



AGENDA FOR THE SPECIAL COUNCIL MEETING

9 DECEMBER 2022



Special Council Meeting Notice Paper

9 December 2022

A Special Meeting of Council is called for Friday, 9 December 2022, in the Council Chambers, Victoria Street, Mingenew, commencing at 5:00 pm.

The purpose of the meeting is to consider two applications from CBH seeking approval for the temporary use of Lot 4 Eleanor Street, Mingenew (Shire-owned) and Lot 202 Mingenew-Morawa Road, Mingenew (CBH-owned) for additional grain storage.

Matt Fanning
Chief Executive Officer
7 December 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 Mingenew expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.

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

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

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

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

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

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

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

A Deputation invited to attend a Council meeting:

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

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

PROCEDURE FOR PRESENTATION

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

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

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

PROCEDURE FOR PETITIONS

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

MINGENEW SHIRE COUNCIL SPECIAL MEETING AGENDA – 9 December 2022

- 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 SPECIAL MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS ON
16 NOVEMBER 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 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME
- 4.0 APPLICATIONS FOR LEAVE OF ABSENCE
- 5.0 DECLARATIONS OF INTEREST

6.0 CHIEF EXECUTIVE OFFICER

6.1 TEMPORARY USE OF COUNCIL LAND FOR LUPIN STORAGE - CBH

Location/Address:	Lot 4 Eleanor Street, Mingenew
Name of Applicant:	Co-operative Bulk Handling Ltd (CBH)
File Reference:	LP.APP / A870
Disclosure of Interest:	Nil
Date:	6 December 2022
Author:	Matt Fanning, CEO
Voting Requirements:	Simple Majority

Summary

To consider an application from Co-operative Bulk Handling Ltd (CBH) to temporarily store Lupin on the hardstand between the Mingenew Railway Station and Mingenew Trye Service. It is proposed to offer CBH a non-exclusive licence agreement for a period of 12 months including a consideration of \$50,000 for the use of Lot 4 DP056161 for the temporary storage of lupins. In addition, it is proposed to request the council to consider not requiring the lodgement of a planning application due to the temporary nature of the request.

Key Points

- CBH have advised that they have fully exhausted existing Lupin storage areas and it is estimated that 20,000 Tonne of lupins will be stored on the site.
- A licence to occupy agreement is proposed to be established between the Shire of Mingenew and CBH, including a licence fee which is recommended to be set at \$50,000 as being a reasonable consideration for the use of the land.
- It is required that the use be non-exclusive and for a period of up to 12 months.
- Council has the ability under the local planning scheme to forego the need to lodge a development application as the use is temporary and for a set period of up to 12 months.
- Council sought public comment which will be tabled as part of the Councils consideration.
- The site has been historically used for the storage of Lupins in circa 2017.

OFFICER RECOMMENDATION – ITEM 11.1

Council:

1. **Advise CBH that it deems pursuant to Schedule 2 Part 7 Clause 60 and 61(17) of the Planning and Development (Local Planning Schemes) Regulations 2015 that the temporary storage of harvest by CBH upon Lot 4 Eleanor Street, Mingenew does not require lodgement of a planning application providing that the temporary use period is not greater than 12 months.**
2. **Advise CBH that the determination as outlined in part (i) is a temporary measure only to assist in the current harvest period and that Council requires the lodgement by CBH of a planning application outlining its longer-term storage and handling development plans for Lot 202 (and other Mingenew sites if considered necessary) for more formal consideration at a future meeting of Council."**
3. **Authorise the Chief Executive Office to grant a non-exclusive Licence to Occupy of Lot 4 DP056161 to Co-operative Bulk Handling Ltd (CBH) for a maximum period of 12 months, and licence fee of \$50,000.**
4. **Place the consideration of \$50,000 into the Mingenew Daycare Facility Reserve.**

Attachments

- 6.1.1 Letter of request from CBH
- 6.1.2 Draft Licence to Occupy Agreement

Background

Co-operative Bulk Handling Ltd (CBH), commonly known as CBHGroup, have made a request to the Shire of Mingenew for the temporary use of Lot 4 DP056161 Eleanor Street Mingenew for the temporary storage of Lupins.

