



MINUTES OF THE SPECIAL COUNCIL MEETING

6 MAY 2024

TABLE OF CONTENTS

1.0	DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	3
2.0	RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE.....	3
3.0	DECLARATIONS OF INTEREST	3
4.0	CHIEF EXECUTIVE OFFICER	4
4.1	RFT 01 2023-24 – MINGENEW EARLY CHILDHOOD EDUCATION FACILITY – DESIGN AND CONSTRUCT.....	4
5.0	GOVERNANCE AND COMMUNITY.....	9
5.1	TURF BAR SHADE STRUCTURE PROPOSAL – MINGENEW TURF CLUB	9
5.2	PROPOSED CLOSURE OF ROADS – WATSON ROAD	14
6.0	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	20
7.0	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	20
8.0	CONFIDENTIAL ITEMS	20
9.0	TIME AND DATE OF NEXT MEETING	20
10.0	CLOSURE	20



**AGENDA FOR THE SPECIAL MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS
ON MONDAY, 6 MAY 2024 COMMENCING AT 5:00PM.**

1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member, Cr GA Cosgrove opened the meeting at 5:00pm.

2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

Councillors

Cr GJ Cosgrove	Shire President
Cr HR McTaggart	Deputy President
Cr JD Bagley	Councillor
Cr JR Holmes	Councillor
Cr AT Pearse	Councillor
Cr AR Smyth	Councillor
Cr RA Starick	Councillor

Staff

Mr Matt Fanning	Chief Executive Officer
Mrs Helen Sternick	Manager Corporate Services
Ms Erin Greaves	Governance and Community Manager
Mr Shane Noon	Works Manager

Members of the Public

Mr David Bagley, Mingeneew Turf Club

3.0 DECLARATIONS OF INTEREST

Nil.

4.0 CHIEF EXECUTIVE OFFICER

4.1 RFT 01 2023-24 – MINGENEW EARLY CHILDHOOD EDUCATION FACILITY – DESIGN AND CONSTRUCT

Location/Address: Shire of Mingenew
Name of Applicant: Shire of Mingenew
Disclosure of Interest: Nil
File Reference: FM.TEN.23.24
Date: 3 May 2024
Author: Matt Fanning, CEO
Voting Requirement: Absolute Majority

Summary

Shire of Mingenew under a Tender Exempt process following an unsuccessful initial lengthy Tender advertising process in October 2023 sought tenders from suitably qualified builders for the Design and Construction of a 24 place Early Childhood Education Facility. Of the eighteen (18) invites issued, six (6) offers were received of which two (2) offers were within the Council's project budget.

It is recommended that Council proceed with the offer from Tunbridge Construction & maintenance for the design and construction of the Mingenew Early Childhood Education Facility.

Key Points

- RFT issued in October 2023 with only one response not considered to be value for money and not accepted
- Council proceeded down a tender exempt pathway as per Regulation 11 of the *Local Government (Functions and General) Regulation 1996*
- Eighteen (18) Invites were issued
- Six (6) Offers were received, of which only two (2) Offers fell within the approved budget.

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 4.1- RESOLUTION #01060524S

MOVED: Cr HR McTaggart

SECONDED: Cr AT Pearse

Council:

1. Notes the evaluation matrix, as included in Confidential Attachment 4.1.1,
2. In accordance with the *Local Government (Functions and General) Regulations 1996* Regulation 18, accepts the tender exempt offer from Tunbridge Construction & Maintenance as the preferred tenderer and authorises the Chief Executive Officer to successfully negotiate a contract for the delivery of the Mingenew Early Childhood Education Facility project; and
3. Delegates to the CEO, in accordance with s.5.42(1) of the *Local Government Act 1995*, by Absolute Majority, authority to negotiate minor variations to the contract for RFT 01 23-24 Mingenew Early Childhood Education Facility before and/or after its execution in accordance Regulations 20 and 21A of the *Local Government (Functions and General) Regulations 1996*.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

(FOR: Cr GJ Cosgrove, Cr HR McTaggart, Cr JD Bagley, Cr JR Holmes, Cr AT Pearse, Cr AR Smyth and Cr RA Starick AGAINST: Nil)

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"

Attachment

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

Background

The Shire has been developing the delivery of a new increased capacity Early Childhood Education Facility.

Tenders were advertised 7 October 2023 through the Tenderlink portal and closed 14:30 AWST on 10 November 2023.

Council considered these tenders as its 15 November 2023 Special Council Meeting and resolved not to accept any offers and proceed down a tender exempt process in an attempt to secure a builder for the Daycare. The resolution from the 15 November 2023 Special Council Meeting is provided herewith.

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 11.1 – RESOLUTION# 03151123S	
MOVED: Cr AT Pearse	SECONDED: Cr RA Starick
Council:	
<ol style="list-style-type: none"> 1. Notes the evaluation matrix, as included in Confidential Attachment 11.1.1, 2. In accordance with the <i>Local Government (Functions and General) Regulation 1996, Regulation 18, resolves to <u>not</u> accept any tenders for RFT01 2023-24 Mingenew Early Childhood Education Facility – Design and Construct, as the only tender received in excess of the project budget.</i> 3. Instructs the CEO to obtain alternate offers under a tender exempt process for the delivery of the Mingenew Early Childhood Education Facility, as per Regulation 11 of the <i>Local Government (Functions and General) Regulation 1996.</i> 	
VOTING REQUIREMENTS:	CARRIED BY SIMPLE MAJORITY 6/0
<i>(FOR: Cr GJ Cosgrove, Cr JD Bagley, Cr JR Holmes, Cr HR McTaggart, and Cr RA Starick, AGAINST: Nil)</i>	

Council under a tender exempt process issued eighteen (18) invites to builders seeking offers for the design and construction of the Mingenew Early Childhood Education Facility.

