

COMMITTEE RECOMMENDATION - 10.1.1

That the Minutes of the Shire of Mingenew Audit & Risk Committee Meeting held on 21 September 2022 be received.

10.1.2 INTERIM AUDIT 201/21

COMMITTEE RECOMMENDATION - 10.1.2

Council receives the Interim Audit Report and Management Letter from the Auditor General, noting that the following recommendations were made as a management control for risks identified from the Audit:

- Review of new creditors (moderate risk)
- Purchases Cut-off Error (minor risk)

10.1.3 RISK MANAGEMENT POLICY REVIEW

COMMITTEE RECOMMENDATION - 10.1.3

Council endorses the proposed amendments to Council Policy 1.4.1 Risk Management and notes the updated Risk Management Procedures.

10.2 SHIRE OF MINGENSHIRE LOCAL EMERGENCY MANAGEMENT COMMITTEE

10.2.1 MINUTES OF THE LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING HELD 10 OCTOBER 2022

COMMITTEE RECOMMENDATION - 10.1.1

That the Minutes of the Shire of Mingenew Local Emergency Management Committee Meeting held on 10 October 2022 be received.

10.3 SHIRE OF MINGENSHIRE BUSH FIRE ADVISORY COMMITTEE

10.2.1 MINUTES OF THE BUSH FIRE ADVISORY COMMITTEE MEETING HELD 12 OCTOBER 2022

COMMITTEE RECOMMENDATION - 10.1.1

That the Minutes of the Shire of Mingenew Bush Fire Advisory Committee Meeting held on 12 October 2022 be received.

11.0 CHIEF EXECUTIVE OFFICER

11.1 APPOINTMENTS TO SHIRE COMMITTEE & EXTERNAL ORGANISATION DELEGATES

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: GV.CMT.5
Disclosure of Interest: Nil
Date: 17 August 2022
Author: Matt Fanning, CEO
Voting Requirements: Absolute Majority

Summary

Consideration of appointments to Committees, Working Groups, External Organisations, etc.

Key Points

- The Shire President and Chief Executive Officer reserve the right to attend any meeting
- The Shire of Mingenew Executive Management Committee is the only Committee of Council with delegated authority.
- The Audit & Risk Committee has statutory functions under the Local Government Act 1995
- The list of Committees and groups are based on previous appointments made by Council. It is up to Council to consider if the same level of Council representation is relevant and whether a reduction or increase to appointments are necessary.
- Cr AT Pearse has met with the CEO to discuss which Committees, Working Groups, External Organisations, etc., he would like to nominate for. This is reflected in the Staff Recommendation.

OFFICER RECOMMENDATION 1 – ITEM 11.2

Council, by Absolute Majority appoints Cr AT Pearse to Council's:

- **Audit & Risk Committee; and**
- **Bush Fire Advisory Committee as proxy delegate (to replace former Cr GF Pearse).**

Attachments

- 11.1.1 Audit Terms of Reference
- 11.1.2 Behaviour Complaints Committee Terms of Reference
- 11.1.3 Bush Fire Advisory Committee Terms of Reference
- 11.1.4 Local Emergency Management Committee Terms of Reference
- 11.1.5 Terms of Reference for Elected Member Representation on External Committees/Groups

Background

Council Committee delegates are generally reviewed and appointed at the first Ordinary Council meeting following an ordinary election however, due to the number of extraordinary elections held since October 2021, it has been necessary to review the delegates after each new Elected Member appointment.

Cr Alex Pearse was appointed by Council decision in July 2022.

A similar report was presented at the 17 August 2022 Ordinary Council meeting, at which only one appointment was made for Cr HR McTaggart to be appointed to the RDMAG Community Stakeholder Reference Group (Community Capability and Capacity Building). Cr AT Pearse requested further time to consider the Committees.

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Cr Pearce has since met with the Shire's Temporary CEO at the time, Maurice Battilana and indicated an interest in joining the Audit & Risk Committee and Bushfire Advisory Committee.

The following table outlines Council's most recently endorsed appointments:

Audit & Risk Committee Cr HR McTaggart, Cr AR Smyth, Cr JR Holmes, Cr GJ Cosgrove and Independent Member
Behaviour Complaints Committee Cr JD Bagley, Cr AR Smyth and Cr CV Farr Cr JR Holmes, Cr HR McTaggart and Cr Cosgrove proxy delegates
Bush Fire Advisory Committee Cr JD Bagley and Cr <u><i>vacant</i></u> as proxy delegate
Executive Management Committee Cr GJ Cosgrove, Cr HR McTaggart and Cr JD Bagley Cr AR Smyth proxy delegate
Local Emergency Management Committee Cr AR Smyth and Chief Executive Officer (or nominee) Cr CV Farr proxy delegate
Community Assistance Scheme Panel Cr HR McTaggart and Cr JR Holmes
Community Resource Centre Management Committee Cr HR McTaggart and CDO Cr CV Farr proxy delegate
Silver Chain Branch Committee CDO
Tourist and Promotions Committee CDO
Joint Development Assessment Panel Cr GJ Cosgrove and Cr JD Bagley Cr JR Holmes and Cr CV Farr proxy delegates
Midwest Regional Road Group Cr GJ Cosgrove and Cr JD Bagley Cr AR Smyth proxy delegate
Northern Country Zone of WALGA Cr GJ Cosgrove and Cr HR McTaggart Cr JR Holmes proxy delegate
Wildflower Country Inc. Cr CV Farr and CDO Chief Executive Officer proxy delegate
CBH Expansion Project Working Group Cr JD Bagley, Cr GJ Cosgrove and Chief Executive Officer Cr AR Smyth proxy delegate
RDAMG Community / Stakeholder Reference Group (Community Capability and Capacity Building) Cr HR McTaggart

Comment

Should Cr Alex Pearce be appointed to the Audit & Risk Committee, Council may wish to consider removing a Council delegate to maintain four Council delegates (plus one independent member). The Committee Terms of Reference does not restrict the number of Council delegates but suggests 5 members.

The Bush Fire Advisory Committee (BFAC) has been carrying a vacancy (for Council's proxy delegate) since the resignation of Cr Gavin Pearce. Cr Alex Pearce is a regular attendee of BFAC meetings and is captain of the Mingenew North Brigade.

Statutory Environment

Local Government Act 1995

Local Government (Administration) Regulations 1996

Emergency Management Act 2005

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Strategic Community Plan 2019-2029:

- 1.3.1 Provide a high level of compliance with external regulation, in a resource-efficient manner
- 1.3.2 Provide services and processes to enhance public safety

11.2 PROPOSED WORKFORCE ACCOMMODATION

Location/Address:	Lots 433 & 435 Mooriary Road, Mooriary & Lot 5 Strawberry North East Road, Lockier
Name of Applicant:	Energy Resources Limited
Disclosure of Interest:	Nil
File Reference:	A603 / A986 / A753
Date:	12 October 2022
Author:	Simon Lancaster, Planning Advisor
Senior Officer:	Matt Fanning, Chief Executive Officer
Voting Requirements:	Simple Majority

Summary

Council is in receipt of an application to establish temporary workers accommodation camps upon the following locations:

- main camp – Lot 435 Mooriary Road; Mooriary
- drill site camp – Lot 433 Mooriary Road, Mooriary; &
- drill site camp – Lot 5 Strawberry North East Road, Lockier.

The advertising period for this application has concluded and no objections were received.

This report recommends that Council approve the application subject to conditions.

OFFICER RECOMMENDATION – ITEM 11.2

That Council grant formal planning approval for temporary workforce accommodation camps upon Lots 433 & 435 Mooriary Road, Mooriary & Lot 5 Strawberry North East Road, Lockier subject to compliance with the following:

Conditions:

- 1 Development shall generally be in accordance with the approved plans dated 19 October 2022 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 development or land (not the subject of this consent/approval) considered by the Chief Executive Officer to represent significant variation from the approved development plan requires further application and planning approval for that use/addition.
- 3 The applicant is to prepare, submit and adhere to a Management Plan to the approval of the local government.
- 4 The applicant is to implement and maintain reporting mechanisms for complaints concerning the operation of the development. In the event of a substantiated complaint being received the applicant is required to demonstrate mitigation response(s) to the approval of the local government. Such response(s) will be treated as conditions of approval/required modifications to the Management Plan.
- 5 The location, design and construction/upgrading of the access point(s) onto the road network shall be to the requirements of the local government.
- 6 The installation of any directional/traffic/warning/safety signage in the vicinity of the development's access point(s) onto the road network and relating to the development shall be to the requirements of the local government.
- 7 All parking of vehicles associated with the development shall be provided for within the property boundary.

- 8 The applicant shall make payment to the local government for the repair, reinstatement or replacement of any road infrastructure that is damaged, becomes unsafe or fails to meet appropriate engineering standards where the damage to the road network is caused by reason of use of the road in connection with the approved development (or where agreed to by the local government, the applicant may instead arrange for such repair, reinstatement or replacement works to be undertaken to the satisfaction of the local government).
- 9 The development shall be connected to on-site wastewater and effluent disposal systems that are located, designed, installed and operated to the requirements of the Department of Health and the approval of the local government.
- 10 The development shall comply with the requirements of the *Food Act 2008* and *Food Regulations 2009*.
- 11 The applicant must obtain any/all necessary consents of the landowners relevant to the site and the access to the sites.

Advice Notes:

- (a) In relation to condition 3 the Management Plan is to include sections relating to Fire Management, Emergency Response Plan, Waste Management, Noise/Light/Dust Management and Post Camp Rehabilitation (that details post-closure obligations and clean-up and rehabilitation of the site) to the approval of the local government. In the event that the camps are sited within an area identified upon the Department of Fire & Emergency Services State Map of Bushfire Prone Areas the Fire Management Plan must be submitted as a separate document and prepared and implemented to the requirements of the Department of Fire & Emergency Services.
- (b) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation including but not limited to the obtaining of any required approvals from the Department of Health, the Department of Mines, Industry Regulation & Safety, the Department of Water & Environment Regulation, and Main Roads WA. It is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully commences.
- (c) The applicant will need to consult with the Main Roads WA Heavy Vehicle Services branch to ascertain any approval requirements that may be required for their proposed heavy vehicle combinations, transport routes and operations.
- (d) 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.

Attachments

- Attachment 11.2(a) - Main Camp application (provided as **separate attachment**)
 Attachment 11.2(b) - Drill Site Camp application (provided as **separate attachment**)
 Attachment 11.2(c) - Copy of received submissions (provided as **separate attachment**)

Background

The applicant has been issued with a petroleum exploration permit (EP368) by the Department of Mines, Industry Regulation & Safety under the *Petroleum and Geothermal Energy Resources Act 1967* over the western portion of the Shire of Mingenew and eastern portion of the Shire of Irwin. The applicant proposes to continue their exploratory drilling for conventional gas resources and is seeking approval to operate the following temporary workforce accommodation camps:

- main camp – Lot 435 Moorriary Road, Moorriary;
- drill site camp – Lot 433 Moorriary Road, Moorriary; &
- drill site camp – Lot 5 Strawberry North East Road, Lockier.

Figure 11.2(a) – Overall Development Layout



The proposed main camp would be located upon Lot 435 Mooriary Road, Mooriary which is a 1,206ha property used for agricultural purposes owned by Perpetual Corporate Trust Limited. The property is largely cleared excepting for pockets of remnant vegetation on outcrops and along tributary lines.

The main camp is proposed to be located immediately west of Mooriary Road (and 9km south of Midlands Road) and would accommodate an average of 52 personnel to support the drilling operations, with a maximum of 72 personnel at full camp occupancy to support other well operations in the area.