The 2021 record harvest required CBH to construct 2.2 million tonnes of additional storage to its network. The modelling for the 2022 harvest suggests further strain on grain storage and handling facilities with CBH obtaining approvals for an additional 2.3 million tonnes of storage to accommodate the leftover carry from last year as well as storing this year's crop. With the Kwinana Port almost at capacity there is increasing need for growers to deliver further north towards the Geraldton Port placing further pressure on Midwest storage facilities.

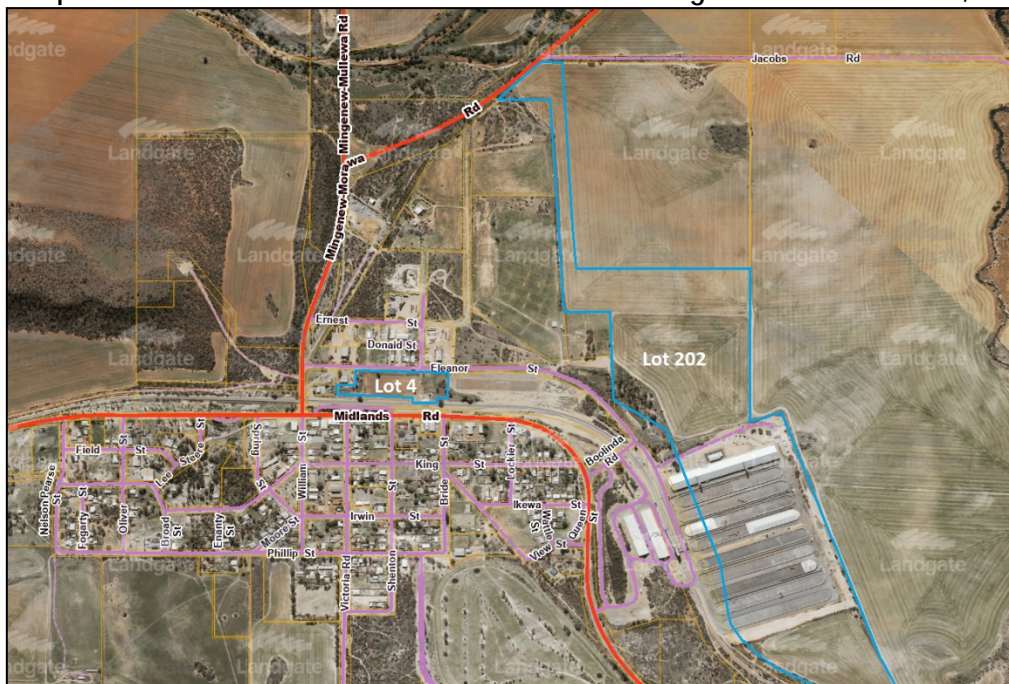
With this in mind, CBH have advised the Shire that they urgently are seeking to store further grain on the Shire's Lot 4 Eleanor Street, Mingenew.

Under section 30 of the *Local Government (Functions and General) Regulations 1996*, Council is exempt from the disposal of property requirements outlined in section 3.58 of the *Local Government Act 1995* and may lease land for a period of less than two years while not providing exclusive use of the land.

It is proposed to offer CBH a non-exclusive licence agreement for a period of 12 months including a consideration of \$50,000 for the use of Lot 4 DP056161 for the temporary storage of lupins.

In addition, it is proposed to request Council to consider not requiring the lodgement of a planning application due to the temporary nature of the request.