Invites were issued to the following companies.

Invited Tenderer
Crothers Construction
Evoke Living Holmes
AKRON Building Partners
KITCO Builders
Plunkett Group
Port Denison Builders
Davcon Geraldton
GBSC
McAullay Builders
Bradley Smith Builders
Fleetwood

MINGENEW SHIRE COUNCIL SPECIAL MEETING MINUTES – 6 MAY 2024

Building Base
Tunbridge Construction and Maintenance
SipForm
TRHolmes
Valley Building
Modular WA
Coral Coast Homes WA

Of the eighteen (18) invites issued, six (6) offers were received and assessed.

Comment

The Qualitative Criteria was approved prior to the advertisement the release of invitations to tender. Each Criterion was given the following weightings and included within the RFT document.

Criteria	Weighting
(a) Experience and Capacity	15%
(b) Experience and Capacity of Respondent's Key Personnel, Subcontractors, Suppliers and Consultants	15%
(c) Methodology	15%
(d) Proposed concept design, inclusions and technical data (noting the Principal's budget is \$900,000)	55%

The submissions were assessed against the Qualitative Criteria and each Criterion was given a score in accordance with the Evaluation Guide contained within the Evaluation Spreadsheets.

A rating scale of zero-to-ten (0 - 10) was used for evaluating the Tender submissions in accordance with the Qualitative Criteria, with 0 being lowest and 10 being highest.

The evaluation and recommendation report, including the overall evaluation scores and rankings, is attached as confidential Attachment 11.1.1.

The evaluation of the submissions received against the quantitative and qualitative criteria resulted in the rankings (in order of priority) as shown below –

Ranking	Tenderer
1	Tunbridge Construction & Maintenance
2	AKRON
Not Ranked as exceeded approved budget	Building Base
	GBSC
	Modular WA
	Fleetwood

Firstly, the Offers from Building Base, GBSC, Modular WA and Fleetwood were excluded from full assessment as they all exceeded the approved budget for the project and as a result were not financially viable.

MINGENEW SHIRE COUNCIL SPECIAL MEETING MINUTES – 6 MAY 2024

The proposal from Tunbridge Construction & Maintenance provides the best value for money at ~\$1,964/m² as against ~\$2,400/m² for the AKRON option.

The proposal from Tunbridge Construction & Maintenance provides for a built insitu solution which generally have a longer useful life as compared to a modular solution.

The Offer from Tunbridge Construction & Maintenance received a 2.5% Regional price preference as per Councils policy.

Based on the evaluation both the offers from AKRON and Tunbridge Construction & Maintenance were considered suitable offers with the offer from Tunbridge Construction & Maintenance being recommended as the preferred Offer based on best value for money and preferred building method.

Consultation

Internal Staff

Statutory Environment

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

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

However, after having followed the appropriate tender process and it is determined that no acceptable tenders have been received, Council may consider other procurement options, other than public tender, in accordance with Regulation 11(2)(c)(i):

11. When tenders have to be publicly invited

(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;

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.

Policy Implications

In obtaining a public tender, the Shire's Purchasing Policy (1.3.1) requirements have been met. Our Local Price Preference Policy was also applied in the attached tender assessment document.

Council has proceeded with a tender exempt process following the unsuccessful open tender process as reported to the 15 November 2023 Special Council meeting which permits the council to obtain offers without public notification.

Financial Implications

A total of \$1,000,000 was included in the FY23/24 budget for these works allowing a contingency of \$100,000, resulting in a project budget of \$900,000 to perform the design and construction of the facility.

MINGENEW SHIRE COUNCIL SPECIAL MEETING MINUTES – 6 MAY 2024

The preferred tender response from Tunbridge Construction & Maintenance is considered the best value for money offer from the responses received.

Strategic Implications

Strategic Community Plan 2023-2033:

5.1 Deliver a fit for purpose Mingenew Early Education & Childcare Centre to support current demand and future needs

5.0 GOVERNANCE AND COMMUNITY

5.1 TURF BAR SHADE STRUCTURE PROPOSAL – MINGENEW TURF CLUB

Location/Address: Mingenew Turf Bar / Recreation Grounds
Name of Applicant: Mingenew Turf Club
Disclosure of Interest: Nil
File Reference: CP.DSC.1 / RC.LSN.11
Date: 23 May 2024
Author: Erin Greaves, Governance and Community Manager
Authorising Officer: Matt Fanning, Chief Executive Officer
Voting Requirements: Simple Majority

Summary

The Mingenew Turf Club has submitted correspondence to Council requesting consideration of their proposal to erect a shade structure (extension of the existing roof line) at the Mingenew Turf Bar / Pavilion which is to be fully funded by the Turf Club.

