



# AGENDA FOR THE ORDINARY COUNCIL MEETING

12 DECEMBER 2024



**Ordinary Council Meeting Notice Paper**

**12 December 2024**

An Ordinary Meeting of Council is called for Thursday, 12 December 2024 in the Council Chambers, Victoria Street, Mingenew, commencing at 5:00 pm. Members of the public are most welcome to attend.

**Matt Fanning**  
**Chief Executive Officer**  
6 December 2024

**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><b>Petitions</b> A formal process where members of the community present a written request to the Council.</p>	<p><b>Deputations</b> A formal process where members of the community request permission to address Council or Committee on an issue.</p>	<p><b>Presentations</b> 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</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](mailto: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](mailto: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.

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- 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 12 DECEMBER 2024 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
- 4.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME
- 5.0 APPLICATIONS FOR LEAVE OF ABSENCE
- 6.0 PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS
- 7.0 CONFIRMATION OF PREVIOUS MEETING MINUTES
- 7.1 ORDINARY COUNCIL MEETING HELD 16 OCTOBER 2024

OFFICER RECOMMENDATION - ITEM 7.1

That the Minutes of the Ordinary Meeting of the Shire of Mingenew held in the Council Chambers on 16 October 2024 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 MINGENEW LOCAL EMERGENCY MANAGEMENT COMMITTEE
- 10.1.1 MINUTES OF THE LEMC COMMITTEE MEETING HELD 14 OCTOBER 2024

OFFICER RECOMMENDATION - 10.1.1

Council receives the Minutes of the Shire of Mingenew Local Emergency Management Committee Meeting held on 14 October 2024.

10.1.2 LOCAL RECOVERY PLAN AND CRISIS MANAGEMENT & COMMUNICATION PLAN

COMMITTEE RECOMMENDATION - 10.1.2

Council endorses the Local Recovery Plan and Crisis Management & Communications Plan, as presented to the Local Emergency Management Committee 14 October 2024.

10.2 SHIRE OF MINGENEW BUSH FIRE ADVISORY COMMITTEE

10.2.1 MINUTES OF THE BFAC COMMITTEE MEETING HELD 14 OCTOBER 2024

OFFICER RECOMMENDATION - 10.2.1

Council receives the Minutes of the Shire of Mingenew Local Emergency Management Committee Meeting held on 14 October 2024.

10.3 SHIRE OF MINGENEW AUDIT & RISK COMMITTEE

10.3.1 MINUTES OF THE AUDIT & RISK COMMITTEE MEETING HELD 11 NOVEMBER 2024

OFFICER RECOMMENDATION - 10.3.1

Council receives the Minutes of the Shire of Mingenew Audit & Risk Committee Meeting held on 11 November 2024.

10.3.2 INDEPENDENT AUDIT COMMITTEE MEMBER

COMMITTEE RECOMMENDATION - 10.3.2

Council:

1. Endorses the Chief Executive Officer's actions to undertake a public Expressions of Interest process to seek an independent member for the Audit and Risk Committee, with the following selection criteria:
  - Financial literacy and, ideally with qualifications or extensive experience in business management and/or accounting;
  - Knowledge of local government operations and the environment within which councils operate;
  - Strong communication skills;
  - High level of personal and professional integrity and ethics; and
  - Demonstrated knowledge of risk management principles and practices.
2. Authorises Ms Jane Bagshaw to remain as the appointed Independent Member for the Audit & Risk Committee until the Expressions of Interest are received and an appointment is endorsed by Council.



10.3.3 INTERNAL AUDIT PLAN 2025

COMMITTEE RECOMMENDATION - 10.3.3

Council endorses the updated Internal Audit Plan – November 2024.

10.4 SHIRE OF MINGENEW AUDIT & RISK COMMITTEE

10.4.1 MINUTES OF THE AUDIT & RISK COMMITTEE MEETING HELD 26 NOVEMBER 2024

OFFICER RECOMMENDATION - 10.4.1

Council receives the Minutes of the Shire of Mingenew Audit & Risk Committee Meeting held on 26 November 2024.