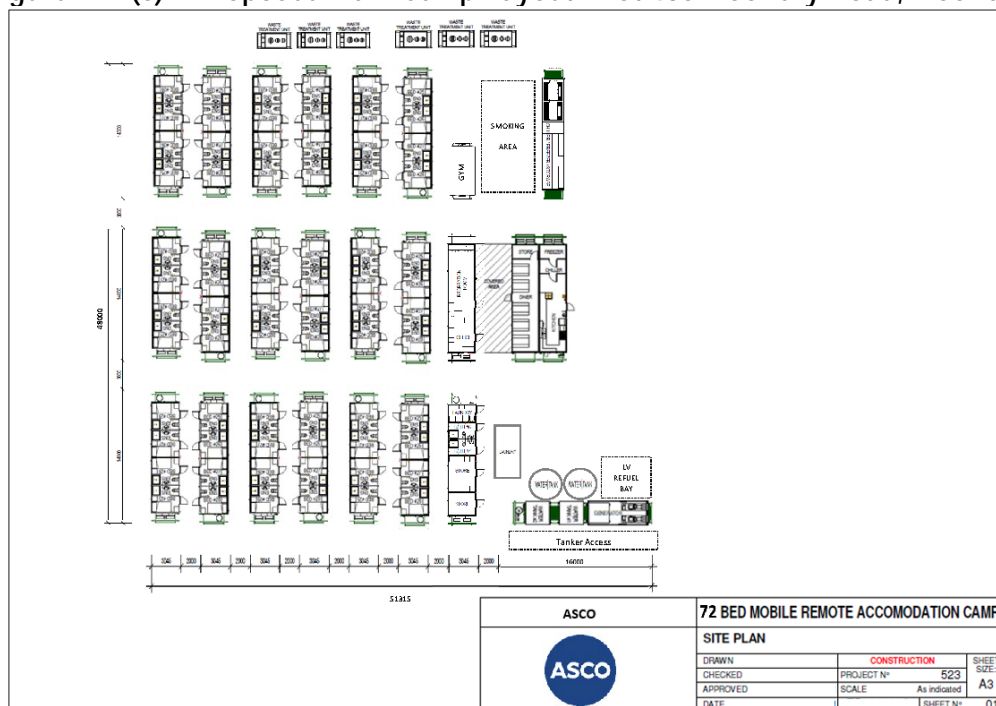
The main camp would consist of 18 transportable accommodation units that would each contain 4 x 1 bedroom/1bathroom workers accommodation. The main camp would also have transportable buildings providing amenities such as kitchen, dining area, gyms, storerooms and laundry, along with generators,

refuelling areas, water tanks and on-site aerobic waste treatment systems. The main camp application is provided as **separate Attachment 11.2(a)**.

Figure 11.2(b) – Aerial Photo of Lot 435 Mooriary Road, Mooriary



Figure 11.2(c) – Proposed Main Camp Layout - Lot 435 Mooriary Road, Mooriary



The initial drill site camp would be located upon Lot 433 Mooriary Road, Mooriary which is a 2,359ha property used for agricultural purposes owned by Perpetual Corporate Trust Limited. The property is also largely cleared excepting for pockets of remnant vegetation on outcrops and along tributary lines.

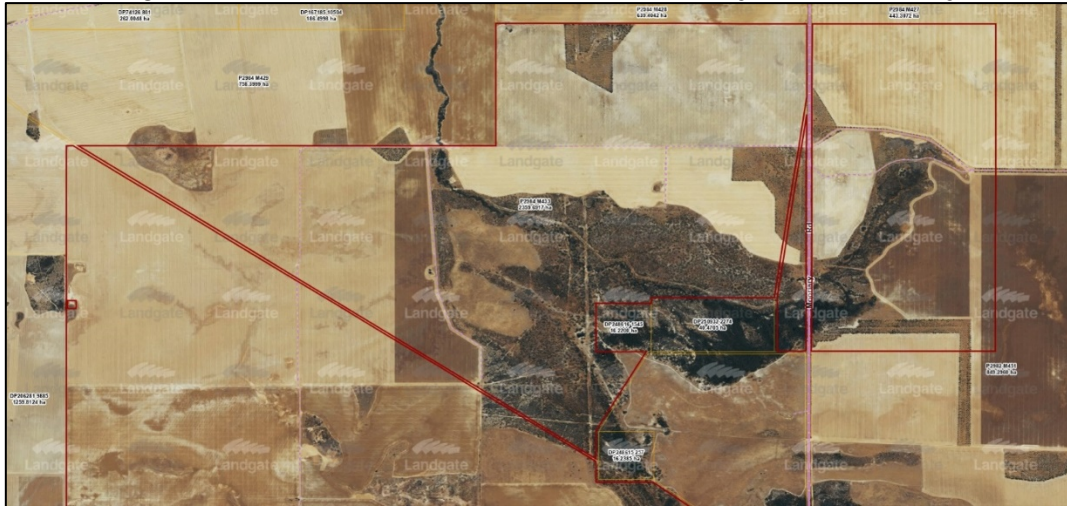
The drill site and camp would be located immediately 1km west of Mooriary Road (and 4km south of Midlands Road) and consist of 2 x 3 person transportable accommodation buildings and other modular buildings (typically 12m x 2.72, 32.64m²) associated with the drill operations delivered to the site by truck. Food preparation will be undertaken off-site at the main camp, and the camp would be serviced by a mobile waste water system

The drill sites would have drilling activities conducted continuously on a 24-hour basis with 2 crews (6 personnel operating the drill and up to 22 additional personnel) working on 12-hour shifts necessitating a workforce accommodation camp at the drill site.

The drill site camps would be in place for approximately 60 days at each site before being transferred to the next drill site, with some potential returning to the site for further exploration, maintenance and testing work over the subsequent 2 year period.

The drill camp application is provided as **separate Attachment 11.2(b)**.

Figure 11.2(d) – Aerial Photo of Lot 433 Mooriary Road, Mooriary



The drill camp would subsequently be moved to Lot 5 Strawberry North East Road, Lockier which is a cleared 159ha property used for farming purposes owned by Holmwood Pty Ltd.

The drill site and camp would be located in the south-east corner of Lot 5, 3km east of Strawberry North East Road and 2.2km east of the Irwin River. The site would also be 3.3km north of Midlands Road and 2.4km north of the Lockier River.

Figure 11.2(e) – Aerial Photo of Lot 5 Strawberry North East Road, Lockier

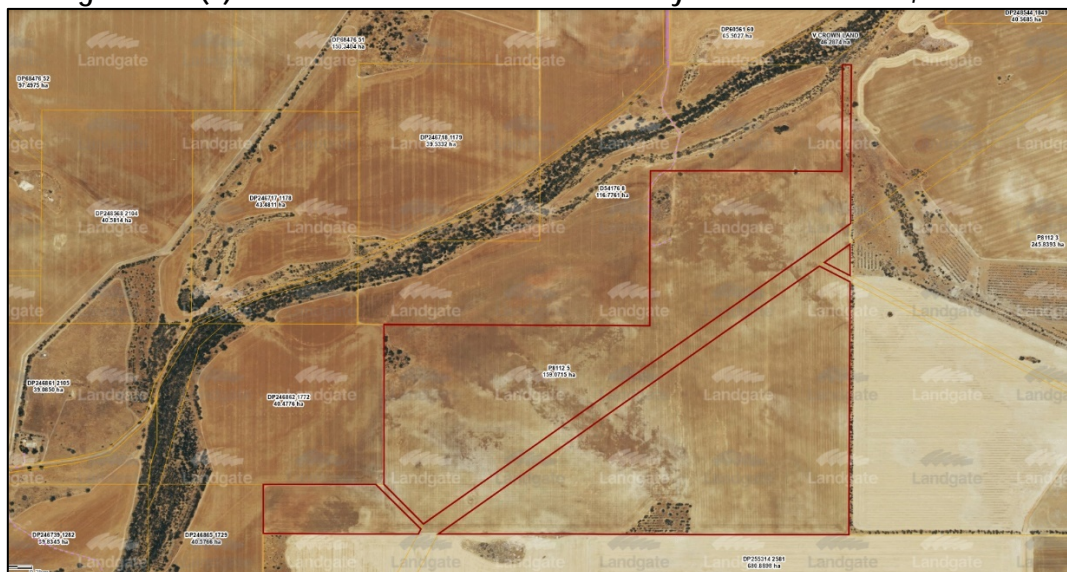
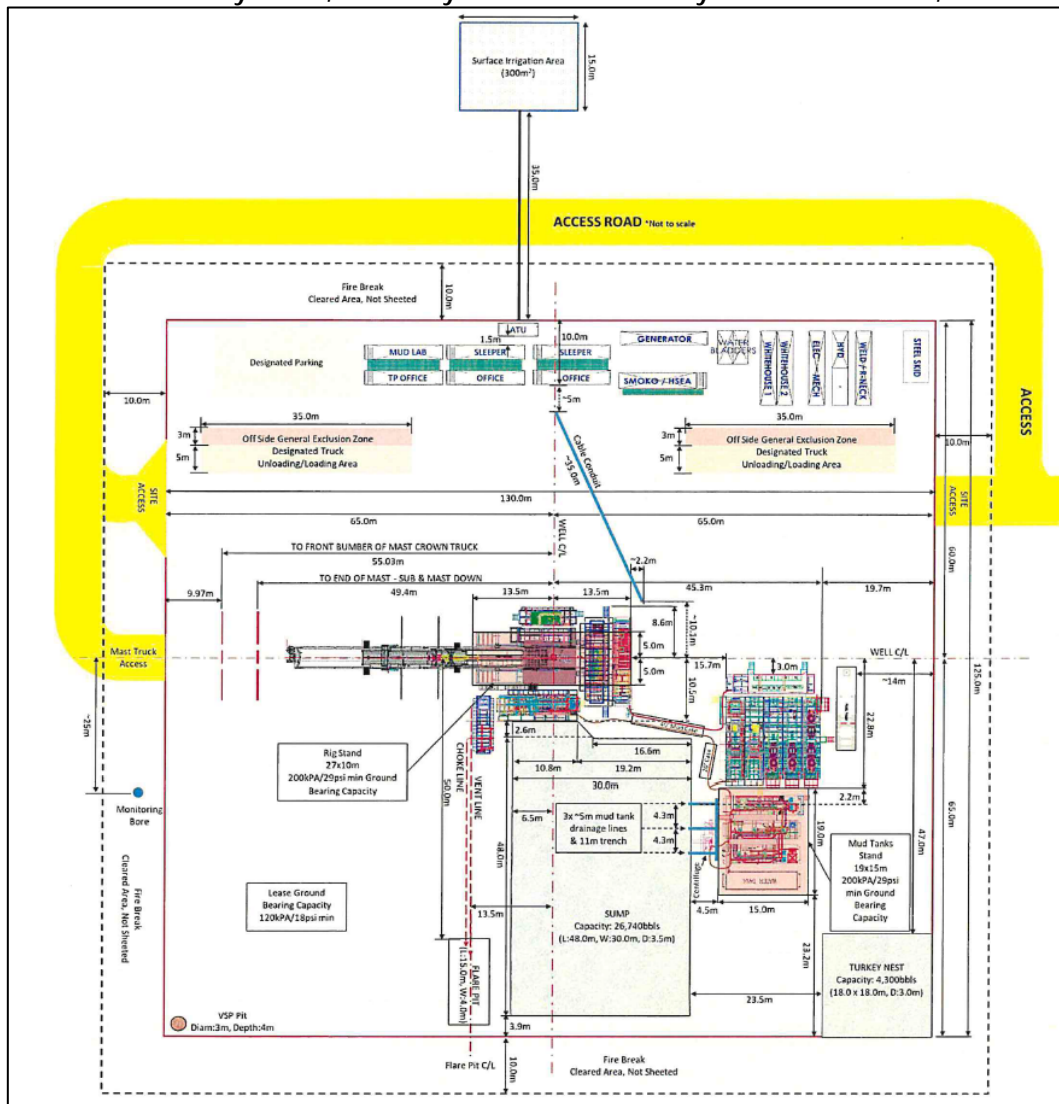


Figure 11.2(f) – Proposed Drill Camp Layout
Lot 433 Mooriary Road, Mooriary & Lot 5 Strawberry North East Road, Lockier



Comment

The applicant is also seeking to site the drill camp on 2 other locations:

- Lot 428 Midlands Road, Mooriary which is a 639ha property owned by Clancy Michael Nominees Pty Ltd; &
- Lot 2385 Burma Road, Lockier which is a 301ha property owned by BF Kelly & Sons Pty Ltd.