Below - Map of Lot 4 Eleanor Street & CBH Site Lot 202 Mingenew-Morawa Road, Mingenew



The storage of harvest product on a property can be considered to meet the definition of 'Warehouse/Storage' which is defined under the *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') as being:

*"warehouse/storage means premises including indoor or outdoor facilities used for –(a) the storage of goods, equipment, plant or materials; or
(b) the display or sale by wholesale of goods"*

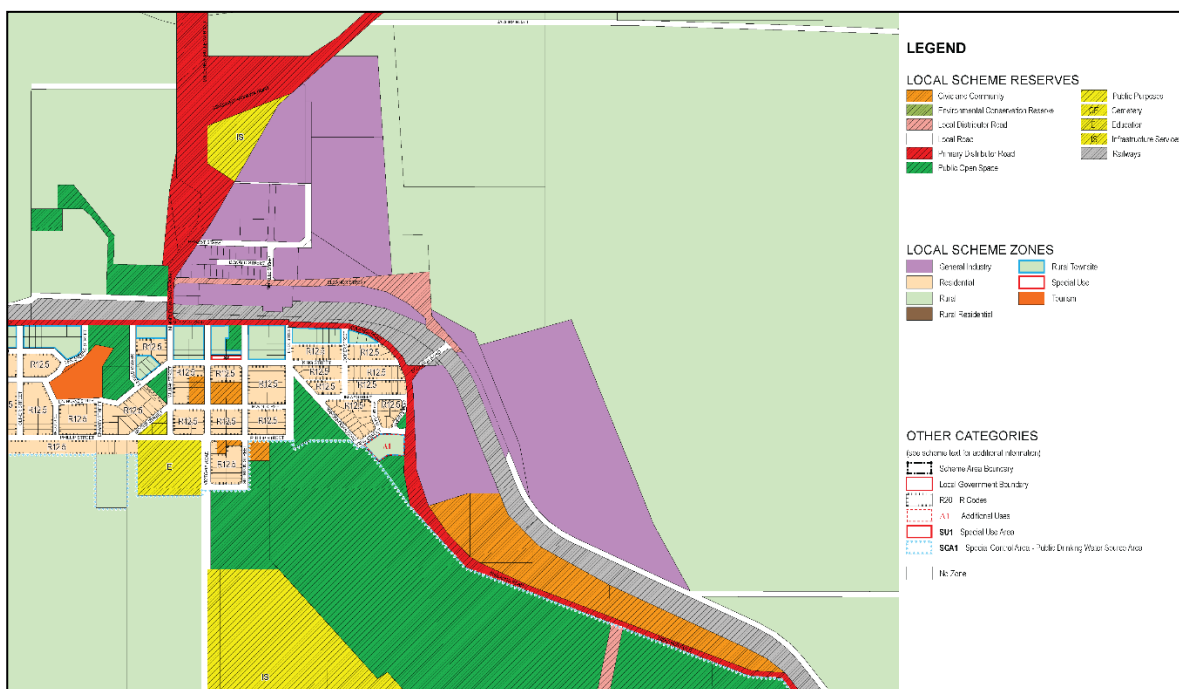
MINGENEW SHIRE COUNCIL SPECIAL MEETING AGENDA – 9 December 2022

Lot 4 Eleanor Street, Mingenew (which is owned in freehold by the Shire of Mingenew) is zoned 'General Industry' and 'Warehouse/Storage' is a permitted use in the 'General Industry' zone.

Below – Lot 4 Eleanor Street, Mingenew



Below – Mingenew Townsite Scheme Map extract



Comment

There are two matters which will need to be addressed for the use of lot 4 Eleanor Street, Mingenew.

These being:

1. The ability of the applicant to use the land under the Planning instruments for the use of the land
2. The ability of and mechanism for the Council to permit the use of the land under the Local Government Act

Use of Land under the Planning Instruments

The Council has two possible pathways for determining this request under the planning instruments.