*NOTE: Whilst the Audit & Risk Committee meeting of 26 November 2024 did make recommendation to Council on adoption of the Annual Report 2023/24 and setting of the date for the Annual Meeting of Electors, this matter is considered as a separate item at 13.1.*

## 11.0 CHIEF EXECUTIVE OFFICER

### 11.1 MINGENEW TOWN HALL – OPTIONS REPORT

**Location/Address:** 19 Victoria Road, Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** CP.USE.2  
**Date:** 6 December 2024  
**Author:** Matt Fanning, Chief Executive Officer  
**Voting Requirements:** Simple Majority

#### Summary

A comprehensive report identifying the required repairs and recommend alterations to the Mingenew Town Hall has been completed specifically the Mingenew Town Hall – Options Report. This report provides full project costings and options for the repair and upgrading of the Hall based on the options report recommendations. It is estimated that to restore the Hall to a bare minimum level would cost ~ \$2.15M and an additional \$1.3M to \$1.9M to complete the upgrade works identified in the concept report.

#### Key Points

- The Town Hall Options report has been scoped to assist the Council in gaining a full understanding of the works and associated costs required to return the Mingenew Town Hall to its former condition and functionality.
- Condition assessment, document review and concept development phases have been completed
- Quantity Surveyors have provided an Opinion of Probable Costs for the identified works.

#### **OFFICER RECOMMENDATION – ITEM 11.1**

##### **Council**

1. **Receives and notes the Opinion of Probable Costs for the renovation and upgrading of the Mingenew Town Hall;**
2. **Resolves to renovate and upgrade the Mingenew Town Hall once sufficient funds have been generated from external funding sources, so as not to impact the Council’s financial sustainability; and**
3. **Updates the information regarding the Town Hall in the Shire’s Investment Opportunities booklet.**

#### Attachments

- 11.1.1 Mingenew Town Hall – Options Report
- 11.1.2 Detailed Concept Design – Mingenew Ton Hall
- 11.1.3 Opinion of Probable Costs – Mingenew Town Hall Refurbishment
- 11.1.4 Future of the Mingenew Town Hall - Survey Responses
- 11.1.5 Discussion Paper and Background – Mingenew Town Hall
- 11.1.6 Town Hall Loan Schedules
- 11.1.7 Depreciation - WLC schedules - Town Hall

### **Background**

The Mingenew Town Hall was built in 1959 and has served the Mingenew community for many years. In about 2012 asbestos was identified in the Hall and, along with other deficiencies, resulting in a decision to close the Hall to the public. Since this time many reports and discussions have been held regarding the future of the Hall. At no time has there been a comprehensive options report which has enabled the Council to make a fully informed decision as to its future.

An options report was commissioned, consisting of 4 components, as follows:

#### **Part 1 - Condition/Safety/Compliance Assessment**

The Consultant to review the current reports and determine what additional reports will be necessary to inform the development of an options report for the future of the Hall.

#### **Part 2 – Concept Options Development**

The Consultant to review the survey data from the 2021 and 2023 community surveys and the community scorecard report and, in consideration of all other Shire of Mingenew infrastructure, provide concept options for the restoration of the Hall to include as a minimum the following:

- Stage area
- Rear stage rooms not required can be partitions.
- Kitchenette
- All abilities access
- Bar
- Infrastructure to host movie nights and remove the need to the upper old projection room access.  
Suggest this area is removed
- Rear stage access
- Mural on Northern wall to stay
- Polished floors to remain
- Infrastructure to host blue light discos
- The hall needs to be renovated to be able to host the following suggested functions as a minimum:
  - End of year school concerts
  - School theatrical events
  - Blue light disco
  - Movie Nights
  - Balls or function dinners
  - Pop Up shops
  - Town Hall meetings

#### **Part 3 – Whole of life cost analysis / Concept Options**

Based on the findings and work produced from the Part 1 and Part 2, prepare a whole of life cost analysis which will include:

- Full estimates for the delivery of the concept options prepared by a regional WA builder or Quantity Surveyor
- Whole of life cost assessment for each concept options to include annual maintenance schedule, annual operational costs and long-term component renewal schedule.

#### **Part 4 - Pre-Design Report:**

This element of the Services shall include sufficient detailed concept design information in order for Part 3 to be completed.