However, at this time the applicant has not obtained the necessary consents of these landowners and the Shire is therefore unable to accept the application as it relates to these properties, and the applicant will be required to lodge these as separate application(s) should they obtain the agreeance of the relevant landowners.

Council previously approved at its 16 June 2021 meeting an application for a temporary workforce accommodation camp from the same applicant (Energy Resources Limited) upon Lot 686 Watson Road, Lockier owned by BF Kelly & Sons Pty Ltd. This previous camp site was 3.1km south-west of the proposed Lot 5 Strawberry East Road drill camp site.

Figure 11.2(g) – Aerial photo of previous camp site upon Lot 686 Watson Road, Lockier



Consultation

The application was advertised for comment from 16 September 2022 until 10 October 2022 with the Shire undertaking the following actions:

- notice being placed on the Shire website;
- correspondence inviting comment being sent to the landowners of the 34 titles within 2km of the 3 proposed temporary workforce accommodation sites;
- correspondence inviting comment being sent to the following government agencies and service authorities:
 - Australian Gas Infrastructure Group;
 - ATCO Gas
 - Department of Biodiversity, Conservation & Attractions
 - Department of Fire & Emergency Services
 - Department of Health
 - Department of Jobs, Tourism, Science & Innovation
 - Department of Mines, Industry Regulation & Safety
 - Department of Planning, Lands & Heritage
 - Department of Primary Industries & Regional Development
 - Department of Water & Environment Regulation
 - Main Roads WA
 - Telstra
 - Water Corporation
 - Western Power
- display of the application at the Shire office.

At the conclusion of the advertising period the Shire has received 6 submissions, with all of these being from government agencies either offering no objection or technical comment. A summary of the received comments is provided below, and copies of the received submissions have been included as **separate Attachment 11.2(c)**.

(Department of Health)

Each development proposal will be required to demonstrate the volume of each wastewater treatment plant or system to accommodate the number of personnel based on the current health sewage legislation. The disposal area is required to be adequately sized based on the site and soil evaluation report findings.

Approval is required for any on-site wastewater treatment process (by the DoH or local government)

Drinking water provided on any mine site or exploration camp in WA must comply with DoH requirements

Any non-drinking water that is provided in this location should be clearly identified so as to not be mistaken for drinking water.

All food related areas (kitchen, preparation areas, etc.) to comply with the provisions of the Food Act 2008 and related code, regulations and guidelines.

To address this submission it is recommended that the approval be made subject to the following conditions:
"The development shall be connected to on-site wastewater and effluent disposal systems that are located, designed, installed and operated to the requirements of the Department of Health and the approval of the local government."

"The development shall comply with the requirements of the Food Act 2008 and Food Regulations 2009."

It is also recommended that the approval include advice note stating that:

"The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation including but not limited to the obtaining of any required approvals from the Department of Health, the Department of Mines, Industry Regulation & Safety, the Department of Water & Environment Regulation, and Main Roads WA. It is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully commences."

(Western Power)

Information provided relating to ability to determine if works impact Western Power's electricity network at Before You Dig Australia, Landgate and Western Power Safety & Access website addresses.

It is recommended that the advice of Western Power be provide to the applicant so that they may undertake the necessary consultations with the provided databases.

(Department of Primary Resources & Regional Development)

DPIRD does not object to the proposal and offers the following comments:

The main campsite will be located on the soil-landscape type referred to as the Mount Horner Munja subsystem. Soils of this subsystem are comprised of grey deep sandy duplexes, pale deep sands and shallow gravels. These soils have a high-very high risk of wind erosion. They also have a low-moderate risk of water erosion, and a low-moderate risk of phosphorus export.

DPIRD recommends that the applicant prepares an erosion management plan to ensure the soil of the campsite is protected. This will also improve the amenity for staff residing onsite.

The soils of this area also have low soil water storage and this creates a low ability for microbial purification. As there is a tributary of the Irwin River that is located close to the south east corner of the site, DPIRD recommends that management of effluent associated with the workforce accommodation, as well as any stored fuels, is closely monitored to prevent any leaks or spillage and potential contamination of soils or groundwater.

While the campsite is located within a large property, the "Separation Distances between Industrial and Sensitive Land Uses, 2005" define residential development as a sensitive land use. Agricultural emissions may include gaseous and particulate emissions; noise; dust; light and odour; where the levels of emissions may at times exceed amenity levels considered acceptable in residential areas or at other sensitive and uses. DPIRD requests that an appropriate buffer is established around the proposed temporary facility to ensure existing rural operations surrounding the accommodation site can continue to function and any potential impacts on the health and amenity of people and the environment are appropriately avoided, mitigated or managed.

As the drilling program is expected to be completed within a period of 2 years and no plans are outlined for the ongoing use of these facilities after the completion of the drilling program, DPIRD requests approval should be conditional on a decommissioning and rehabilitation plan to ensure the land is restored to either its current or improved agricultural potential or revegetated to prevent wind erosion.

To address this submission it is recommended that the approval be made subject to the following conditions:
"The applicant is to prepare, submit and adhere to a Management Plan to the approval of the local government."

"The applicant is to implement and maintain reporting mechanisms for complaints concerning the operation of the development. In the event of a substantiated complaint being received the applicant is required to demonstrate mitigation response(s) to the approval of the local government. Such response(s) will be treated as conditions of approval/required modifications to the Management Plan."

It is also recommended that the approval include advice notes stating that:

"The Management Plan is to include sections relating to Fire Management, Emergency Response Plan, Waste Management, Noise/Light/Dust Management and Post Camp Rehabilitation (that details post-closure obligations and clean-up and rehabilitation of the site) to the approval of the local government. In the event that the camps are sited within an area identified upon the Department of Fire & Emergency Services State Map of Bushfire Prone Areas the Fire Management Plan must be submitted as a separate document and prepared and implemented to the requirements of the Department of Fire & Emergency Services."

The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation including but not limited to the obtaining of any required approvals from the Department of Health, the Department of Mines, Industry Regulation & Safety, the Department of Water & Environment Regulation, and Main Roads WA. It is the applicant's responsibility to obtain any additional approvals required before the development/use lawfully commences."

(Department of Biodiversity, Conservation & Attractions)

DBCA has no objections to the proposal. It is anticipated that the proposed workforce accommodation and any associated environmental impacts will be appropriately managed through the existing planning framework.

(Main Roads WA)

MRWA has noted that the main camp and a drill camp area are located on Mooriary Road. This road intersects with Midlands Roads at SLK 227.45, a state road managed by MRWA. The other drill camp is located along Strawberry North East Road. This road intersects with Midlands Road at SLK 236.43.

MRWA will require a Traffic Impact Statement which includes further detail of the construction and operation traffic, vehicle type and volume in order to assess the impact of this proposal on the State Road Network. Once we have received this information MRWA will be in a position to provide further comment.

In relation to the MRWA submission it is noted that similar comments arose in the advertising of the applicant's previous workforce accommodation camp 3.1km south-west in 2021 and in that instance the applicant was provided with a copy of the received submissions and invited to make comment in relation to any of the issues raised during the advertising period. The applicant's comments at that time were as follows:

"Mobilisation

Based on the proposed schedule the plan is to move the rig late June, 2021 from its current location off Natta road where it is operating for Strike Energy to the Energy Resources Lockyer Deep-1 well location. This move would take ~5 days and involve ~75 trailers. The load list is attached to this email. The transport would enter onto Midlands Road off Mooriary Road, travel ~9kms along Midlands Road and exit Midlands Road into Strawberry Northeast Road and into the Kelly's farm.

Operation

The drilling activity will be undertaken over an ~2 month period with completion by end of August 2021. Would anticipate on average one semi trailer every second day from Perth to site and return throughout the activity until the rig is demobilised as well as small vehicle personnel movement from the main camp off Natta Road to site.

Demobilisation

On completion of the activity the rig will be released back to Strike Energy who have multiple options for the rig after this well in the area."

It is recommended that the approval include advice note stating that:

"The applicant will need to consult with the Main Roads WA Heavy Vehicle Services branch to ascertain any approval requirements that may be required for their proposed heavy vehicle combinations and transport routes."

(Department of Fire & Emergency Services)

It is unclear from the documentation provided if the Shire of Mingenew has applied State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7) to this proposal.

Exemptions from the requirements of SPP3.7 should be applied pragmatically by the decision maker and are identified in Guidelines for Planning in Bushfire Prone Areas (Section 2.6).

Should you apply SPP 3.7 then, we request the relevant information pursuant to this policy be forwarded to DFES to allow us to review and provide comment prior to the Shire of Mingenew endorsement of the proposal. If there is some other reason which has given you cause to consider a referral to DFES, could you please provide detail on the attached 'Referral to DFES Checklist'.

The submitted application, and subsequent discussion with the applicant, identified the 3 proposed camp sites are immediately outside the area identified as bushfire prone on the DFES State Map of Bushfire Prone Areas. The Shire advised the applicant that in the event that habitable buildings (which are the subject of the development application) were to be located within a bushfire prone area then this would trigger requirement for the lodgement of a Fire Management Plan that the Shire would forward to DFES for review and comment.

To address this aspect it is recommended that the approval be made subject to the following conditions:

"The applicant is to prepare, submit and adhere to a Management Plan to the approval of the local government."

"The applicant is to implement and maintain reporting mechanisms for complaints concerning the operation of the development. In the event of a substantiated complaint being received the applicant is required to demonstrate mitigation response(s) to the approval of the local government. Such response(s) will be treated as conditions of approval/required modifications to the Management Plan."

It is also recommended that the approval include advice notes stating that:

"The Management Plan is to include sections relating to Fire Management, Emergency Response Plan, Waste Management, Noise/Light/Dust Management and Post Camp Rehabilitation (that details post-closure obligations and clean-up and rehabilitation of the site) to the approval of the local government. In the event that the camps are sited within an area identified upon the Department of Fire & Emergency Services State Map of Bushfire Prone Areas the Fire Management Plan must be submitted as a separate document and prepared and implemented to the requirements of the Department of Fire & Emergency Services."

Statutory Environment

Section 38 of the *Petroleum and Geothermal Energy Resources Act 1967* allows the registered holder of a petroleum exploration permit to explore for petroleum and to carry on such operations and execute such works as are necessary for that purpose in the permit area. Under Section 5 of the Act petroleum is defined to include any naturally occurring hydrocarbon whether in gaseous, liquid or solid state.

The applicant has been issued with a petroleum exploration permit by the Department of Mines, Industry Regulation & Safety and the scope of this application to Council is limited to the matter of the temporary workforce accommodation camps and the access points onto, and use of the local road network, and not the ultimate purpose for which these works are being undertaken as this is addressed by the overriding State approval.



In this instance, given that the drill is required to be manned at all times and will be operating 24 hours a day for 30-60 days at each site it is considered appropriate that the workforce should be housed at the drill site rather than a remote location.