Option 1 – Planning Application Path

If the Council were to consider that the temporary storage of grain/lupins in open bulkheads requires lodgement of a planning application, it may choose to issue delegated authority to the Shire CEO to determine the applications as follows:

“That Council:

- i. Issue delegated authority to the Shire CEO to determine applications for the temporary storage of harvest by CBH upon Lot 4 Eleanor Street, Mingenew providing that the approval period is not greater than 12 months.*
- ii. Advise CBH that the delegation to the CEO as outlined in part (i) is a temporary measure only to assist in the current harvest period and that Council requires the lodgement by CBH of a planning application outlining its longer-term storage and handling development plans for Lot 202 (and other Mingenew sites if considered necessary) for more formal consideration at a future meeting of Council.”*

Option 2 – Temporary Use Provisions Pathway

Alternatively, Council may consider that the temporary storage of grain in open bulkheads does not require lodgement of a planning application and it instead may consider the following wording appropriate:

“That Council:

- i. Advise CBH that it deems pursuant to Schedule 2 Part 7 Clause 60 and 61(17) of the Planning and Development (Local Planning Schemes) Regulations 2015 that the temporary storage of harvest by CBH upon Lot 4 Eleanor Street, Mingenew does not require lodgement of a planning application providing that the temporary use period is not greater than 12 months.*
- ii. Advise CBH that the determination as outlined in part (i) is a temporary measure only to assist in the current harvest period and that Council requires the lodgement by CBH of a planning application outlining its longer-term storage and handling development plans for Lot 202 (and other Mingenew sites if considered necessary) for more formal consideration at a future meeting of Council.”*

Schedule 2 Part 7 Clause 60 and 61(17) of the *Planning and Development (Local Planning Schemes) Regulations* does make allowance for works that are in existence for less than 48 hours, or a longer period as agreed by the local government, in any 12 month period.

It is suggested that this clause is more commonly applied to minor developments such as pop-up shops and events and might be considered less appropriate for storage of grain in open bulkheads for approximately 8-10 months that will have some visual significance and associated truck movements, however given the circumstances, economic benefit to the region and potential additional infrastructure damage which would result should product need to be transported to other receival facilities this option is the recommended pathway.

Use of Land under the Local Government Act

The mechanism the Council has to permit the use of its land under the Local Government Act to any other party refers to the disposition of land under section 3.58. In the circumstances presented there is an ability to exclude the use of this section and its processes if the use can be described under section 30 of the Local Government (Functions and General) Regulations 1996.

It is proposed to enter into a Licence to Occupy for the use of Lot 4 Eleanor Street Mingenew under a maximum term of 12 months and non-exclusive use of the land with a recommended Licence fee of \$50,000, which is consistent with section 30(2)(e) of the Regulation.

Consultation

Council sought comment from the community regarding this proposal. Comments close 3pm Friday 9 December 2022.

Statutory Environment

Section 3.58 of the *Local Government Act 1995* deals with the requirements for disposing of Council land. Section 3.58(5)(d) provides for an exemption by section 30 of the *Local Government (Functions and General) Regulations 1996*.

Local Government Act 1995

3.58. Disposing of property

- (1) *In this section —*
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) *Except as stated in this section, a local government can only dispose of property to —*
 - (a) *the highest bidder at public auction; or*
 - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
 - (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

and

 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
 - (a) *the names of all other parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
- (5) *This section does not apply to —*
 - (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
 - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
 - (c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
 - (d) *any other disposition that is excluded by regulations from the application of this section.*

Local Government (Functions and General) Regulations 1996

Section 30(2)(e) of the *Local Government (Functions and General) Regulations 1996* provides exemption from these requirements when it is leasing land for a period of less than 2 years and the lease does not receive exclusive use of the land.

30. Dispositions of property excluded from Act s. 3.58

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if —
 - (a) the land is disposed of to an owner of adjoining land (in this paragraph called the *transferee*) and —
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
 - or
 - (b) the land is disposed of to a body, whether incorporated or not —
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
 - or
 - (c) the land is disposed of to —
 - (i) the Crown in right of the State or the Commonwealth; or
 - (ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or
 - (iii) another local government or a regional local government;
 - or
 - (d) it is the leasing of land to an employee of the local government for use as the employee's residence; or
 - (e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land; or
 - (f) it is the leasing of land to a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession to be used for carrying on his or her medical practice; or
 - (g) it is the leasing of residential property to a person.

The non-exclusive use of the land by CBH for a maximum period of 12 months complies with this exemption.