Council was provided a concept plan in February 2024 which was endorsed and lead to the completion of parts 3 and 4 of the work above. Council at its February 2024 meeting resolved as follows:

**OFFICER RECOMMENDATION AND COUNCIL DECISION – ITEM 11.1 – RESOLUTION# 02210224**

**MOVED: Cr JR Holmes**

**SECONDED: Cr RA Starick**

Council receives and endorses the recommended concept for the potential restoration of the Mingenew Town Hall and instructs the Chief Executive Officer to continue with the options report scope in seeking builders quotes for the recommended works and that once completed the final report be brought before the Council for further consideration.

**VOTING REQUIREMENTS:**

**CARRIED BY SIMPLE MAJORITY 5/0**

*(FOR: Cr GJ Cosgrove, Cr JD Bagley, Cr JR Holmes, Cr AT Pearse, and Cr RA Starick AGAINST: Nil)*

This report now concludes the investigation works required for the Council to make an informed decision regarding the future of the Mingenew Town Hall.

**Comment**

The reports and detailed concept designs presented has identified the works required to bring the Hall back to an operational condition and in addition the report makes recommendations and suggestions which if incorporated would improve the functionality of the facility. Some of these suggestions are in substitution of replacing some of the existing infrastructure such as external stairs.

The report provides the minimum required works and makes suggested improvements. The preparation of the Opinion of Probable Costs was performed by focusing on the initial required restoration works and then requested costings be presented for the improvement works which would improve functionality and maximise its potential utilisation by the community.

In addition to the initial required restoration works valued at \$2.15M the following items were priced:

Kitchen and bar	\$205,000
Chair and table storage	\$ 33,000
Southern breakout verandah	\$123,000
Mezzanine stair and stage platform lift	\$106,000
Front of building works	\$229,000
Stage AV and blackout	\$367,000
PWD toilet	\$ 98,000
Stage change room	\$125,000
New wastewater / septic and water services to kitchen	\$ 82,000

Once a locality allowance and design and construction contingencies of 35% are added, these items are estimated to cost ~\$1.9M.

In effect, the expected cost for the complete works would be between \$3M and \$4M.

**Options Analysis**

**Option 1 – Do nothing and demolish the Town Hall**

This option would result in the removal of the Town Hall and would result in no additional or further operational costs. From the community survey, feedback on this option was not supported by the majority of respondents.

This option would cost in the order of \$100,000, a quote was received in May 2022 for \$66,000.

**Option 2 – Only restore the Hall to a minimum standard.**

This option would basically restore what we see today and exclude:

- Kitchen and bar
- Chair and table storage
- Southern breakout verandah
- Mezzanine stair and stage platform lift
- Front of building works
- Stage AV and blackout
- PWD toilet
- Stage change room
- New wastewater / septic and water services to kitchen

It is estimated that these works would cost in the order of \$1.56 to \$2.15M.

This option would restore the Hall however, its use would be limited without the additional recommended inclusions. There is a risk that the PWD toilet may be required as part of this option as the existing toilet facilities are not compliant. In addition, the AV and blackout equipment for the stage and seating would not be provided for this option.

### **Option 3 – Full Restoration and Upgrade Works**

This option includes the components from option 2 and the suggested additional inclusions such as:

- Kitchen and bar
- Chair and table storage
- Southern breakout verandah
- Mezzanine stair and stage platform lift
- Front of building works
- Stage AV and blackout
- PWD toilet
- Stage change room
- New wastewater / septic and water services to kitchen

The cost for this option would be in the range of \$3M to \$4M based on the estimates provided and would provide the best opportunity for the Hall to maximise its potential uses into the future.

### **Consultation**

The report has utilised information previously gathered in community surveys and reports.

### **Statutory Environment**

Council has an obligation as part of its Asset Management stewardship role to ensure that the assets it manages are fit for purpose, delivered at best value for money and meet community expectation within the former mentioned constraints.

### **Policy Implications**

Nil

### **Financial Implications**

The restoration of the Mingenew Town Hall is a future potential project within the Council's Long Term Financial Plan (LTFP). It is necessary to complete this body of work so that the best possible estimates can be included into the LTFP should the Council determine such.

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The cost to the Council for the capital investments for options 2 and 3 are presented below based on the need to borrow for the project. Should grant funding be successful, a percentage of these amounts may still be required.