Schedule 1 Clause 11 of the Scheme notes the following in relation to the issue of 'Workforce Accommodation':

"The local government may only grant development approval for Workforce Accommodation where –

- (a) it is satisfied that the Workforce Accommodation can be adequately serviced with water, power and effluent disposal;*
- (b) an operation is proposed and not yet operational, it can be adequately demonstrated that the operation will proceed prior to the approval for permanent Workforce Accommodation being issued;*
- (c) a management plan is prepared and submitted with the development application that outlines how the Workforce accommodation will be decommissioned should it no longer be required; and*
- (d) proposed within the Residential and Rural Townsite zones it is to be setback from boundaries in accordance with Part 5 of the R-Codes Volume 1 to the satisfaction of the local government."*

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;...*
- (fa) any local planning strategy for this Scheme endorsed by the Commission;...*
- ...(m) the compatibility of the development with its setting, including –*
 - (i) the compatibility of the development with the desired future character of its setting; and*
 - (ii) 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;*
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;...*
- ...(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) the adequacy of –*
 - (i) the proposed means of access to and egress from the site; and*
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;*

- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
- ... (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 Western Australian Planning Commission's 'Workforce Accommodation Position Statement provides guidance in relation to the assessment of this application.

The Position Statement notes that under the *Planning and Development Act 2005* planning decision-makers can:

Control	Not control
1) Where a planning application is required, the terms of an approval related to: <ul style="list-style-type: none"> (a) timeframe (b) setbacks (c) landscaping (d) parking and access (e) location and appearance of buildings (f) integration with surrounding areas (g) any other land use planning matters relevant to the site. 2) Where a planning application is required, the ability to approve/refuse a proposal considering local planning scheme requirements.	1) Any matters specified by a State Agreement Act. 2) The issuing of a mining tenement made under the <i>Mining Act 1978</i> – which can include a general purpose lease for 'any other purpose directly connected with mining operations' (may be located in a townsite). 3) That workforce accommodation needs to be met by permanent accommodation rather than 'camps'. 4) That workforce accommodation be located in a town rather than a mine- site. 5) Whether the land for workforce accommodation is owned by the Crown or held in fee simple. 6) Requirements for 'community contributions' by workforce accommodation proponents. 7) Requirements for workforce accommodation to achieve 'legacy benefits'.

A copy of the WAPC Position Statement can be viewed at the following link:

https://www.wa.gov.au/system/files/2021-07/POS-Position-Statement_Workforce_Accommodation.pdf

Financial Implications

In the event that the applicant's operations have an impact on the condition of the local road network, it is considered reasonable that a contribution to maintenance be required of the applicant to avoid financial burden on the Shire, and ensure the applicant provides compensation commensurate with additional wear imposed by traffic movements associated with their operations.

Strategic Implications

Section 8.8 of the Shire of Mingenew Local Planning Strategy (2006) notes the following:

"8.8 Mining Activity

General Industrial land will need to be identified for possible expansion of Mingenew.

Appropriate controls will also need to be put in place for mining activity in the Rural-Mining Zone. These include controls to ensure that the environmental and landscape qualities are not detrimentally affected, that adequate provision is made for any intensive use of rural roads, and that there is no conflict with existing rural activities undertaken in the area.

In determining an application for extractive industry Council shall have regard to and may impose conditions relating to the demand for additional services, facilities and infrastructure, the impact on surrounding land uses, and shall require a management plan to manage the impact of the extractive industry.”

11.3 PROPOSED SITING OF ICE CREAM VAN

Location/Address:	Reserve 47995 Midlands Road, Mingenew Reserve 20735 Bride Street, Mingenew
Name of Applicant:	S. Hollands
Disclosure of Interest:	Nil
File Reference:	LE.LIC.2
Date:	10 October 2022
Author:	Simon Lancaster, Planning Advisor
Senior Officer:	Matt Fanning, Chief Executive Officer
Voting Requirements:	Simple Majority

Summary

Council resolved at its 17 August 2022 meeting to approve the siting of an ice cream van at the following locations in the Shire (outside of the Mingenew townsite) subject to conditions:

- Depot Hill Road car park; and
- Reserve 900 Coalseam Road, Holmwood (Coalseam Conservation Park).

Council also resolved to advertise the proposed siting of an ice cream van at the following locations within the Mingenew townsite:

- Reserve 47995 Midlands Road, Mingenew (car parking bay opposite Mingenew Bakery & Mingenew Hotel); &
- Reserve 20735 Bride Street, Mingenew (adjacent to Bowling Club car park);

The advertising period has now concluded and no objections were received to the proposed locations within the Mingenew townsite.

This report recommends conditional approval for a trial period of 12 months to provide Council with the opportunity to review the development's operation in event that complaint is received or concerns raised.

OFFICER RECOMMENDATION – ITEM 11.3

That Council grant formal planning approval for the siting of an ice cream van at the following locations subject to the below conditions:

- Reserve 47995 Midlands Road, Mingenew (car parking bay opposite Mingenew Bakery & Mingenew Hotel);
- Reserve 20735 Bride Street, Mingenew (adjacent to Bowling Club car park).

Conditions:

- 1 The approval is valid for a period of 12 months (until 19 October 2023) after which time the application shall be reconsidered by the Shire Chief Executive Officer (under the delegated authority of Council) as to any impacts arising from the operation of the development in the local government's determination on whether to grant any extension to the approval period.
- 2 Any additions to or change of use of any part of the development (not the subject of this consent/approval) considered by the Shire Chief Executive Officer to represent significant variation from the approved development requires further application and planning approval for that use/addition.
- 3 The location of the ice cream van, and maintenance of public access about the ice cream van, being to the approval of the local government.
- 4 The applicant shall ensure that the ice cream van and immediate surrounding area is kept clean and tidy to the approval of the local government.

- 5 The applicant shall ensure that rubbish associated with the operation of the ice cream van is managed to the approval of the local government.
- 6 No freestanding signs or hoardings advertising the operation of the ice cream van are permitted to be erected whether temporary or permanent in nature without the approval of the local government.
- 7 The use of mechanical chimes or amplified music at the approved locations which could cause a noise nuisance is not permitted. The ice cream van shall at all times comply with the *Environmental Protection (Noise) Regulations 1997*.
- 8 The ice cream van shall comply with the requirements of the *Food Act 2008* and *Food Regulations 2009*.
- 9 The applicant shall obtain the written approval of the local government that the ice cream van meets the required food, health, waste management and access standards before the commencement of operations.
- 10 The applicant must possess (and provide copy to the local government) public liability insurance cover of not less than \$10 million.
- 11 This approval is issued only to the applicant and is not transferable to any other party.

Notes:

- (a) The applicant is advised that this approval is only issued for a trial period of 12 months and the operation of this development will be monitored by the local government and should complaints arise and not be adequately managed to the satisfaction of the local government, then it should not be construed that further approval would be granted.
- (b) That Council delegate authority to the Shire Chief Executive Officer for the annual renewal of the approval should no written, author-identified complaints be received during the preceding 12 month period, and there being no change in the circumstances under which the previous approval was granted. In the event that written, author-identified complaints are received in relation to the development this matter is to be returned to Council for further consideration.
- (c) In relation to conditions 8 & 9 the applicant is advised that they are required to liaise with the Shire's Environmental Health Officer to ensure compliance before the commencement of the operations (and as required by legislation thereafter to continue operations).
- (d) The applicant is advised that this planning approval does not negate the requirement for any additional approvals which may be required under separate legislation and it is the applicant's responsibility to obtain any additional approvals required before the development commences.
- (e) This planning approval issued to the applicant is not to be construed as the granting of an exclusive commercial use and the local government reserves the right to issue approval to other parties who may seek to conduct commercial activities.
- (f) 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.

Attachments

Attachment 11.3 - Copy of submitted application (provided as separate attachment)

Background

The applicant is seeking approval to site their ice cream van at 3 locations in the Mingenew townsite which are on Crown Land under the management of the Shire of Mingenew, these being:

- Reserve 47995 Midlands Road, Mingenew (car parking bay opposite Mingenew Bakery & Mingenew Hotel);
- &
- Reserve 20735 Bride Street, Mingenew (adjacent to Bowling Club car park).

The applicant also sought approval to site the ice cream van upon vacant Lot 108 to the west of the Mingenew Roadhouse site which is owned by Ridge Star Pty Ltd. As the applicant has not obtained the necessary

consent of the landowner the Shire has advised the applicant that it is unable to accept the application as it relates to this property.

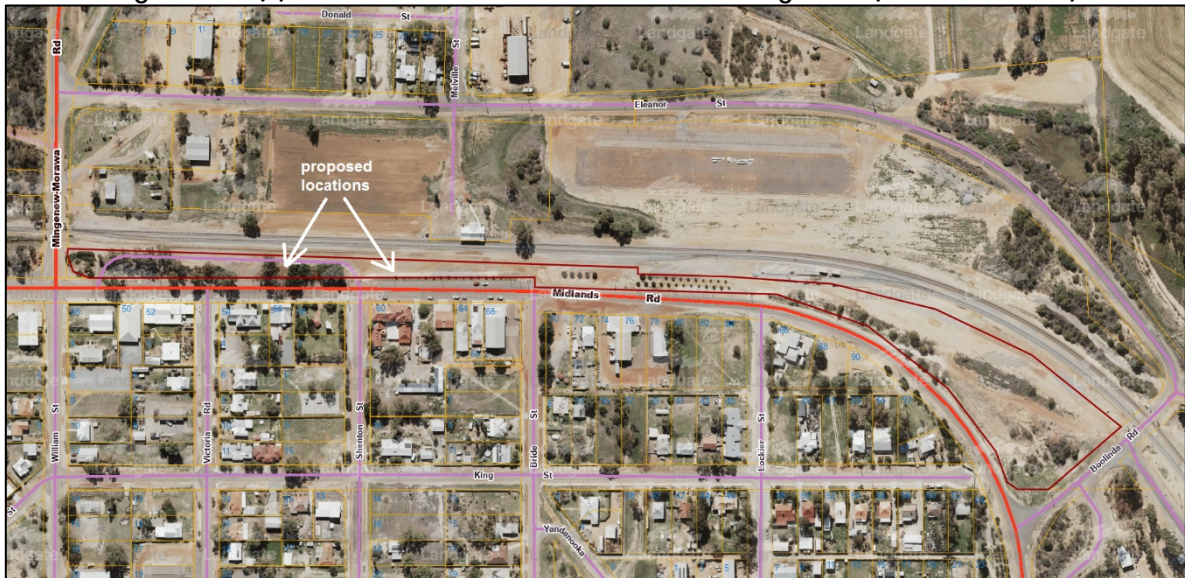
The applicant is seeking approval to sell ice creams from their van with the intended hours of operation being between 11:00am-4:00pm Thursday to Sunday on any given day. The submitted application that provides further background information is provided as **separate Attachment 11.3**.

When not in use the ice cream van would be parked at the applicant's residential address of 39 (Lot 12) King Street in the Mingenew townsite.

Comment

Reserve 47995 Midlands Road, Mingenew is a 2.3493ha Crown Reserve that contains a car parking area with a management order for 'Civic Purposes' issued to the Shire of Mingenew. The applicant is proposing to site the ice cream van at 2 locations in this reserve, opposite the Mingenew Bakery and opposite the Mingenew Hotel.

Figure 11.3(a) – Reserve 47995 Midlands Road, Mingenew (outlined in red)



Reserve 20735 Bride Street, Mingenew is an 81.957ha Crown Reserve that contains the Mingenew Recreation Grounds and has a management order for 'Recreation, Racecourse, Showground & Aerial landing Ground' issued to the Shire of Mingenew. The applicant is proposing to site the ice cream van adjacent to the Bowling Club car park.

Figure 11.3(b) – Reserve 20735 Bride Street, Mingenew (outlined in red)



Consultation

Given that the last application for a mobile food & coffee van led to some local business owner complaint, Council resolved to invite comment upon the application for the proposed locations within the Mingenew townsite. It was not considered that the Depot Hill Road car park or Coalseam Conservation Park location, being some way out of town, presented the proximity issues that led to business owner complaint previously and were therefore approved at the 17 August 2022 meeting.

The application was advertised from 26 August 2022 until 30 September 2022 with a notice being placed on the Shire website, the application being made available for viewing at the Shire office, and the Shire writing to landowners within 200m of the 3 proposed ice cream van sites and businesses of relevance as well as the Public Transport Authority, Arc Infrastructure and Main Roads WA.