Schedule 2 Part 7 Clause 60 and 61(17) of the *Planning and Development (Local Planning Schemes) Regulations 2015*

60. Requirement for development approval

A person must not commence or carry out any works on, or use, land in the Scheme area unless —

- (a) the person has obtained the development approval of the local government under Part 8; or
- (b) development approval is not required for the development under clause 61.

Note:

1. Development includes the erection, placement and display of advertisements.

2. Approval to commence development may also be required from the Commission if the land is subject to a region planning scheme.

61. Development for which development approval not required

(1) Development approval is not required for works if —

- (a) the works are of a class specified in Column 1 of an item in the Table; and
- (b) if conditions are set out in Column 2 of the Table opposite that item — all of those conditions are satisfied in relation to the works.

	Column 1 Works	Column 2 Conditions
17.	Temporary Works	The works are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period.

Policy Implications

Nil

Financial Implications

The entering of a licence agreement for the use of Council land includes a matter of consideration. In this instance it is considered reasonable that a licence fee of \$50,000 should be set.

It is also suggested that this fee be placed into restricted reserve for the development of the Mingenew Daycare facility.

Strategic Implications

Strategic Community Plan 2019-2029:

- 1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders

6.2 TEMPORARY USE OF LOT 202 FOR ADDITIONAL GRAIN STORAGE - CBH

Location/Address:	Lot 202 Mingenew-Morawa Road, Mingenew
Name of Applicant:	Co-operative Bulk Handling Ltd (CBH)
File Reference:	LP.APP / A994
Disclosure of Interest:	Nil
Date:	6 December 2022
Author:	Matt Fanning, CEO
Voting Requirements:	Simple Majority

Summary

To consider an application from Co-operative Bulk Handling Ltd (CBH) for additional temporary storage on its owned land Lot 202 Mingenew-Morawa Road, Mingenew on Deposited Plan 419513. It is proposed to provide approval to CBH the temporary use of Lot 202 DP419513 for additional storage of grain for a period of up to 12 months, and in addition request that CBH lodge a planning application outlining its long-term storage solution for the site.

Key Points

- CBH have advised that they are reaching storage capacity for their site
- The 2022 Harvest has exceeded expectations and grower forecasts.
- Council has the ability under the local planning scheme to forego the need to lodge a development application as the use is temporary and for a set period of up to 12 months.
- The site referenced is currently vacant land that forms part of the existing CBH facility allotment

OFFICER RECOMMENDATION – ITEM 6.2

Council:

- 1. Pursuant to Schedule 2 Part 7 Clause 60 and 61(17) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, determines that the temporary storage of grain by CBH upon 202 Mingenew-Morawa Road, Mingenew does not require lodgement of a planning application, providing that the temporary use period is not greater than 12 months.**
- 2. Advises CBH that the determination, as outlined in part 1 of this resolution, is a temporary measure only, to assist in the current harvest period and that Council requires the lodgement by CBH of a planning application, outlining its longer-term storage and handling development plans for Lot 202 (and other Mingenew sites if considered necessary) for more formal consideration at a future meeting of Council.**

Attachments

6.2.1 Letter of request from CBH

Background

Co-operative Bulk Handling Ltd (CBH), commonly known as CBHGroup, have made a request to the Shire of Mingenew for the temporary use of Lot 202 DP419513 Mingenew-Morawa Road, Mingenew, for the temporary storage of grain.