Key Points

- The annual Mingenew Races is a valued community event that provides significant economic and social benefit to Mingenew and the greater region
- The Mingenew Turf Club are proposing to increase the sheltered area at the Pavilion to improve spectator and user experience for the Mingenew Races and other community events, and reduce their operating costs to annually hire a marque
- Council resolved to temporarily hold off approving any new community infrastructure requests until a policy is developed to guide Council in its decision making for new assets and the Mingenew Sport & Recreation Master Plan is developed

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 5.1- MOTION LOST

MOVED: Cr HR McTaggart **SECONDED:** Cr JR Holmes

Council, in regards to the Mingenew Turf Club’s proposal to erect a new shade structure to the west of the Turf Bar / Pavilion:

- a) Advises the Turf Club that it acknowledges the importance of the annual Mingenew Race Day and associated infrastructure requirements;
- b) Includes this project as part of the Mingenew Sport & Recreation Master Plan, as resolved at its 17 April 2024 Ordinary Council meeting (Resolution#08170424);
- c) Arranges a meeting with the Turf Club to better understand the current and future operational costs for the racetrack and associated facilities in light of this year’s event track management issues; and
- d) Holds over a final decision on the project until such time as a meeting is held, to appropriately inform Council on the Club’s needs and priorities, and to help determine agreed cost recovery methods.

VOTING REQUIREMENTS:

MOTION LOST SIMPLE MAJORITY 3/4

(FOR: Cr GJ Cosgrove, Cr HR McTaggart and Cr RA Starick. AGAINST: Cr JD Bagley, Cr JR Holmes, Cr AT Pearse and Cr AR Smyth)

ALTERNATIVE MOTION AND COUNCIL DECISION – ITEM 5.1- RESOLUTION#02060524S

MOVED: Cr JD Bagley

SECONDED: Cr AT Pearse

Council conceptually approve the Mingenew Turf Club's proposal to erect a new shade structure to the west of the Turf Bar / Pavilion, as a minimum consideration should be subject to the Mingenew Turf Club presenting to Council:

- a) A Project summary, outlining need, proposed use, community benefit and Shire resources applicable),
- b) Building application, including detailed site and floor plans and construction details,
- c) Evidence of the Club's financial capacity to fund the project, including contingency planning,
- d) Evidence of consultation with and support from other stakeholders e.g. letters of support, and
- e) Anticipated maintenance and replacement costs and life expectancy of the facility.

VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 4/3

(FOR: Cr JD Bagley, Cr JR Holmes, Cr AT Pearse and Cr AR Smyth. AGAINST: Cr GJ Cosgrove, Cr HR McTaggart and Cr RA Starick)

Attachments

5.1.1 Correspondence from Mingenew Turf Club

5.1.2 Proposed Building Plans

Background

The Mingenew Turf Club (Turf Club) has developed a plan to extend the hard structured shaded area to the west of the current Turf Bar / Pavilion (extending the building's existing roof line).

The proposed structure is 12m (wide), 21.6m (long) and 2.7m (high), with a concrete slab, limestone block retaining, gabled roof and sliding doors allowing accessibility from rear (south), and open viewing at the front (track side) and playground.

The rough timeline for the project is as follows:

- Engage draftsman to prepare formal plans
- Collate and submit Building Application
- Order materials
- Grounds and foundation preparation
- Construction proposed for August / September 2024

The Turf Club has given consideration to the fact that the construction phase is likely to be occurring during Expo 2024 and have included the purchase of security fencing in the total project cost which will mitigate safety risks associated with the site during the event (and provides the fencing resource to be utilised in the future for Races and potentially other events).

The total project is approximately \$150,000 and is to be fully funded by the Turf Club (with a contribution from the Football Club) to cover external contractor costs and in-kind works, with no cash contribution expected from the Shire. There may be minor in-kind works requested for labour and plant usage in preparation of the foundation, but no formal request has been received or accounted for in the Shire's draft Budget for 2024/25.

Only draft foundation and conceptual plans are available at this stage as the supplier for the shed requires a deposit before releasing the formal plans. The Club does not wish to commit funds to the shed supplier without conceptual approval from Council. Subject to Council's decision, the Club will arrange for formal engineering and site plans to be developed and submitted with a Building Application for Council approval.

The Turf Club have indicated that there have been discussions with Expo and the Football Club for the future fitout of the space (as a second phase to the project) with features such as blinds on the open sides to provide for all-weather use, installation of TVs, BBQs etc. so that the space has broad community benefit and usage. These features are not included in the current project scope.

MINGENEW SHIRE COUNCIL SPECIAL MEETING MINUTES – 6 MAY 2024

As outlined by the Turf Club in the attached letter, the project has been in development for approximately three years, while the club sought grant funds which were not successful, however, Councillors were only presented with the concept and early drafts of the proposed plans in February 2024. The project was also raised at the first Mingenew Sport and Recreation Master Plan workshop that was held on 7 March 2024.

Two members of each sporting/recreation group were invited to attend the workshop and provide feedback on their Clubs ideas for improving participation and future infrastructure needs. The session enabled the facilitator to pool all the information and will enable to the group, and ultimately Council, to prioritise and plan sport and recreation facilities and activities collaboratively and effectively. The next workshop is proposed for June 2024.