At the conclusion of the advertising period, no submissions had been received, and this may be considered to demonstrate a general level of acceptance or indifference to the proposed development.

Statutory Environment

Part 1 Section 4 of the *Planning & Development Act 2005* ('the Act') defines development as follows:

*"development means the development or **use of any land**, including —*

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;*
- (b) the carrying out on the land of any excavation or other works;*
- (c) in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, any act or thing that —*
 - (i) is likely to change the character of that place or the external appearance of any building; or*
 - (ii) would constitute an irreversible alteration of the fabric of any building."*

Whilst the proposed siting of an ice cream van does not constitute a development as defined within parts (a)-(c) it should still be considered a development as by operating a commercial/retail activity from the land it does constitute the *"use of any land"*.

The proposal is further considered to constitute the use of land as it would be established for extended periods, and should therefore be viewed differently to a more transitory operation such as when an ice cream van is generally in motion and might typically only be stationary when hailed by customers, that might be able to be considered under the exemption provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations').

Schedule 2 Part 7 Clause 61(2)(d) of the Regulations provides for exemption from the requirement to obtain development approval for a temporary use which is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period. This application is not considered to meet this requirement as whilst the ice cream van would be sited for periods of less than 48 hours, it would be sited in any of the proposed locations for a period of greater than 48 hours across a 12 month period.

Mobile Food Van is not a listed use in the Shire of Mingenew Local Planning Scheme No.4 ('the Scheme'), and it is not considered that the proposed land use would meet with the following Regulations definitions as it does not involve a premises:

"fast food outlet/lunch bar means premises, including premises with a facility for drive-through service, used for the preparation, sale and serving of food to customers in a form ready to be eaten -

- (a) without further preparation; and*
- (b) primarily off the premises"*

"restaurant/cafe means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the Liquor Control Act 1988"

On this basis Clause 18(4) of the Scheme is therefore considered to apply in this instance:

"The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table –

- (a) determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or*
- (b) determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or*
- (c) determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone."*

Clause 9 of the Scheme includes the following aims of the scheme:

- "(a) to preserve, protect and enhance the amenity and character of Mingenew Townsite, and areas of cultural, heritage and natural and biodiversity significance across the Shire; and"*
- "(d) provide opportunities for the ongoing use and potential expansion of commercial areas, and tourist facilities to serve the needs of the residents and visitors"*

Reserve 47995 Midlands Road, Mingenew (car parking bay) is zoned 'Railways' and Clause 14 of the Scheme lists the objectives for this zone as being:

- "• To set aside land required for passenger rail and rail freight services."*

Reserve 20735 Bride Street, Mingenew is zoned 'Public Open Space' and Clause 14 of the Scheme lists the objectives for this zone as being:

- "• To set aside areas for public open space, particularly those established under the Planning and Development Act 2005 s. 152.*
- To provide for a range of active and passive recreation uses such as recreation buildings and courts and associated car parking and drainage."*

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;...*
- ...(j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;...*
- ...(m) the compatibility of the development with its setting including –*
 - (i) the compatibility of the development with the desired future character of its setting;*
 - and*

- (ii) *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;...*
- ...(s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;...*
- ...(v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;...*
- ...(zb) *any other planning consideration the local government considers appropriate."*

Policy Implications

Nil

Financial Implications

The application would not have a budgetary impact to Council.

Strategic Implications

The Shire of Mingenew Strategic Community Plan 2019 sets the following strategic objective:

"Strategy 5: Making Business Easy in Mingenew

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

It may be considered that an ice cream van whilst offering a new service to the residents of, and visitors to, the Shire of Mingenew also has the potential to impact upon existing Mingenew businesses and should be considered with regard to the Strategic Community Plan.

Competition and impact on existing local businesses is an issue that local governments have often been forced to grapple with, particularly where arguments have been mounted that an existing retailing operation offers multiple services and employment to a local community, and when faced with an arriving (sometimes mobile, or unmanned, or non-locally employing) competitor that offers a more limited service (in terms of products or hours of operation) that undermines their profitability, this can result in the existing service provider no longer being viable and the local community resultantly losing those associated services and employment. Existing businesses might also note that they are required to pay local government rates and service authority charges (e.g. power and water) and these are not required of mobile food outlets who might seek to park in the most advantageous locations and only in periods of high activity whereas permanent business support local communities all year round.

Council can have some regard for this issue under Clause 67 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* including the requirements of orderly and proper planning, having regard for the amenity of the locality including social impacts of the development, the amount

of traffic likely to be generated by the development particularly in relation to the capacity of the local road system in the locality, the impact of the development on the community as a whole, and any submissions received on the application. However, it is noted that the Clause 67 of the Regulations also lists the following matter to be considered by local government:

- “(v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses.”*

This is also an issue that Section 3.3.7 ‘Economic Competition’ of the Western Australian Planning Commission publication ‘Development Assessment Panel Training Notes – Making Good Planning Decisions’ (2011) addresses as follows:

“The threat of competition to existing businesses is not a relevant planning consideration. It only becomes a relevant planning consideration if there is a prospect that there will be a reduction in the facilities available to the community.

*This was made clear in the High Court decision of Kentucky Fried Chicken Pty Ltd v Gantidis (1979) 140 CLR 675. In that case, Barwick CJ at [681] said that:
“economic competition feared or expected from a proposed use is not a planning consideration within the terms of the planning ordinance governing this matter”.*

Stephen J at [687] noted that:

“...the mere threat of competition to existing businesses, if not accompanied by a prospect of a resultant overall adverse effect upon the extent and adequacy of facilities available to the local community if the development be proceeded with, will not be a relevant town planning consideration.”

However, it is also noted that Section 2.10 of the *Local Government Act 1995* lists one of the roles of a Councillor as being:

“A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;”*

11.4 PROPOSED REPURPOSED DWELLING

Location/Address:	21 (Lots 253, 254 & 255) Field Street, Mingenew
Name of Applicant:	R. Warren & C. Nacilla
Disclosure of Interest:	One of the landowners is an employee of the Shire
File Reference:	A784 / A785 / A786
Date:	12 October 2022
Author:	Simon Lancaster, Planning Advisor
Senior Officer:	Matt Fanning, Chief Executive Officer
Voting Requirements:	Simple Majority

Summary

Council is in receipt of an application seeking to site 2 x transportable buildings alongside each other and construct a verandah along the front and one side to create a residence upon 21 (Lots 253, 254 & 255) Field Street, Mingenew.

The application has been advertised for comment and no objections were received.

This report recommends that the application be approved subject to conditions.

OFFICER RECOMMENDATION – ITEM 11.4

That Council approve the application for a repurposed dwelling upon 21 (Lots 253, 254 & 255) Field Street, Mingenew subject to the following:

Conditions

- 1 Development shall generally be in accordance with the approved plans dated 19 October 2022 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 local government CEO to represent significant variation from the approved development plan may require further application and planning approval for that use/addition.
- 3 The development must not be located over the property (side) boundary lines.
- 4 The development must be of materials, finish and colours to the approval of the local government.
- 5 Skirting is required to be installed between the floor level of the building and the ground level to the approval of the local government and using materials and colours that are to the approval of the local government.
- 6 Landscaping is required to be installed and maintained about the development for the purpose of softening the visual impact of the building to the approval of the local government.
- 7 Front fencing to a height not greater than 1.2m is required to be installed and maintained along the property frontage for the purpose of softening the visual impact of the building to the approval of the local government and must be of materials, finish and colours to the approval of the local government.
- 8 The development shall be connected to on-site wastewater and effluent disposal systems that are located, designed, installed and operated to the requirements of the Department of Health and the approval of the local government.
- 9 The conditions relating to this approval (inclusive of the completion of the verandah and fencing) are to be complied with to the approval of the local government within 12 months of the buildings being sited upon the property.

Notes:

- (a) This planning consent does not constitute a building permit, which must be sought and obtained from the Shire's Building Department and will require the applicant's demonstration of compliance with the requirements of the *Building Act 2011* and Building Code of Australia. Also, other separate approvals to undertake certain activities may be required from other government agencies under separate legislation of which it is the applicant's responsibility to investigate and address.
- (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.

Attachment

Attachment 11.4 - Application

Background

Lots 253, 254 & 255 are 852m² properties comprising a total 2,556m² landholding that is located on the northern side of Field Street in the Mingenew townsite.

Figure 11.4(a) – Location Plan for 21 (Lots 253, 254 & 255) Field Street, Mingenew



There is an existing outbuilding upon Lots 254 & 255 and the available Department of Lands aerial photography indicates that it has been in place since at least 1998, and it is likely that it pre-dates this by some way.

The older (indistinct) aerial photography of the Mingenew townsite indicates that there was a residence once sited upon Lot 253 that was removed/demolished at some point after 2002.

Figure 11.4(b) – Aerial Photo of 21 (Lots 253, 254 & 255) Field Street, Mingenew



Figure 11.4(c) – View north-east, north & north-west at Lots 253, 254 & 255 from Field St



The applicant is seeking approval to site 2 x transportable buildings (each being 6m x 2.4m, 14.4m²) upon the property immediately alongside each other to create a 1 bedroom, 1 bathroom residence with kitchen and lounge area. The buildings would be setback 10m from the front/southern boundary of the property. The applicant would then construct a 2m wide verandah on the southern (Field Street) and western sides of the building, thereby creating a residence with a total roof area of 55.6m² (28.8m² enclosed area + 32.8m² unenclosed verandah area).

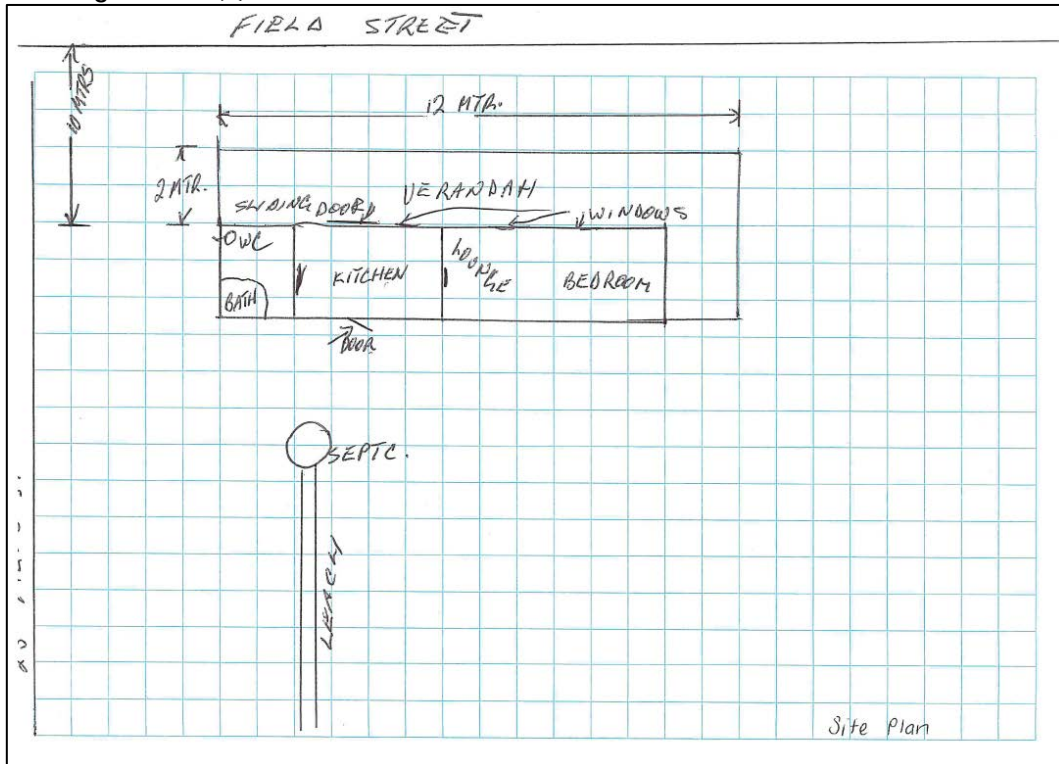
The transportable buildings are 2.6m in height and the applicant is proposing that they would be set 150mm above the ground at the front/south elevation and 300mm above the ground at the rear/north elevation due to the sloping nature of the site.