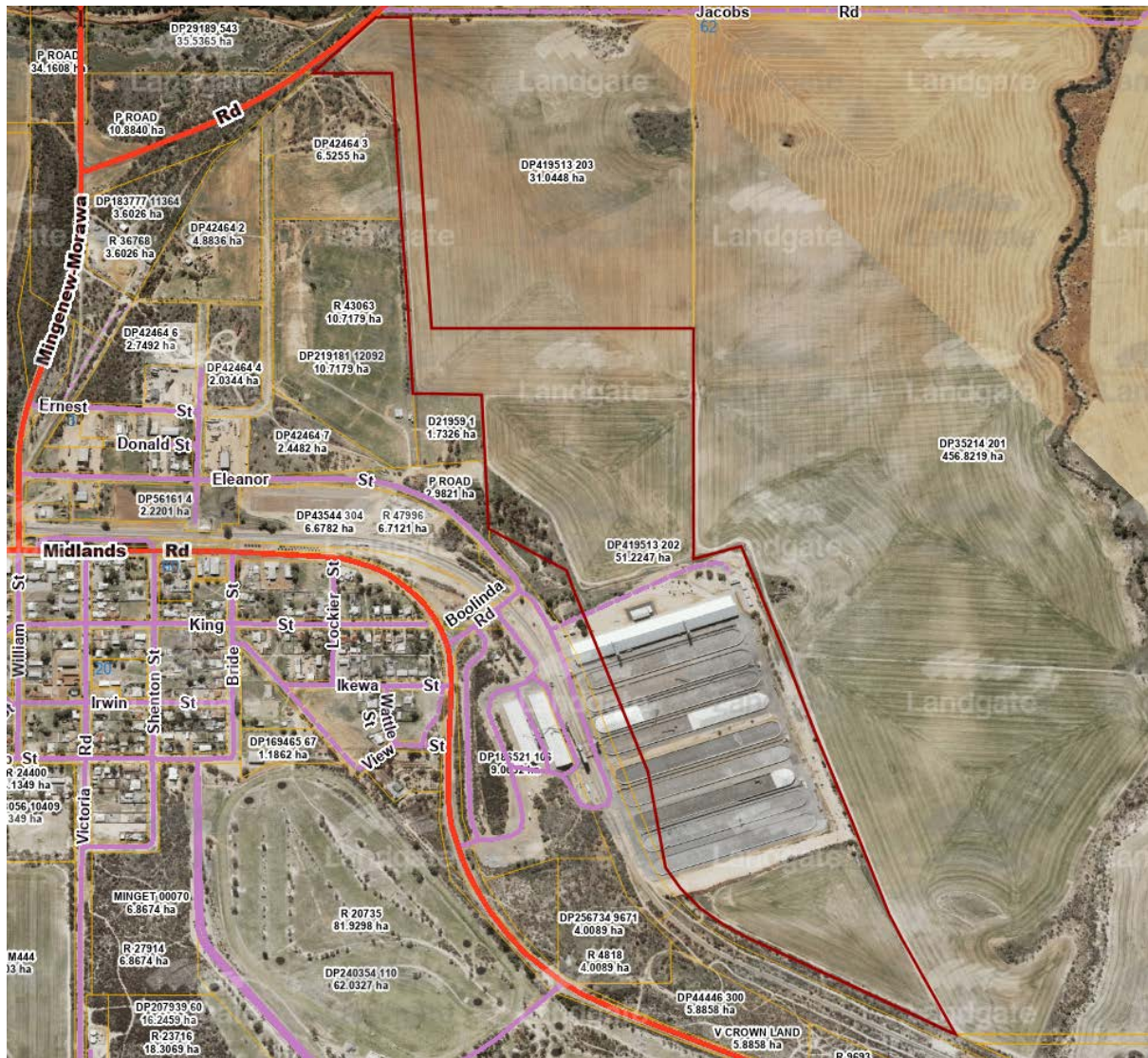
The 2021 record harvest required CBH to construct 2.2 million tonnes of additional storage to its network. The modelling for the 2022 harvest suggests further strain on grain storage and handling facilities with CBH obtaining approvals for an additional 2.3 million tonnes of storage to accommodate the leftover carry from last year as well as storing this year's crop. With the Kwinana Port almost at capacity there is increasing need for growers to deliver further north towards the Geraldton Port placing further pressure on Midwest storage facilities.

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Council, under Schedule 2 Part 7 Clause 60 and 61(17) of the *Planning and Development (Local Planning Schemes) Regulations 2015* have the ability to decide not to require a planning application should the request be considered temporary storage and for a period of less than 12 months.

With this in mind, CBH have advised the Shire that they urgently are seeking additional temporary storage for grain on their existing site west of the current temporary bulkheads.