At the 17 April Ordinary Council meeting, Council resolved to develop a policy to guide how new community infrastructure is to be considered, as per the below extract:

NOTICE OF MOTION (CR HR MCTAGGART) AND COUNCIL DECISION – ITEM 15.1 – RESOLUTION# 08170424	
MOVED: Cr JR Holmes	SECONDED: Cr RA Starick
Council:	
1. develops a policy for considering new community infrastructure that includes decision making criteria to take into consideration asset management principles including the proposed assets life cycle cost; and	
2. advises all sporting and recreation clubs / groups that until such time that a Sport & Recreation Master Plan is established and endorsed, no new infrastructure will be considered to ensure new proposals align with this Plan.	
VOTING REQUIREMENTS:	CARRIED BY SIMPLE MAJORITY 5/2
<i>(FOR: Cr GJ Cosgrove, Cr AT Pearse, Cr AR Smyth, Cr HR McTaggart and Cr RA Starick AGAINST: Cr JD Bagley and Cr JR Holmes)</i>	

The Mingenew Turf Club were advised of this outcome and subsequently wrote to Council seeking an exemption from this decision.

Comment

The Turf Club have indicated that the building application process and ordering of materials needs to commence as soon as possible in order for the structure to be ready for the 2025 Races event and are therefore, seeking Council's permission now to proceed with the project.

The project will have a significantly positive benefit to the Mingenew Turf Club and Race Day event, as well as providing a flow on benefit for other events and to users, such as the Football Club and Mingenew Expo.

The cost to hire and erect a marque for the Mingenew Races each year is approximately \$3,000 and for Expo the bar marque is around \$11,000 (including lighting and exit signs etc), which are major contributing factors in delivering this project. The long term investment of a permanent structure is considered better value for money (return on investment) and provides another outdoor functional space for other community events and activities.

The Turf Club indicates support for their project from the Mingenew Football Club and Mingenew Expo, and this was confirmed at the Sport & Recreation Plan workshop. However, the commitment was given without the context and consideration of other future plans, including proposed upgrades to the Recreation Centre. At the meeting, it was suggested that there is no crossover in purpose between the Rec Centre extension plans and this project.

Council is in a position that it must consider the broader financial, social and economic impacts of the project and how the decision interplays with other projects and priorities, its Strategic Community Plan and Long Term Financial Plan. The decision to hold off on new community infrastructure requests indicates a desire from Council to have a more strategic and structured approach to asset management.

Given the discussions around the track condition and requirements to possibly upgrade / maintain the track to a higher level of service, as a result of the cancellation of the racing event at this year's Mingenew Races, Council may wish to have further consideration to the operating costs of the track and facility, and annual contributions from the Club, before approving the shade structure project.

One of the main purposes of the sport and recreation master planning sessions are to educate the community on the impacts of their decision making in future planning and encourage a more collaborative and informed approach to their individual club planning with Council. In considering the information at hand about the Turf Club's project, and future plans of the Shire and other sporting groups, the Turf Club does not consider this project to have any conflicting impact.

Council may decide to maintain its position outlined in the recent Notice of Motion and Decision to hold off on new community infrastructure considerations or exempt this project and approve the concept, subject to further information being supplied; compliance with the Building Act and associated regulations, alignment with Council's strategic plans and adequate consideration of asset management principles.

Should Council wish to conceptually approve the Mingenew Turf Club's proposal to erect a new shade structure to the west of the Turf Bar / Pavilion, as a minimum consideration should be subject to the Mingenew Turf Club presenting to Council:

- f) A Project summary, outlining need, proposed use, community benefit and Shire resources required (if applicable),
- g) Building application, including detailed site and floor plans and construction details,
- h) Evidence of the Club's financial capacity to fund the project, including contingency planning,
- i) Evidence of consultation with and support from other stakeholders e.g. letters of support, and
- j) Anticipated maintenance and replacement costs and life expectancy of the facility.

Consultation

The concept was first presented to Councillors at the February 2024 Concept Forum.

The project was also raised at the Sport & Recreation Master Plan workshop in March 2024. There was some discussion at the meeting about the plans tying in with the Shire's project to upgrade and fit out the Recreation Centre as an Evacuation Centre.

As this was the first time the project had been presented to the broader stakeholders, it was advised by the facilitator that further discussions were necessary to prioritise need and design of the overall recreational grounds.

Statutory Environment

Building Act and Regulations
Local Government Act 1995

Policy Implications

The Shire's Asset Management Policy states:

"The Shire of Mingenew delivers a variety of services to the community and in doing so, must ensure that the assets supporting these services are:

- a) Managed in a way that promotes maximum performance for the most cost-effective 'Life Cycle' cost;*
- b) Meeting community expectations of time, quality, and value for money.*

Achieving this objective in an affordable and sustainable manner requires a strategic and long-term approach to asset planning and management. The Shire aims to deliver this through:

- a) Agreed levels of service that are cost effective and relevant;*
- b) The adoption of a continuous improvement approach to asset management;*
- c) Community and key stakeholder consultation in regard to expected levels of service; and*

MINGENEW SHIRE COUNCIL SPECIAL MEETING MINUTES – 6 MAY 2024

- d) *Endeavouring to achieve Asset Ratio benchmarks as set by the Department of Local Government, Sport and Cultural Industries (although these ratios are no longer required to be included in the Annual Financial Statements)"*

Financial Implications

The Mingenew Turf Club have indicated that the project's construction costs are fully funded by the Turf Club, including a contribution from the Mingenew Football Club. Total project costs are estimated at up to \$150,000 (current cost). It is noted that if the project is delayed costs are more than likely going to increase and the Club will be contributing another \$3,000 to a marquee for next year's event.