The application is provided as **separate Attachment 11.4**.

Figure 11.4(d) – Building (x2) proposed to be sited upon Lots 253, 254 & 255 Field Street



Figure 11.4(e) – Site Plan submitted for Lots 253, 254 & 255 Field Street



Comment

The appearance of the transportable buildings in isolation might be considered too small, or more akin to a workers accommodation camp, than would be appropriate within the context of a residential townsite, however, when placed alongside each other and with a verandah along the front and one side and skiting between the ground level and floor level, might be considered an acceptable form of development.

There is also the ability for Council to require the applicant to install and maintain 1.2m high fencing along the property, and landscaping, and this would further reduce the visual impact of the development, and these measures have been included within the officer recommendation.

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

In the event that Council deems that the application should not be supported it might consider the following alternative wording appropriate in its deliberations:

"That Council refuse the application for a repurposed dwelling upon 21 (Lots 253, 254 & 255) Field Street, Mingenew for the following reasons:

- 1 The proposed development is not deemed to meet the objectives for the 'Residential' zone as established in Clause 3 of the Shire of Mingenew Local Planning Scheme No.4.*
- 2 The proposed development is not deemed to meet the requirements for a repurposed dwelling/second hand dwelling as established in Schedule 1 of the Shire of Mingenew Local Planning Scheme No.4.*
- 3 In its consideration of the application Council is not satisfied that the development satisfies the matters under Clause 67 of the deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.*
- 4 Approval of this application would set an undesirable precedent for future variation to the Shire's statutory and policy requirements, which in time could prove to be detrimental to the amenity of the 'Residential' zone.*

Advice Note:

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

Consultation

The application was advertised for comment from 5 September 2022 until 30 September 2022 with the Shire writing to the landowners of the 13 surrounding properties, placing an advisory sign on-site, placing a copy of the application on the Shire website, and making the application available for viewing at the Shire office.

At the conclusion of the advertising period 1 submission had been received, this being from the landowner on the opposite side of the road who might be considered the party most likely to be impacted by the development, expressing support for the application.

Statutory Environment

21 (Lots 253, 254 & 255) Field Street, Mingenew are zoned 'Rural Townsite' 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 land uses that would typically be found in a small country town.*
- To provide for the variety of predominantly commercial, service, social and administrative uses required to service the needs of local residents and visitors alike."*

The development is considered to be a 'Repurposed Dwelling' which is defined by the Scheme as being:

"repurposed dwelling means a building or structure not previously used as a single house which has been repurposed for use as a dwelling."

Repurposed Dwellings are listed as an 'A' use within the 'Rural Townsite' which is a use that must be advertised for comment prior to consideration.

Schedule 1 of the Scheme notes the following for 'Repurposed dwellings and second-hand dwellings':

- "1 The standards of finish of Repurposed Dwellings and/or Second-Hand Dwellings shall be agreed on between the applicant and the local government prior to the issue of development approval and must be consistent with those prevailing in the locality in which the building is to be located or any policy adopted by local government.*
- 2 Local government may permit the erection or placement of a Repurposed Dwelling and/or Second-Hand Dwelling on a lot providing that the design of the building is to the satisfaction of the local government and:*
 - (a) is in a satisfactory condition;*
 - (b) will not detrimentally affect the amenity of the area;*
 - (c) is permanently affixed to the ground; and*
 - (d) is finished to a high standard."*

Schedule 1 of the Scheme also notes the following more generally for the 'Rural Townsite' zone:

- "1 All development within the Rural Townsite zone shall be designed and constructed from materials that complement the existing character and amenity of the townsite as determined by the local government or as outlined in any local government policy.*
- 2 All residential development within the Rural Townsite zone shall comply with the relevant provisions of the R-Codes to a maximum density of R12.5.*
- 3 Where non-residential development is proposed in the Rural Townsite zone on or adjacent to land with an existing residential development, the local government shall have regard to the following when assessing an application for development approval:*
 - (a) the bulk, scale and height of the proposed building in relation to adjacent buildings;*
 - (b) the location of access ways, car parking, storage areas and waste disposal facilities;*
 - (c) the location of services including power, water and effluent disposal systems;*
 - (d) the interface between non-residential and residential uses in accordance with State policy and other guidelines."*

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;...*
- ...(fa) any local planning strategy for this Scheme endorsed by the Commission;...*
- ...(m) the compatibility of the development with its setting, including –*
 - (i) the compatibility of the development with the desired future character of its setting; and*
 - (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following –*

- (i) *environmental impacts of the development;*
- (ii) *the character of the locality;*
- (iii) *social impacts of the development;...*
- ...(p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;...*
- ...(w) *the history of the site where the development is to be located;*
- (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

Nil

Financial Implications

The application would not have a budgetary impact to Council.

Strategic Implications

The Mingenew Townsite Local Planning Strategy notes in Section 4.2.6 'Architectural Style' that:

"Architectural style refers to a combination of factors that influence building construction, such as built form, construction materials and local character. Architectural styles evolve over time and reflect the historic context and growth of an area. The local architecture of Mingenew spans many eras from the 1890s to the present, and there are still common elements from different periods that can, when possible, be incorporated into new development. Older development in Mingenew is characterised by the usage of local stone, gabled roofs and fenestration detail (see Plates 6 and 7).

Early residences incorporate hipped roofs and large verandahs (see Plate 6).

Present day residential development is characterised by houses with little to no roof pitch, constructed of weatherboard, corrugated iron and/or Colorbond sheeting (see Plate 8). Some newer homes have returned to passive climate responses typical of earlier housing and incorporate eaves and verandah into the design detail. 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.

To promote flexibility and encourage new residential development, it is not recommended that any design controls be implemented for residential dwellings, however developers will be encouraged to draw from the architectural palette of traditional homes in the townsite when planning new development."

11.5 RFT1 2022/23 – MINGENEW TENNIS CLUBHOUSE REPLACEMENT – TENDER EXEMPT PROCESS

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: FM.TEN.22.23
Date: 20 July 2022
Author: Matt Fanning, Chief Executive Officer
Voting Requirement: Absolute Majority

Summary

To consider the award of request for tender RFT1 2022/23 - Mingenew Tennis Clubhouse Replacement under a tender exempt process.

Key Points

- Reason for tender - The Mingenew Tennis Club Clubhouse was damaged in STC Seroja with the Shire Insurers accessing the damage significant enough to declare the building be written off.
- The Shire received a lump sum payout for the Building from the Insurer for the amount of \$32,231 (GST Excl). These funds are to be used as part of the Shire contribution to the project
- Council at its 20 July Special Meeting resolved to reject all tenders and request quotations under a tender exempt process.
- Final pricing has resulted in the need to amend the financial contribution set by Council should additional, funding sources not be successfully identified.

OFFICER RECOMMENDATION 1– ITEM 11.5

That with respect to the award of RFT 1 2022/23 Mingenew Tennis Clubhouse Replacement, Council,

1. By Absolute Majority, under section 6.8.(1)(b) of the *Local Government Act 1995*, allocate an additional \$50,000 from its municipal fund for the renewal of the Mingenew Tennis Clubhouse, bringing Council's contribution up to \$94,000 plus \$36,000 in kind.
2. Seek Disaster Recovery Funding Arrangement WA (known as DRFAWA) Category B funding for the reinstatement of essential public assets for the replacement of the Clubhouse.
3. On acceptance of part (1) and (2) of this resolution
 - a) Notes the Evaluation Matrix, as included in Confidential Attachment 11.5.1,
 - b) In accordance with the *Local Government (Functions and General) Regulations 1996* Regulation 18, accept Evoke Living Homes as the preferred tenderer and authorises the Chief Executive Officer to successfully negotiate a contract for the delivery of the Mingenew Tennis Clubhouse Replacement.

Attachment

Confidentiality

An attachment to this report is confidential in accordance with section 5.23 (2) of the *Local Government Act 1995* because it deals with –

(c) “a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.”

(e) “Information that has a commercial value to a person”

11.5.1 Confidential Evaluation Matrix *provided under separate, confidential cover*

11.5.2 Preferred Tenderer – Evoke Living Homes Offer documentation

Background

Reconstruction of the Mingenew Tennis Club facility (which was irreparably damaged by STC Seroja) was initially an estimated \$200k to \$250k project. As part of the process the Shire secured a Community and Sporting Recreational Facilities Fund (CSRFF) grant funding for 1/3 of the projects expected budget, Mingenew Tennis Club will put in 1/3 and the Shire was to put in \$50k cash (Local Roads & Community Infrastructure grant - Phase 3) and \$35k in kind support. The Shire has already contributed \$6,000 in 2021/2022 on the project, which leave an amount of \$44,000 cash (plus the in-kind amount) remain in the Draft 2022/2023 Budget as the Shire's contribution.

Council at its Special July 2022 meeting made the following resolution:

OFFICER ALTERNATIVE RECOMMENDATION AND COUNCIL DECISION - ITEM 6.3 – RESOLUTION# 06200722S	
MOVED: Cr JD Bagley	SECONDED: Cr GJ Cosgrove
Council:	
<ol style="list-style-type: none"> Declines to accept any tenders received in response to RFT1 2022/23 Mingenew Tennis Clubhouse Replacement, in accordance with Functions and General Regulation 18(5). Sets a maximum cash contribution of \$44,000 (GST Exclusive) by the Shire + \$36,000 (Shire In-Kind) for the Tennis Clubhouse project and authorise the CEO, in consultation with Mingenew Tennis Club representatives, to adjust the building design and associated landscaping works to fit this amount. Seeks quotations under the Shire's Purchasing Policy for the project in accordance with Regulation 11(2)(c)(i) of the Local Government (Functions and General) Regulations, which provides a tender exemption opportunity in circumstances where the Shire's tender process did not result in a satisfactory outcome i.e. <ol style="list-style-type: none"> “(c) within the last 6 months: <ol style="list-style-type: none"> (i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment;” 	
VOTING REQUIREMENTS:	CARRIED BY SIMPLE MAJORITY 5/0

In addition, to the previous funds secured for the project an addition \$100,000 has been provided by the Tennis Club. This brings the total allocated funding to: current confirmed funding is as follows:

	Cash	In-Kind
CSRFF	\$87,000	
Tennis Club	\$184,000	
Shire	\$44,000	\$36,000
Total Cash	\$315,000	

The Shire's in-kind contribution was to be for demolition, levelling, installation of sand-pad and correcting drainage at back of building (base of hill from Bowling Green – basically put in a trench with some blue metal to get the water to run towards Yandanooka St, and not down through the building/onto the courts).

There is an issue with the demolition of existing building as this building contains asbestos material. The Shire staff would not be able to undertake demolition until the site has been professionally cleared of asbestos materials and site determined clear of this material. The cost for removal of asbestos material has been

finalised at a cost of \$4,680. The tender specifications were presented with a clean site for builders to commence work.

Comment

Even with the revised costings and best efforts to obtain a lower build cost, the project costs still exceed the current funding allocation.

In order to deliver the project additional funds will be required. There are several avenues for this funding being an additional general fund allocation or seeking further grant funding. One avenue being explored is Disaster Recovery Funding Arrangement WA (known as DRFAWA) Category B funding for the reinstatement of essential public assets.

These discussions have commenced with the Department of Fire and Emergency Services (DFES) regarding this possibility. However, in order to commence the project and secure the other funding streams it is recommended that the Council consider the allocation of additional funds with the expectation that the alternate DRFAWA funds will be forthcoming.