- **Option 2 - Only restore the Hall to a minimum standard**

Estimated Capital Cost \$1.56M to \$2.15M

For the Low value of \$1.56M – the loan would cost 20 payments of \$98,189 over 10 years. This would be equivalent to \$196,378 per year or a rate increase of approximately ~ 7.3%

For the High value \$2.15M – the loan would cost 20 payments of \$135,324 over 10 years. This would be equivalent to \$270,648 per year or a rate increase of approximately ~ 10.1%

- **Option 3 - Full Restoration and Upgrade Works**

Estimated Capital Cost \$3M to \$4M

For the Low value of \$3M – the loan would cost 20 payments of \$188,824 over 10 years. This would be equivalent to \$377,648 per year or a rate increase of approximately ~ 14.1%

For the High value \$4M – the loan would cost 20 payments of \$251,766 over 10 years. This would be equivalent to \$503,532 per year or a rate increase of approximately ~ 18.8%

- **Operations and Maintenance (O&M)**

The O&M cost for the Hall would be similar, no matter the restoration option and is estimated to be between \$20,000 and \$40,000, excluding depreciation. For the sake of the Whole of life Cost calculation the O&M costs have been set at 1% of the CAPEX ~ \$40,000 excluding electricity costs.

Based on the above results it would be difficult to request an 7.3% rate increase let alone a 18.8% increase in general rates. The best approach would be to try and obtain the funds for the Hall restoration through grants, and hopefully, community benefit funding moving into the future from the resource sector.

### **Whole of life Cost (WLC) Calculation**

The **Total WLC** over 100 years, incorporating the renovation costs:

1. **Initial Construction Cost** = \$4,073,000 (option 3 high)
2. **Total Operation and Maintenance Cost (100 years)** = \$4,073,000 (1% per year for 100 years)
3. **Total Depreciation Cost (Year 1 \$136,830 for 100 years)** = \$13,830,000
4. **Total Energy Cost (\$5,000 per yr for 100 years)** = \$500,000
5. **Total Renovation Cost (100 years)** = \$2,000,000

### **Final Updated WLC:**

- **Total WLC (100 years)** = Construction Cost + Total Maintenance + Total Depreciation + Total Energy + Total Renovation
- **Total WLC (100 years)** = \$4,073,000 + \$4,073,000 + \$13,830,000 + \$500,000 + \$2,000,000 = \$24,476,000.

**Annual WLC to the Community after capital expenditure \$204,030**

**With Depreciation removed WLC - \$10,646,000 = \$65,730 after capital expenditure.**

Assumptions:

**Renovation Costs:**

Assumed that major renovations will take place every **25 years**, and the cost for each renovation is estimated to be **\$500,000**. This estimate could cover things like updating the building systems, refurbishing the interior, replacing outdated technology, electricals and addressing structural wear and tear.

- **Renovation Cost** every 25 years = **\$500,000**.
- Over the **100-year lifespan**, there will be **4 renovation cycles** (at 25, 50, 75, and 100 years).

**Total Renovation Costs:**

Given the renovation schedule, the total cost for renovations over 100 years would be:

- **Total Renovation Cost** =  $\$500,000 * 4 = \$2,000,000$ .

**Infrastructure Grant Opportunities**

Regional Precincts and Partnerships Program (rPPP) – highly competitive (Australia-wide), needs to be “shovel ready” with completed business case, cost benefit analysis and established partnerships. There is no guarantee the program will continue beyond the current funding round. Stream Two (for delivery of relevant projects) closes in January 2025 and project must be completed by 31 March 2026.

Building Better Regions Funds (BBRF) – regional grants program designed to deliver funding for regional infrastructure projects and community development activities. Australian Government announced, in October 2022, that this program will be discontinued. Federal infrastructure grants may be reviewed post-election.

Lotterywest - Due to the Shire’s reliance on Lotterywest for funding of several key projects in recent years, including the Mingenew Childcare Centre project and restoration of the Mingenew Railway Station, it is unlikely that a new major project will be considered in the near future.