The Turf Club receives funds from its annual event and fundraising, including the community crop funds raised from the Airport Reserve.

The shade structure will have minimal ongoing utility and maintenance costs to the Shire and Council may consider increasing Club annual fees to cover costs by the users, rather than general ratepayers.

The Shire allocates approximately \$50,000 each year to maintenance of the race track and this is exclusive of costs associated with maintaining and operating the Turf Bar building and surrounds. Following the cancellation of the race events in 2024, the Shire is anticipating that this cost may double in 2024/25 if it is to ensure the track is fit for use next year. The Mingenew Turf Club's annual lease fee for 2023/24 was \$5,857.

Strategic Implications

Strategic Community Plan 2023-2033

- 6.1 Community facilities continue to be fit for purpose, multi-use and meet sustainable community needs
- a. Develop and facilitate implementation of a Sport and Recreation Master Plan, with a focus on rationalising assets
- 7.1 Utilise, activate and showcase community spaces to deliver successful local and regional events and programs
- b. Continue to partner with and support Mingenew Expo to increase participation and attendance
 - c. Continue to partner with and support the Turf Club for the Mingenew Races

5.2 PROPOSED CLOSURE OF ROADS – WATSON ROAD

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	RD.RDC / A753 / A748
Date:	23 May 2024
Author:	Erin Greaves, Governance and Community Manager
Authorising Officer:	Matt Fanning, Chief Executive Officer
Voting Requirements:	Simple Majority

Summary

To consider a request from a rural landowner to close Watson Road and other unnamed road reserves within A753 and A748, as the roads are currently only utilised for internal farm access or are unmade road reserves (paper roads).

Key Points

- A request has been received from the landowners of A753 and A748 to close a number of internal roads (not made or used) within their farming property
- The process to close a road is administered by the Department of Planning, Lands and Heritage, and is in accordance with the Land Administration Act 1997
- The Shire does not have any identified use for these proposed road closures

OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 5.2- RESOLUTION#03060524S
MOVED: Cr AT Pearse SECONDED: Cr JR Holmes

Council:

1. Resolves to advertise, in accordance with s.58 of the *Land Administration Act 1997*, the proposed closure of Watson Road and P roads within and bordering A753 and A748, including:
 - Land ID 3727386 (unnamed road reserve between Burma Rd and Strawberry North-East Rd)
 - Land ID 3778178 (Watson Rd from Midlands Rd to landowner homestead)
 - Land ID 3729116 (Watson Rd reserve running east from homestead)
 - Land ID 3727403 (Watson Rd reserve running south from Land ID 3727403 to Midlands Rd)
 - Land ID 3727402 (Watson Road reserve running north from Land ID 3727403 to 3727393)
 - Land ID 3727393 (Watson Road reserve running west from 3727402)
 - Land ID 3729111 (P road from Midlands Rd near Strawberry bridge)
2. Confirms the full closure of the following road reserves;
 - Land ID 3110390 (running adjacent to Burma Rd through DP 108088)
 - Land ID 3111922 (road reserve running east west between Land ID 3110390 and Strawberry North-East Rd)
3. Requests that the Applicant submits a letter of agreement to pay all costs involved in the closure and amalgamation process. The letter must be signed by all adjoining landowners who propose to amalgamate a portion of the road reserve with their property.
4. Writes to adjoining landowners to advise of the proposed road closures and opportunity to make a submission;
5. Writes to all relevant service authorities (Telstra, Western Power and the Water Corporation) regarding their requirements in respect of any services located in or near the portion of road reserves proposed to be closed; and
6. Considers all submissions received by the Shire following the public advertising period at a subsequent Council meeting.