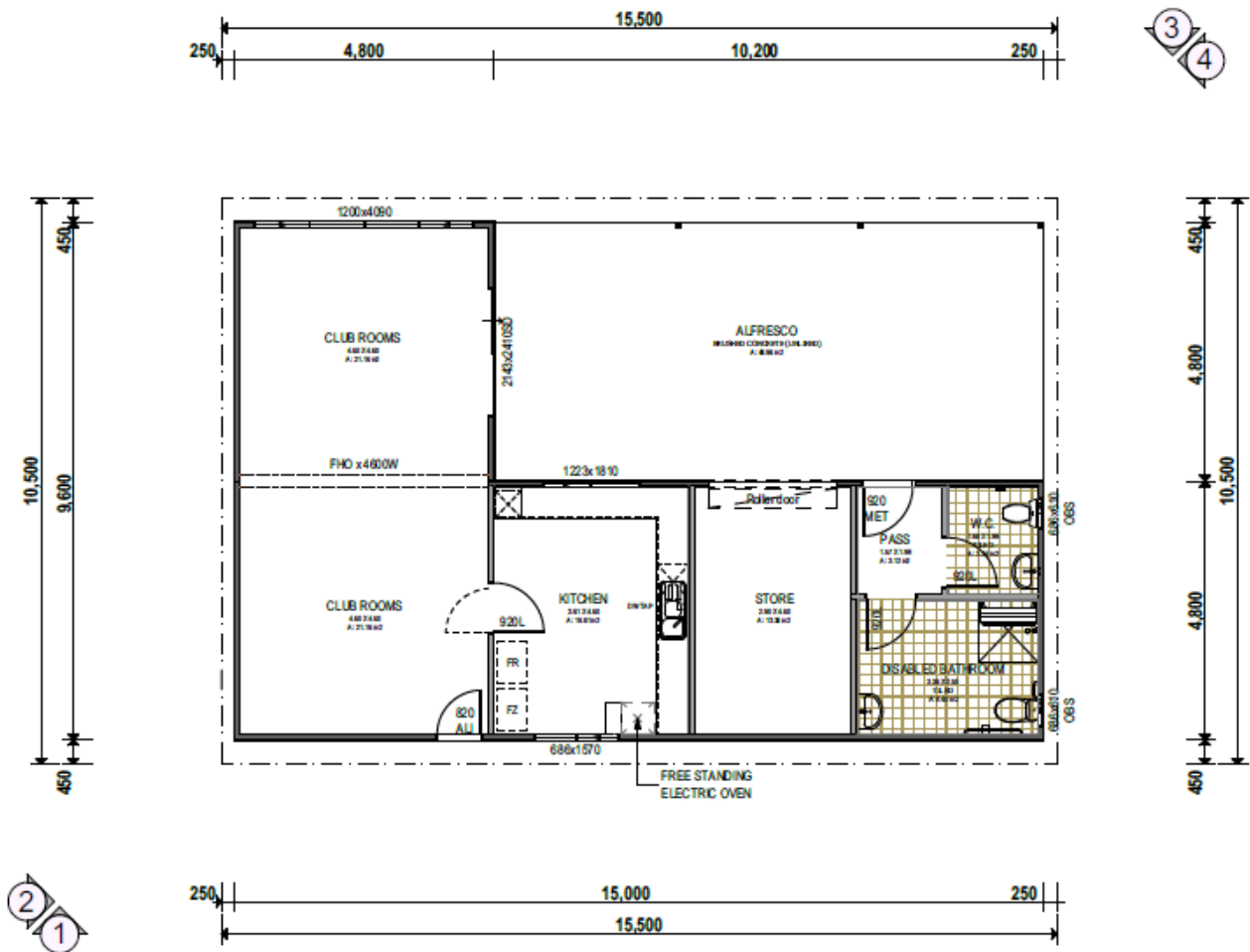
Five (5) additional quotes were received and assessed as part of the tender exempt process. The evaluation matrix can be viewed as confidential attachment 11.5.1.

The final best value for money quote has been received with a lump sum offer of \$338,829 exclusive of GST which is to deliver a building of approximately 150 square metres with a floor plan as shown below.



Based on the revised costings the cost per gross floor area has reduced from \$6,600 to \$3,400 representing significantly better value for money.

The floor plan of the preferred offer is included below for information.



The delivery time from point of order is 12 to 13 months. The sport and Recreation Grant funding runs out in December 2023 and has already received an extension of time.

Consultation

Department of Fire & Emergency Services (DRFAWA Grant Providers):

Discussion of possibility of obtaining additional funding through the DRFAWA Category B Program

Mingenew Tennis Club

Statutory Environment

Local Government Act 1995

Section 3.57 – Tenders for providing goods or services

A local government is required to invite tenders before it enters a contract of a prescribed kind under which another person is to supply goods or services.

Local Government (Functions and General) Regulations 1996

Regulation 11 – When tenders must be publicly invited — Tenders for providing goods or services (s. 3.57)

- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*
- (c) *within the last 6 months —*
- (i) *the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment*

Regulation 18 – Rejecting and accepting tenders

18. Rejecting and accepting tenders

(4) *Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.*

Amending Budgets

6.8. Expenditure from municipal fund not included in annual budget

(1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*

- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or*
- (b) is authorised in advance by resolution*; or*
- (c) is authorised in advance by the mayor or president in an emergency.*

** Absolute majority required.*

(1a) *In subsection (1) —*

additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.

(2) *Where expenditure has been incurred by a local government —*

- (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and*
- (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.*

Policy Implications

In obtaining a public tender, the Shire's Purchasing Policy (1.3.1) requirements have been met.

Financial Implications

As previously report, there is an estimated \$50,000 cash funding shortfall from available funds and the lowest (preferred) tender. This report recommends attempting to obtain additional funding under the DFRAWA reinstatement of essential public assets or through the provision of an additional \$50,000 from the Councils Municipal Funds. This request for budget amendment has also been included in the 12.4 Budget Amendment report being presented to this meeting.

Strategic Implications

Strategic Community Plan 2019-2029:

- 1.1.1 Provide buildings, facilities and services to meet community needs.
- 1.2.1 Manage organisation in a financially sustainable manner.
- 2.4.2 Continue programs to improve the look and feel of community public spaces, places and services to support an active and inclusive lifestyle.

Corporate Business Plan 2019-2023:

- 2.4.2g Tennis Facilities Upgrade

11.6 REVIEW OF EMPLOYEE SUPERANNUATION POLICY

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: CM.POL.1 / PE.SUP
Date: 6 September 2022
Author: Erin Greaves, Governance and Community Manager
Voting Requirement: Simple Majority

Summary

This report outlines proposed amendments to Council's Employee Superannuation Policy to consider changes in legislation impacting the Superannuation Guarantee and Council's matched contributions.

Key Points

- The super guarantee percentage for the period 1 July 2022 to 30 June 2023 has increased from 10% to 10.5% and is set to increase up to 12% by 2025.
- Council's policy currently provides for a maximum total super contribution (super guarantee percentage and Council-matched contribution combined) of 15%
- This means the Policy requires that when the super guarantee increased to 10.5%, the Council-matched contribution is reduced to 4.5%
- It is recommended that Council-matched contribution be fixed to 5%

OFFICER RECOMMENDATION – ITEM 11.6

Council:

1. amends its Policy 1.3.8 'Employee Superannuation' to set Council's maximum matching superannuation contribution to 5% of the employee's gross salary where an employee makes a voluntary superannuation contribution, presented in CEO Attachment Booklet – October 2022; and
2. applies the Policy change retrospectively to 1 July 2022.

Attachments

11.6.1 Amended 1.3.8 'Employee Superannuation' Policy (tracked changes)

Background

Under the superannuation guarantee, employers have to pay superannuation contributions of 10.5% of an employee's ordinary time earnings. Super guarantee (SG) is the minimum amount an employer must pay to avoid the super guarantee charge.

Council adopted an Employee Superannuation Policy as an employee benefit in March 2019. The Policy outlined that Council committed to match an employee's voluntary contribution to a maximum of 5% of the employees' gross salary; subject to the combined total contribution from the Shire not exceeding 15% of the employees' salary. The Policy also provided that as the SGC component increases, the maximum matching contribution by the Shire will decrease once the SGC component is more than 10%.

It has been determined that a matching contribution of 5% has actually been paid to those employees making voluntary contributions and receiving the co-contribution in 2022/23 therefore receiving a 15.5% total contribution from the Shire. Noting that Council's Budget factors in the 15.5% contribution.

Council last reviewed its Employee Superannuation Policy in December 2020 however; significant legislation changes have since been imposed with regard to the SG percentage. From 2021, a gradual increase of 0.5%, up to 12% by 2025/26 is to be implemented, as follows:

Period	Super Guarantee (%)
1 Jul 2020 – 30 June 2021	9.5
1 July 2021 – 30 June 2022	10
1 July 2022 – 30 June 2023	10.5
1 July 2023 – 30 June 2024	11
1 July 2024 – 30 June 2025	11.5
1 July 2025 – 30 June 2026	12

Comment

A review of local government Policies in regard to super co-contributions of other local governments reveals that between 3-5% is typical; with 5% for local governments in regional or remote areas (often used as an attraction and retention strategy).

This Policy provides a significant benefit to employees who wish to boost their retirement savings and reduce their tax obligations. Feedback from Exit interviews conducted with staff has been received, indicating that this is a valued employee benefit and something that helped attract them to the role.

Consultation

Australian Taxation Office

Statutory Environment

Local Government Act 1995

Superannuation Guarantee Contribution (Administration) Act 1992

Policy Implications

As outlined.

Financial Implications

The Shire has budgeted to allow for the full 5% co-contribution in 2022/23. Total amount budgeted for co-contributions in 2022/23 is \$42,300.

Comparatively Council budgeted \$29,800 (Budget) in 2021/22 and paid \$30,174 (Actual) in matching contributions. This reflects an increase in take up of Council's co-contribution by staff.

Strategic Implications

Strategic Community Plan 2019-2029:

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

11.7 ROAD BUILDING MATERIAL ACQUISITIONS POLICY

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: CM.POL.1
Date: 23 September 2022
Author: Erin Greaves, Governance and Community Manager
Voting Requirement: Simple Majority

Summary

To consider amendments to Council's 'Gravel Acquisitions' Policy, including a retitle to 'Road Building Material Acquisitions'.

Key Points

- In response to increased demand for Council to pay for road building materials available on private property, a review of current practice and standard rates has been undertaken and a number of changes proposed
- The review also identified that gravel is not the only material used for road construction activities, so the policy title has been amended to reflect this
- Local governments may acquire building materials in accordance with the Local Government Act 1995

OFFICER RECOMMENDATION – ITEM 11.7

Council adopts the Council Policy 1.5.1 'Road Building Material Acquisitions' as presented, superseding the former Policy titled 'Gravel Acquisitions'.

Attachments

11.7.1 Proposed amended Policy 1.5.1 'Road Building Materials' Policy

Background

Council adopted and reviewed the current 'Gravel Acquisitions' Policy in June 2018. The current Policy is available on the Shire's website at <https://mingenew.wa.gov.au/wp-content/uploads/2022/01/1.5.1-Gravel-Acquisitions.pdf>.

Council Policy Review Schedule indicates its Works Policies should be reviewed at least once every three years.

Comment

Council's Policy for providing compensation to landowners for the acquisition of road building material provides officers with direction to negotiate up to \$2.00 per m3

Feedback has been received from certain supplier landowners, that contractors operating within the Shire are offering higher rates and offering compensation for accessing water. However, many landowners donate available materials to the Shire at no cost.

A review of compensation rates in the region has been undertaken to determine if the Mingenew Shire's rates are comparable:

Perenjori	\$1.50
Carnamah	\$2.00
Morawa	\$0.85 - \$1.65
Three Springs	Nil (have own supply)

None currently pay for water

Therefore, it seems that the Shire of Mingenew's rate is comparatively reasonable, taking into account market conditions.