**Strategic Implications**

Strategic Community Plan 2023-2033

6. Strong sense of community and culture

6.3 Decide the future of the Town Hall

- a. Investigate options for the Town Hall
- b. Attract new cultural and recreational activities to support community use of the Hall

## 11.2 PROPOSED OUTBUILDING – 25 BRIDE STREET, MINGENEW

Location/Address:	25 (Lot 14) corner Bride & Irwin Streets, Mingenew
Name of Applicant:	Shoreline Outdoor World for M. & T. Thomas
Disclosure of Interest:	Nil
File Reference:	A395
Date:	4 December 2024
Author:	Simon Lancaster, DCEO/Planning Advisor
Authorising Officer:	Matt Fanning, CEO
Voting Requirements:	Simple Majority

### Summary

Council is in receipt of an application for an outbuilding upon the corner property of 25 (Lot 14) Bride Street, that would face Irwin Street. The applicant has been presented to Council as it exceeds the delegated authority of Shire staff under the Shire of Mingenew 'Outbuildings' Local Planning Policy relating to its proposed size and secondary street frontage. This report recommends that Council approve the application.

### Key Points

- The applicant is seeking to construct a 128m<sup>2</sup> outbuilding upon 25 (Lot 14) Bride Street.
- The Shire of Mingenew 'Outbuildings' Local Planning Policy sets a maximum 80m<sup>2</sup> floor area (for lots less than 1,500m<sup>2</sup>) requirement for outbuildings to be determined by Shire staff under delegated authority. Applications proposing larger outbuildings are required to be placed before Council for determination.
- The proposed shed would be sited 1.5m back from the Irwin Street boundary.
- The Residential Design Codes of Western Australia (R-Codes) recommends a 2m minimum building setback to secondary street frontages in this zone.

### **OFFICER RECOMMENDATION – ITEM 11.2**

Council grants formal planning approval for an outbuilding to be constructed upon 25 (Lot 14) Bride Street, Mingenew, subject to the following:

#### Conditions

- 1 Development shall be in accordance with the plans included within Attachment 11.3 to the December 2024 Council Agenda and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) considered by the Shire CEO to represent significant variation from the approved development plan may require further application and planning approval for that use/addition.
- 3 The walls and roof of the outbuilding must be of materials, finish and colours that are non-reflective (i.e. not zincalume) and complementary to the residence upon the property to the approval of the local government.
- 4 The outbuilding is only to be used for general storage purposes associated with the predominant use of the land and must not be used for habitation, commercial or industrial purposes.
- 5 All stormwater is to be disposed of on-site to the approval of the local government.
- 6 Any soils disturbed or deposited on-site shall be stabilised to the approval of the local government.
- 7 The location, design and construction of the access point(s) onto the local road network shall be to the approval of the local government.
- 8 The applicant is responsible to ensure that no parking of vehicles associated with the development/property occurs within the road reserve, including the road verge.



- 9 That in the event that the landowner seeks to have a fence along the Irwin Street frontage in front of the outbuilding it must have a fence truncation measuring not less than 1.5 width x 1.5m depth either side of the outbuilding.
- 10 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination, the approval shall lapse and be of no further effect.

Notes:

- (a) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.
- (b) In regard to condition 9 the applicant is advised to give regard for the fence truncation layout example as provided in Figure 9a of the Residential Design Codes of Western Australia.
- (c) 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

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

Background

Lot 14 is a 1,214m<sup>2</sup> rectangular property on the corner of Bride Street and Irwin Street in the Mingenew townsite.

Figure 11.2.1 – Location Plan for 25 (Lot 14) corner Bride Street & Irwin Street, Mingenew



The residence faces onto Bride Street to the east and the applicant is proposing to demolish the existing outbuilding and replace it with a 128m<sup>2</sup> outbuilding (comprising 64m<sup>2</sup> enclosed garage & 64m<sup>2</sup> open bay carport floor area) that would face Irwin Street to the south. The shed would have a wall height of 3.4m and a total gable height of 4.1m and be clad in 'Surfmist' colorbond wall and roof cladding.

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

The proposed shed would be sited 1.5m back from the Irwin Street boundary and 3m from the residence. Table B of the R-Codes recommends a 2m minimum building setback to secondary street frontages in this zone and this application is also being presented to Council for its consideration on this basis.