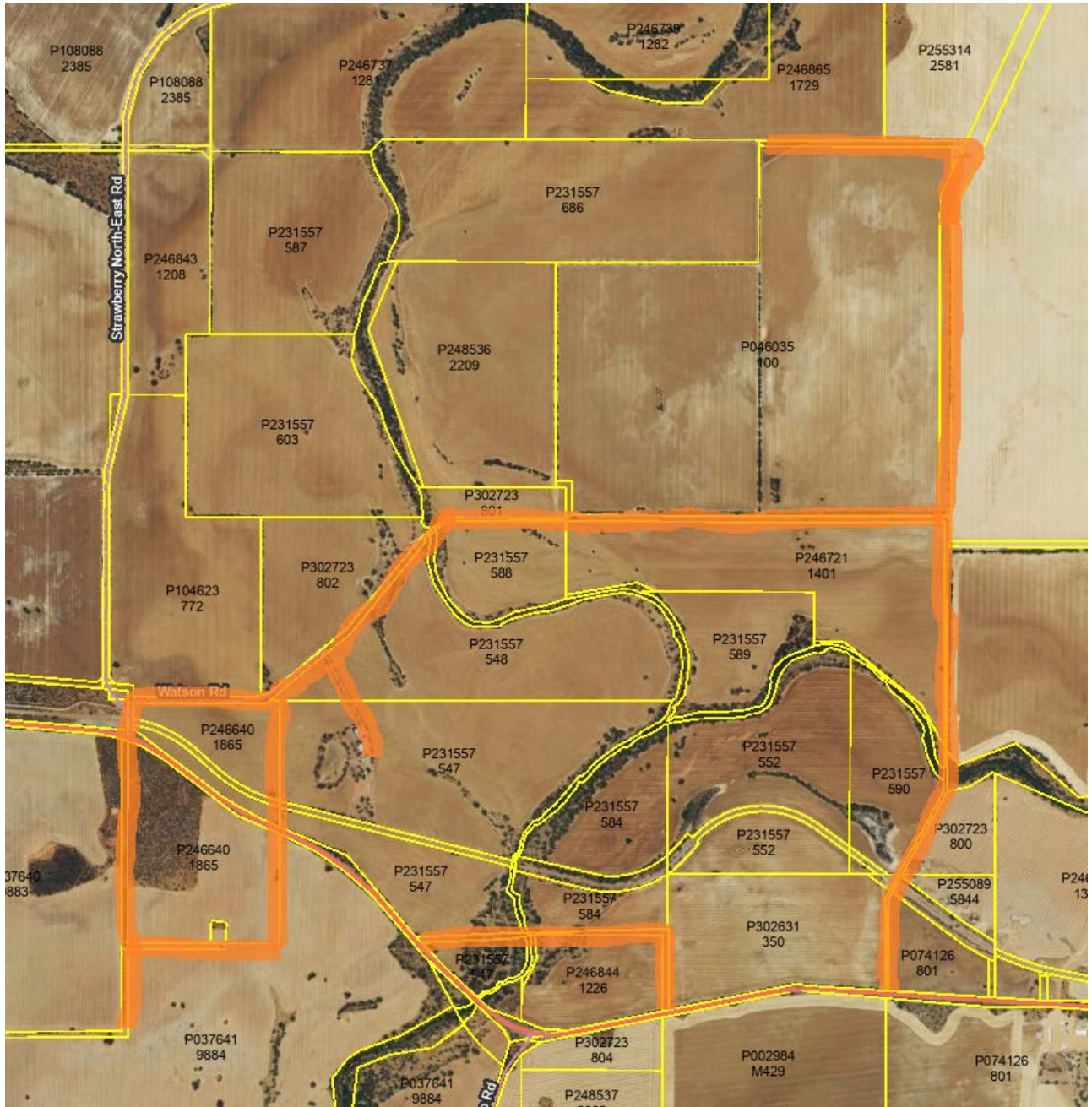
VOTING REQUIREMENTS:

CARRIED BY SIMPLE MAJORITY 7/0

(FOR: Cr GJ Cosgrove, Cr HR McTaggart, Cr JD Bagley, Cr JR Holmes, Cr AT Pearse, Cr AR Smyth and Cr RA Starick. AGAINST: Nil)