The Department of Water has indicated there is no regulation preventing landowners charging anyone for accessing water from private dams, soaks or bores.

Should Council be charged for any road material acquired for road construction and maintenance activities, the overall cost of such activities would increase, and that additional cost would be passed on to all ratepayers which could mean an increase in rates or reduction in projects or services in other areas.

As outlined below, the local government does have the right to acquire material should it be considered necessary for road works.

Statutory Environment

Local Government Act 1995

3.27. Particular things local governments can do on land that is not local government property

- (1) A local government may, in performing its general function, do any of the things prescribed in Schedule 3.2 even though the land on which it is done is not local government property and the local government does not have consent to do it.*
- (2A) In subsection (1) land includes Crown land the subject of a pastoral lease within the meaning of the Land Administration Act 1997 section 3.*
- (2) Schedule 3.2 may be amended by regulations.*
- (3) If Schedule 3.2 expressly states that this subsection applies, subsection (1) does not authorise anything to be done on land that is being used as the site or curtilage of a building or has been developed in any other way, or is cultivated.*
- (4A) For the purposes of subsection (3), planting pasture on land for grazing does not amount to cultivating the land.*
- (4) Nothing in subsection (3) prevents regulations amending Schedule 3.2 from stating that subsection (3) applies, or excluding its application, in relation to a particular matter.*

Schedule 3.2 — Particular things local governments can do on land even though it is not local government property

- 3. Take from land any native growing or dead timber, earth, stone, sand, or gravel that, in its opinion, the local government requires for making or repairing a thoroughfare, bridge, culvert, fence, or gate.*

Section 3.36 of the Act provides direction in regard to opening fences (if applicable) under Schedule 3.2.

Policy Implications

As outlined.

Financial Implications

As outlined within the Policy.

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 31 AUGUST 2022

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	FM.FRP
Attachment/s:	Monthly Financial Report – August 2022
Disclosure of Interest:	Nil
Date:	8 September 2022
Author:	Helen Sternick, Senior Finance Officer
Approved by:	Jeremy Clapham, Finance & Administration Manager
Voting Requirement:	Simple Majority

Summary

This report recommends that the Monthly Financial Report (containing the Statement of Financial Activity) for the period ending 31 August 2022 as presented to the Council be received.

OFFICER RECOMMENDATION – ITEM 12.1

That with respect to the Monthly Financial Report (containing the Statement of Financial Activity), Council, in accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, accepts the Statement of Financial Activity, and associated documentation for the period 1 July 2022 to 31 August 2022, as included at Attachment 12.1.1.

Attachment

12.1.1 Monthly Financial Report for period ending 31 August 2022

Background

The Monthly Financial Report to 31 August 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 Nature or Type
- Statement of Financial Activity Information
- Cash and Financial Assets
- Receivables
- Other Current Assets
- Payables
- Disposal of Assets
- Capital Acquisitions
- Borrowings
- Lease Liabilities
- Reserve Accounts
- Other Current Liabilities
- Operating Grants, Subsidies and Contributions
- Non-operating Grants, Subsidies and Contributions
- Bonds and Deposits Held
- Explanation of Material Variances

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 31 August 2022	
Municipal Funds – Corporate cheque account	\$207,664
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$1,587,837
Term Deposit – Reserves	\$563,254

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 2022/23 financial year.

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

Consultation

Nil

Statutory Environment

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

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

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and

- (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
 - (a) Presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) Recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Policy Implications

Nil

Financial Implications

No financial implications are indicated in this report.

Strategic Implications

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

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

12.2 FINANCIAL REPORT FOR THE PERIOD ENDED 30 SEPTEMBER 2022

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
File Reference:	FM.FRP
Attachment/s:	Monthly Financial Report – September 2022
Disclosure of Interest:	Nil
Date:	12 October 2022
Author:	Helen Sternick, Senior Finance Officer
Approved by:	Jeremy Clapham, Finance & Administration Manager
Voting Requirement:	Simple Majority

Summary

This report recommends that the Monthly Financial Report (containing the Statement of Financial Activity) for the period ending 30 September 2022 as presented to the Council be received.

OFFICER RECOMMENDATION – ITEM 12.2

That with respect to the Monthly Financial Report (containing the Statement of Financial Activity), Council, in accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, accepts the Statement of Financial Activity, and associated documentation for the period 1 July 2022 to 30 September 2022, as included at Attachment 12.2.1.

Attachment

12.2.1 Monthly Financial Report for period ending 30 September 2022

Background

The Monthly Financial Report to 30 September 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 Nature or Type
- Statement of Financial Activity Information
- Cash and Financial Assets
- Receivables
- Other Current Assets
- Payables
- Disposal of Assets
- Capital Acquisitions
- Borrowings
- Lease Liabilities
- Reserve Accounts
- Other Current Liabilities
- Operating Grants, Subsidies and Contributions
- Non-operating Grants, Subsidies and Contributions
- Bonds and Deposits Held
- Budget Amendments
- Explanation of Material Variances

Comment

Summary of Funds as per bank statements – Shire of Mingenew as at 30 September 2022	
Municipal Funds – Corporate cheque account	\$2,289,601
Cash on Hand	\$100
Trust Fund	\$1
Municipal Funds – Business Maximiser	\$352
Term Deposit – Reserves	\$563,254

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 2022/23 financial year.

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

Consultation

Nil

Statutory Environment

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

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

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and

- (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
 - (a) Presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) Recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Policy Implications

Nil

Financial Implications

No financial implications are indicated in this report.

Strategic Implications

Strategic Community Plan 2019-2029 Strategies

1.2.1 Manage organisation in a financially sustainable manner

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

12.3 LIST OF PAYMENTS FOR THE PERIOD 1 AUGUST 2022 TO 30 SEPTEMBER 2022

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
File Reference: FM.CRD
Attachment/s: List of Payments – August 2022 and Sept 2022
Disclosure of Interest: Nil
Date: 11 October 2022
Author: Maria Snowden-Giles Payroll/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 August 2022 to 30 September 2022 in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

OFFICER RECOMMENDATION – ITEM 12.3

That Council in accordance with *Local Government (Financial Management) Regulations 1996* Regulation 13 confirms the list of payments for the period of 1 August 2022 to 30 September 2022, as included at Attachment 12.3.1. as follows:

\$1,569,034.18 Municipal EFTs;
\$92,190.70 Municipal Direct Debit Department of Transport (Licencing) Payments;
\$62,923.83 Municipal Direct Debit Other;
\$2,808.96 Municipal Other Charges;
\$160,367.47 Net Salaries
\$1,887,325.14 Total Payments

Attachment

12.3.1 List of Payments – August 2022 and September 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

12.4 BUDGET AMENDMENT – OCTOBER 2022

Location/Address: Shire of Mingenew – 21 Victoria Street Mingenew 6522
Name of Applicant: Shire of Mingenew
File Reference: FM.BU.22.23
Disclosure of Interest: Nil
Date: 12 October 2022
Author: Jeremy Clapham – Finance & Administration Manager
Approved by: Matt Fanning – Chief Executive Officer
Voting Requirements: Absolute Majority

Summary

This Report lists the details of Budget Amendments required

Key Points

- There have been a few adjustments to the Estimated Opening Surplus for the year ended 30 June 2023, resulting in an estimated Budget Surplus of \$54,872 after the processing of the Budget Amendment in August 2022.
- This figure is subject to change by the auditors until such time as the audit has been completed, which should be by the end of November 2022.
- Further Budget Amendments are suggested and are detailed further in this report.

OFFICER RECOMMENDATION - ITEM 12.4

That Council, under section 6.8.(1)(b) of the *Local Government Act 1995* by absolute majority, adopts the Budget amendments for 2022/23 reflected as below:

- Increase Operating Expenditure RM000 – Road Maint General by \$30,000
- Reduce Operating Income 3100621 – PLAN Consulting Fees by \$15,000
- Reduce Capital Grant Income 3090310 – COM HOUSE Grant Inc by \$125,000
- Increase Operating Expenditure EM003 – Temp Worker Accom by \$10,000
- Increase Operating Grant income 3050710 – EM MGMT Grants by \$10,000
- Reduce Capital Grant Income 3050515 – ESL BFB Grants by \$400,000
- Reduce Capital Expenditure BC085 – 25 Victoria Rd Fire Shed by \$400,000
- Reduce Capital Expenditure BC999 – Comm Housing Project by \$250,000
- Increase Operating Expenditure BM500 – Public Conv Building Maint by \$10,000
- Reduce Capital Expenditure PC007 – Information Bay Sign by \$10,000
- Increase Capital Expenditure BC030 – 30 Bride St Tennis Club by \$50,000
- Increase Operating Expenditure W0013,14,16,17 – Rec Centre by \$30,000
- Increase Capital Expenditure OC006 – Transfer Station by \$25,000
- Increase Capital Grant Income 3100110 – SAN Grants by \$25,000
- Increase Operating Expenditure 2120252 – ROADM Consultants by \$30,000
- Increase Operating Expenditure W0049 – Marketing & Promotions by \$2,000

Attachments

12.4.1 List of October 2022 Budget amendments for the year ended 30 June 2023.

Background

As the Annual Budget is usually completed before the audit of the previous year's Annual Financial Report, the opening surplus is subject to change. There have also been circumstances where errors have been identified in the Annual Budget, and other instances where Budget Amendments are required in order to

account for income or expenditure that has changed. When this happens, it is prudent to do a Budget Amendment. Details of these Budget Amendments are listed below.

Comment

- Council agreed to extra funds being spent on Maintenance Grading in order to improve the condition of some of the roads. Due to the illness of a staff member, the full amount was not used. An estimated amount of \$30,000 has been used, mainly relating to staff overtime (with related overheads and plant costs) rather than the hire of contractors.
- There was an error where an amount of \$15,000 was shown as income (reimbursement for cyclone related worker accommodation); this has now been corrected.
- The first year of the Community Housing Project is no longer going ahead. The total of this project was \$250,000, of which half was to be Shire funded. This amount has been removed from the budget.
- There is an estimated increase in the costs for Temporary Worker Accommodation of \$10,000. This amount is fully funded by DFES.
- The new Fire Shed has not been approved by DFES, therefore this project (with related funding has been removed), amount \$400,000.
- There was a large repair project related to the leach drains connected to the Public Conveniences behind the MIG building that cost \$19,000.
- The Information Bay Signage project of \$10,000 has been removed, with the funding allocated elsewhere.
- An additional \$50,000 has been allocated to the Tennis Club House project, with the possibility that it will be funded by DRFAWA (DFES). Please see CEO Report in this regard.
- An amount of \$30,000 extra has been allocated to turf maintenance as agreed by Council at the September Concept Forum.
- An amount of \$25,000 has been allocated to work that needs to be done at the Transfer Station in relation to the rubble that has been placed there due to Cyclone Seroja. Funding from DRFAWA is being sought for this work.
- A request has been made to include \$30,000 for a heavy haulage bypass feasibility study, to be co-funded by CBH and MRWA.
- An amount of \$2,000 has been included as the Shire's contribution to Wildflower Country for the development of a Trails Master Plan.
- It is estimated that there will still be approximately \$13,872 surplus left over after these amendments have been made.

Consultation

Leadership Team

Statutory Environment

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

Policy Implications

Nil

Financial Implications

It is estimated that there will be a surplus of \$13,872 after all of the budget amendments have been made, subject to the completion of the 2021/22 audit. There will be Budget Review carried out in the second half of the Financial Year.

Strategic Implications

Strategic Community Plan

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

13.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

15.0 CONFIDENTIAL ITEMS

Nil.

16.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday 14 December 2022 commencing at 5.00pm.

17.0 CLOSURE

The meeting was closed at ____pm.

These minutes were confirmed at an Ordinary Council meeting on 14 December 2022.

Signed _____
Presiding Officer

Date: _____