The submitted site, elevation and floor plans and landowner's supporting correspondence are provided as separate Attachment 11.2.1.

Figure 11.2.2 – Aerial Photo of 25 (Lot 14) corner Bride Street & Irwin Street, Mingenew



Figure 11.2.3 – Site plan for proposed shed upon Lot 14 corner Bride & Irwin Streets



Figure 11.2.4 – Proposed Wall and Roof cladding colour for Outbuilding



Figure 11.2.5 – View from Irwin Street of existing shed to be demolished for proposed shed



Figure 11.2.6 – Example of shed proposed upon Lot 14 to front Irwin Street



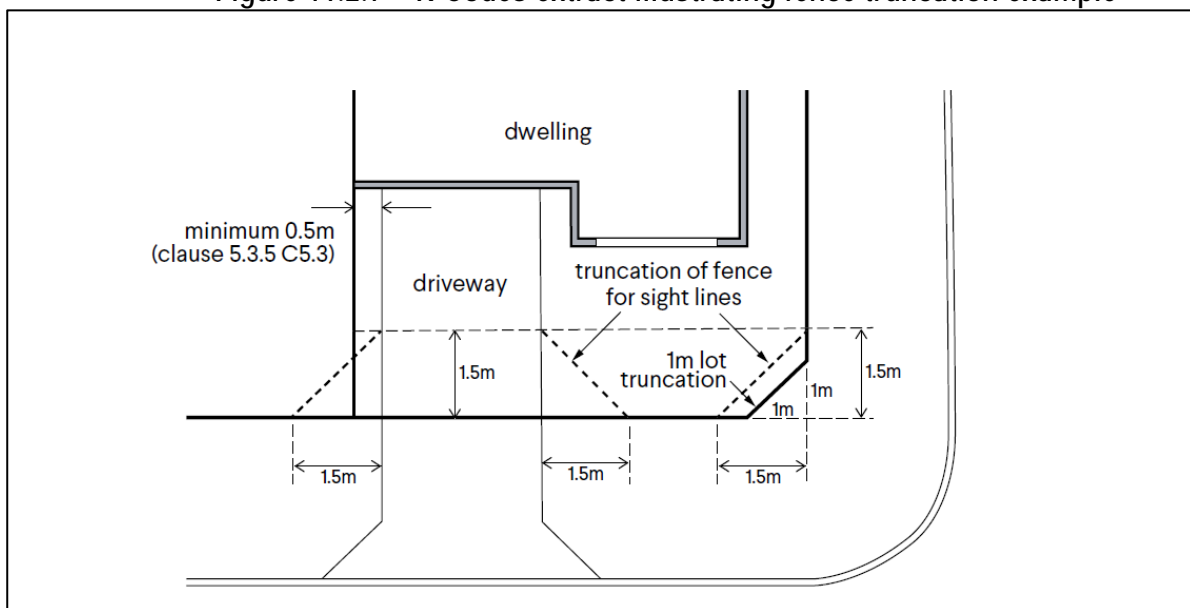
### Comment

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

- whilst the proposed 128m<sup>2</sup> total outbuilding area exceeds the 80m<sup>2</sup> Outbuildings Policy requirement (for lots under 1,500m<sup>2</sup>) it is noted that half (64m<sup>2</sup>) of the outbuilding would be enclosed and the other half open-sided thereby reducing its bulk and visual appearance from Irwin Street.
- the outbuilding is identical (apart from having the enclosed/unenclosed sections 'flipped' to an outbuilding previously approved by Council 400m to the south-west upon the 1,025m<sup>2</sup> 46 (Lot 111) Victoria Road, Mingenev at its 20 April 2022 meeting.
- the proposed 3.4m wall height and 4.1m total/gable height outbuilding would meet with the Outbuildings Policy maximum 4m wall height and 5m roof height requirements.
- the outbuilding would accommodate the applicant's possessions and vehicles and it is considered preferable for these items to be secured out of the weather rather than about the property, not just for the applicant but also for general amenity and appearance.
- the outbuilding would be clad in 'Surfmist' colorbond which is considered an appropriate and commonly used colour in the Mingenev townsite.
- there is ability through guttering and installation of rainwater tanks/soakwells to ensure stormwater runoff is captured and managed within the property boundaries and requirement to retain stormwater runoff can be applied as a condition of approval by Council.