Below - Map of CBH Site Lot 202 Mingenew-Morawa Road, Mingenew



The storage of harvest product on a property can be considered to meet the definition of 'Warehouse/Storage' which is defined under the *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') as being:

*"warehouse/storage means premises including indoor or outdoor facilities used for –(a) the storage of goods, equipment, plant or materials; or
(b) the display or sale by wholesale of goods"*

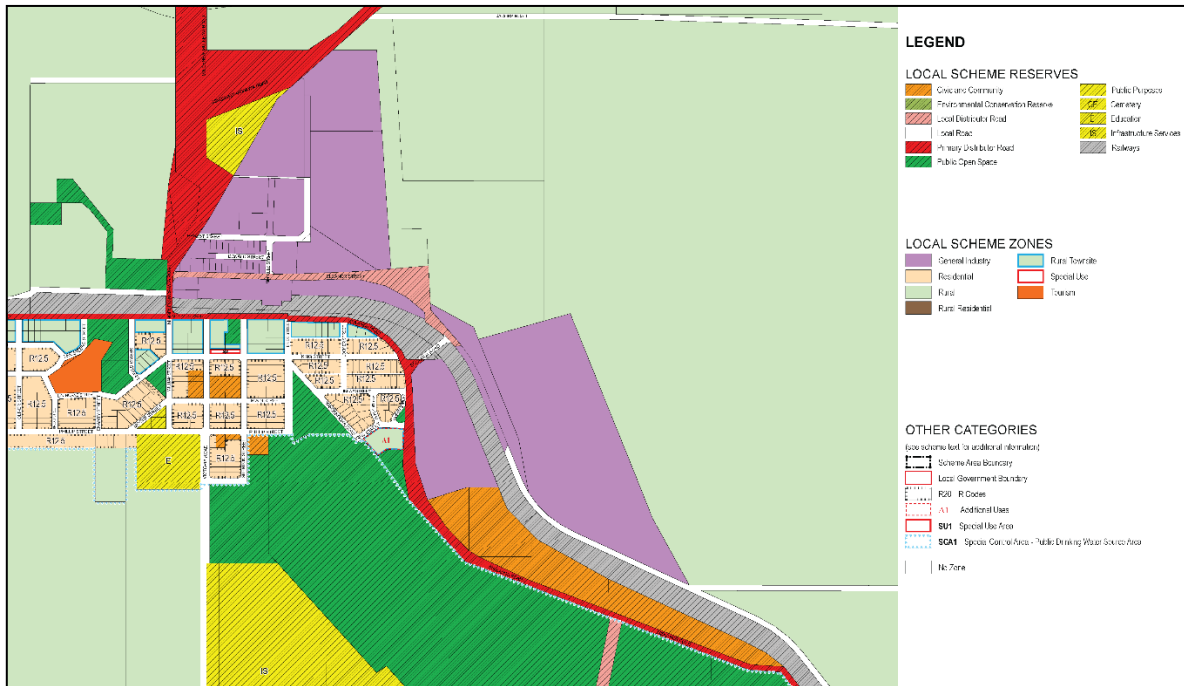
Lot 202 Mingenew-Morawa Road, Mingenew (which is owned in freehold by CBH) is dual zoned, with the southern portion of the property that contains the existing grain storage and handling facilities zoned 'General Industry', and the northern, undeveloped portion zoned 'Rural' for which 'Warehouse/Storage' is listed as 'not permitted'. However, Council might also consider that the storage of grain in open bulkheads meets with the definition of 'Industry-Primary Production' which is listed as a permitted use in the 'Rural' zone.

'Industry-Primary Production' is defined under the Regulations as being:

“industry — primary production means premises used —

- (a) *to carry out a primary production business as that term is defined in the Income Tax Assessment Act 1997 (Commonwealth) section 995-1; or*
- (b) *for a workshop servicing plant or equipment used in primary production businesses”*

Below – Mingenew Townsite Scheme Map extract



Comment

The Council will need to address the ability of the applicant to use the land under the Planning instruments for the use of the land.