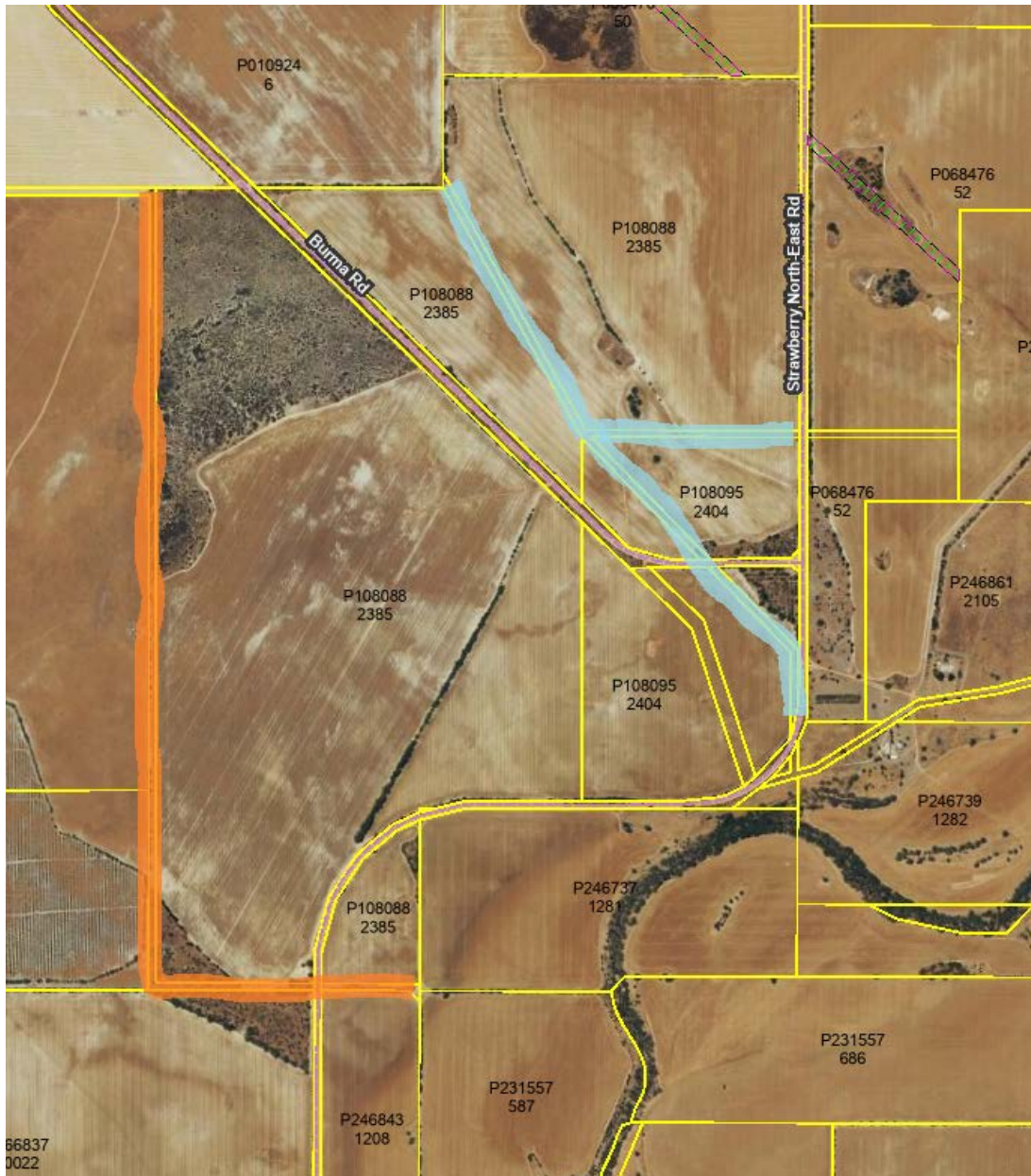
Background

A request has been received from a local landowner, to close all internal gazetted roads within their property that includes a portion of Watson Road and other unnamed road reserves.



There is also a road reserve running between Burma Road and Strawberry North-East Road and south to east from Burma Road (shown in orange in the below image) that runs through the landowner's property.

According to the Shire's records, the roads shown in light blue in the below map may already be closed however, the reserve may not have been amalgamated into the neighbouring landholdings. Subsequent to Council's decision, this will be further investigated and reported back to Council.



The land contained within public roads (i.e. “dedicated” roads) is Crown land, administered by the Department of Planning, Lands and Heritage (DPLH) with responsibility for care and maintenance delegated to Local Government under the *Land Administration Act 1997*.

In certain cases, where a public road or portion of a public road is no longer required it may be permanently closed in accordance with Section 58 of the *Land Administration Act 1997*. If closed, the land within the road reserve becomes unallocated Crown land and can be disposed of by DPLH (generally at market value) to an adjoining lot, or lots.

Before consideration of the application or advice by the DPLH of the cost of purchase of the land, the following steps need to take place:

Step 1. Consideration by the Shire

Upon application, the Shire considers if the road reserve has any current or future purpose for the provision of drainage, property access or other public works.

Step 2. Consultation with service authorities

Service authorities such as Telstra, Western Power and the Water Corporation, are typically consulted to determine whether they object to the road reserve closure and if there are services (pipes and/or cables)

located within the portion of road reserve being considered for closure. The Shire will ask the service authorities if services can be modified, removed or relocated, if necessary, what costs are involved and any conditions that they wish to be applied.

It should be noted that, on occasions, services and servicing plants are too costly to modify or the service authority will not allow it and therefore the application cannot proceed.

Step 3. Advertising for public comment (35 days)

The proposed road reserve closure is advertised for public comment for a minimum period of 35 days. Advertising involves writing to all adjoining landowners to the road reserve requesting comments and an advertisement in the local newspaper. The advertising period allows residents to submit an objection or support for the proposal.

Step 4. Consideration by Council

A report is prepared for consideration by Council following after the advertising period. Comments from all submissions are included in this report. If Council does not support the application, the closure cannot proceed.

Subject to Council approval, the applicant/s may be required to provide the Shire with a draft Deposited Plan or sketch ("Plan") from a licenced surveyor approved by Landgate.

Step 5. Action by Department of Planning, Lands and Heritage (DPLH)

If Council supports the application, the Shire will forward the request and documentation to DPLH for consideration by the Minister for Lands (Minister). If the Minister does not support the application for closure, the application cannot proceed.

If the Minister grants the request, formal actions are commenced by DPLH to close the road reserve and the applicant is contacted directly by DPLH for this purpose. DPLH will provide a cost for the purchase of the portion of road to be closed (based on a formal valuation undertaken by the DPLH's Valuation services team).

Comment

The closing of these roads are not considered to have any significant impact on Council. Given the roads serve to access internal farming property or are not even constructed and commonly known as "paper roads".

Consultation

The *Land Administration Act 1997* requires that a notice of its intention to close the road/s must be advertised for at least 35 days, during which time members of the public (including landowners) may make a submission. Council would then consider any submissions. A request is then to be made to the Minister for Lands.