Use of Land under the Planning Instruments

The Council has two possible pathways for determining this request under the planning instruments.

Option 1 – Planning Application Path

If the Council were to consider that the temporary storage of grain/lupins in open bulkheads requires lodgement of a planning application, it may choose to issue delegated authority to the Shire CEO to determine the applications as follows:

“That Council:

- iii. *Issue delegated authority to the Shire CEO to determine applications for the temporary storage of harvest by CBH upon 202 Mingenew-Morawa Road, Mingenew providing that the approval period is not greater than 12 months.*
- iv. *Advise CBH that the delegation to the CEO as outlined in part (i) is a temporary measure only to assist in the current harvest period and that Council requires the lodgement by CBH of a planning application outlining its longer-term storage and handling development plans for Lot 202 (and other Mingenew sites if considered necessary) for more formal consideration at a future meeting of Council.”*

Option 2 – Temporary Use Provisions Pathway

Alternatively, Council may consider that the temporary storage of grain in open bulkheads does not require lodgement of a planning application and it instead may consider the following wording appropriate:

“That Council:

- i. Advise CBH that is deems pursuant to Schedule 2 Part 7 Clause 60 and 61(17) of the Planning and Development (Local Planning Schemes) Regulations 2015 that the temporary storage of harvest by CBH upon 202 Mingenew-Morawa Road, Mingenew does not require lodgement of a planning application providing that the temporary use period is not greater than 12 months.*
- ii. Advise CBH that the determination as outlined in part (i)1 is a temporary measure only to assist in the current harvest period and that Council requires the lodgement by CBH of a planning application outlining its longer-term storage and handling development plans for Lot 202 (and other Mingenew sites if considered necessary) for more formal consideration at a future meeting of Council.”*

Schedule 2 Part 7 Clause 60 and 61(17) of the *Planning and Development (Local Planning Schemes) Regulations* does make allowance for works that are in existence for less than 48 hours, or a longer period as agreed by the local government, in any 12 month period.

It is suggested that this clause is more commonly applied to minor developments such as pop-up shops and events and might be considered less appropriate for storage of grain in open bulkheads for approximately 8-10 months that will have some visual significance and associated truck movements, however given the circumstances, economic benefit to the region and potential additional infrastructure damage which would result should product need to transported to other receival facilities this option is the recommended pathway.

Consultation

CBH senior management

Statutory Environment

Schedule 2 Part 7 Clause 60 and 61(17) of the *Planning and Development (Local Planning Schemes) Regulations 2015*

60. Requirement for development approval

A person must not commence or carry out any works on, or use, land in the Scheme area unless —

- (c) the person has obtained the development approval of the local government under Part 8; or*
- (d) development approval is not required for the development under clause 61.*

Note:

- 1. Development includes the erection, placement and display of advertisements.*
- 2. Approval to commence development may also be required from the Commission if the land is subject to a region planning scheme.*

61. Development for which development approval not required

(1) Development approval is not required for works if —

- (c) the works are of a class specified in Column 1 of an item in the Table; and*
- (d) if conditions are set out in Column 2 of the Table opposite that item — all of those conditions are satisfied in relation to the works.*

	Column 1 Works	Column 2 Conditions
17.	Temporary Works	The works are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12-month period.

Policy Implications

Nil

Financial Implications

The permission by the Council to allow additional temporary storage on Lot 202 reduces the risk to Councils Road infrastructure being further damaged by Harvest transport should trucks be required to haul grain to other receival areas.

Strategic Implications

Strategic Community Plan 2019-2029:

- 1.2.2 Enhance open and trusting communication between Council and the community, and deliver high quality services in partnership with external stakeholders

MINGENEW SHIRE COUNCIL SPECIAL MEETING AGENDA – 9 December 2022

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

8.0 CONFIDENTIAL ITEMS

9.0 TIME AND DATE OF NEXT MEETING

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

10.0 CLOSURE

The meeting was closed at _____pm.

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

Signed _____
Presiding Officer

Date: _____