Statutory Environment

Land Administration Act 1997

58. Closing roads

- (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) *When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*
- (4) *On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —*
 - (a) *by order grant the request; or*

- (b) *direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
- (c) *refuse the request.*
- (5) *If the Minister grants a request under subsection (4) —*
 - (a) *the road concerned is closed on and from the day on which the relevant order is registered; and*
 - (b) *any rights suspended under section 55(3)(a) cease to be so suspended.*
- (6) *When a road is closed under this section, the land comprising the former road —*
 - (a) *becomes unallocated Crown land; or*
 - (b) *if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.*

87. Sale etc. of Crown land for amalgamation with adjoining land

- (1) *In this section —*

adjoining land means the land referred to in subsection (2)(b) or (3)(b), as the case requires.
- (2) *Whenever the Minister considers that a parcel of Crown land is —*
 - (a) *unsuitable for retention as a separate location or lot, or for subdivision and retention as separate locations or lots, because of its geographical location, potential use, size, shape or any other reason based on good land use planning principles; but*
 - (b) *suitable for —*
 - (i) *conveyance in fee simple to the holder of the fee simple; or*
 - (ii) *disposal by way of lease to the holder of a lease granted by the Minister under this Act, of land adjoining that parcel,*

the Minister may, with the consent of that holder and on payment to the Minister of the price, or of the initial instalment of rent, as the case requires, agreed with that holder, by order convey that parcel in fee simple or lease that parcel to that holder and amalgamate that parcel with the adjoining land.
- (3) *If —*
 - (a) *a parcel of land comprised in a road that is closed, whether under this Act or the repealed Act, is Crown land; and*
 - (b) *part of the land through which that closed road passes or which it adjoins is taken under Part 9 for the purpose of a road to replace that closed road; and*
 - (c) *as a result of that taking, the person holding the fee simple of, or a lease granted by the Minister under this Act in respect of, the adjoining land (the landholder) is entitled to compensation under Part 10 from the person who took that part (the taker),*

the Minister may, with the consent of the landholder and the taker and on payment to the Minister of any price, or of any initial instalment of rent, as the case requires, agreed with the landholder, by order —

 - (d) *convey to the landholder in fee simple or lease to the landholder, as the case requires, by way of satisfaction or part satisfaction of the compensation payable to the landholder, so much of that parcel as is, in the opinion of the Minister, equivalent in value to the whole or the relevant part of that compensation; and*
 - (e) *amalgamate the land so conveyed or leased with the adjoining land.*
- (4) *When land has been conveyed or leased under subsection (3)(d), the taker must, if required by the Minister to do so, pay to the Minister forthwith the amount of the compensation in satisfaction of which that land has been so conveyed or leased.*
- (5) *On the amalgamation under subsection (2) or (3) of the whole or part of a parcel of Crown land with the adjoining land —*
 - (a) *that parcel or part becomes, if the adjoining land is —*
 - (i) *land held in freehold, part of the adjoining land and held in the same freehold; or*
 - (ii) *Crown land held under lease, part of the adjoining land and held under the same lease, and, if the adjoining land is subject to any encumbrance, that parcel or part becomes subject to that encumbrance as if it had been part of the adjoining land when that encumbrance was created; and*

- (b) the Registrar must alter the certificate of title or the certificate of Crown land title and the Register so as to show that that parcel or part forms part of the adjoining land.*
- (6) If the freehold or lease of the adjoining land is, at the time of the amalgamation of the adjoining land with the whole or part of a parcel of Crown land under subsection (2) or (3), in the course of being sold under a contract of sale and the purchaser under that contract consents —*
 - (a) the purchase price or consideration set out in that contract is to be taken to be increased by an amount equal to the unimproved value of that whole or part; and*
 - (b) the conditions of that contract are taken to apply to that whole or part as if that whole or part had been part of the adjoining land when that contract was entered into.*
- (7) Despite anything in subsection (6), that subsection does not affect the rights of any person in respect of a claim that has before the amalgamation referred to in that subsection been settled or decided.*

88. Option to purchase or lease Crown land, grant of

- (1) The Minister may —*
 - (a) grant an option to purchase the fee simple in, or lease, any Crown land; and*
 - (b) fix the consideration to be paid for any such option; and*
 - (c) impose conditions on the exercise of any such option.*
- (2) A purchaser or lessee under an option granted under subsection (1) may, with the permission of the Minister, offset the whole or any portion of the relevant consideration fixed under that subsection against the purchase price or rent payable in respect of the land concerned.*

Land Administration Regulations 1998

9. Local government request to close road permanently (Act s. 58(2)), requirements for

For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request —

- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require; and*
- (b) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed; and*
- (c) copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions; and*
- (d) a copy of the relevant notice of motion referred to in paragraph (c); and*
- (e) any other information the local government considers relevant to the Minister's consideration of the request; and*
- (f) written confirmation that the local government has complied with section 58(2) and (3) of the Act.*

Policy Implications

Nil.

Financial Implications

The process of closing the road will have minimal cost to the Shire, with the exception of local notice requirements.

Local governments typically charge for applications for road closures, and this may be a consideration for the 2024/25 Fees and Charges.

Strategic Implications

Strategic Community Plan 2023-2033

1.4 Engage with industry stakeholders to ensure accountability for quality road standards

MINGENEW SHIRE COUNCIL SPECIAL MEETING MINUTES – 6 MAY 2024

6.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

8.0 CONFIDENTIAL ITEMS

Nil.

9.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday, 19 June 2024 commencing at 5.00pm.

10.0 CLOSURE

The meeting was closed at pm.

These minutes were confirmed at an Ordinary Council meeting on 19 June 2024

Signed _____
Presiding Officer

Date: _____