- the landowner is seeking to site the shed 1.5m from the Irwin Street boundary rather than the standard 2m to avoid their effluent disposal system that is to the north of the existing (proposed to be demolished) shed.
- there is an approximately 10m distance between the edge of the Irwin Street roadway and the boundary of Lot 14, and the shed is proposed to be sited 1.5m setback back from the boundary, meaning that the shed would be sited approximately 11.5m north of the road carriageway edge which would still provide reasonable sightlines to vehicles exiting Lot 14 onto the roadway and for vehicles travelling along Irwin Street.
- the shed would be located 30m from the Irwin Street and Bride Street intersection and would not interfere with vehicle sightlines at the corner.
- there are precedents of outbuildings with nil and reduced secondary street setbacks in the Mingenew townsite on Enanty Street, Ikewa Street, King Street, Lockier Street, Moore Street, Oliver Street, Phillip Street and one immediately to the south-west on the opposite side of Irwin Street to the proposed shed site.
- there is not a footpath located along this section of Irwin Street and it is suggested that were a footpath to be constructed at some point in the future that it would be better suited to the other/southern side of Irwin Street as that side of the road is more level than the northern side which slopes downward away from the road and would make a footpath more difficult to engineer.
- to assist vehicles and pedestrians in being warned of vehicles exiting from the outbuilding onto Irwin Street there is ability for Council to impose a condition that if the landowner seeks to have a fence along the Irwin Street frontage in front of the outbuilding that it must have a fence truncation measuring not less than 1.5 width x 1.5m depth either side of the outbuilding (as illustrated in Figure 9a of the Residential Design Codes of Western Australia below).

Figure 11.2.7 – R-Codes extract illustrating fence truncation example



### Consultation

Council has the ability to advertise the application inviting comment prior to making its determination.

### Statutory Environment

25 (Lot 14) corner Bride Street and Irwin Street, Mingenew is zoned 'Residential R12.5' under the Shire of Mingenew Local Planning Scheme No.4.

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

- *To provide for a range of housing and a choice of residential densities to meet the needs of the community.*

- *To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.*
- *To provide for a range of non-residential uses, which are compatible with and complementary to residential development.”*

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

- “(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(g) any local planning policy for the Scheme area;...*
- ...(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following —*
  - (i) environmental impacts of the development;*
  - (ii) the character of the locality;*
  - (iii) social impacts of the development;...*
- ...(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;...*
- ...(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**

The Shire of Mingenew ‘Outbuildings’ Local Planning Policy was adopted by Council at its 17 April 2019 meeting and reviewed at its 21 August 2019 meeting. A copy of the policy has been included within **Attachment 11.2.1**.

The Shire of Mingenew Outbuildings Local Planning Policy sets a maximum outbuilding area of 80m<sup>2</sup> for Mingenew townsite lots that are less than 1,500m<sup>2</sup> (and 200m<sup>2</sup> for lots greater than 1,500m<sup>2</sup>). Lot 111 is 1,214m<sup>2</sup> in area and as the application proposes variation to the floor area requirements policy it is unable to be determined by Shire staff under delegated authority and is presented to Council for its consideration.

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

The Outbuildings Policy lists the following:

#### *“Objectives*

- 1 To provide development standards for outbuildings specific to the Shire of Mingenew, as appropriate.*
- 2 To provide a clear definition of what constitutes an “outbuilding”.*
- 3 To ensure that outbuildings are not used for habitation, commercial or industrial purposes by controlling building size and location.*
- 4 To limit the visual impact of outbuildings.*

- 5 *To encourage the use of outbuilding materials and colours that complement the landscape and amenity of the surrounding areas.*
- 6 *To ensure that the outbuilding remains an ancillary use to the main dwelling or the principle land use on the property."*

*"Policy Provisions*

*General*

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

*Height, Size and Setbacks*

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

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

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

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

**Financial Implications**

The application would not have a budgetary impact to Council.

**Strategic Implications**

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

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

The R-Codes Explanatory Guidelines provides the following guidance in relation to assessing matters relating to street setbacks and secondary streets:

**"Street Setbacks**

**General Guidance**

*The urban design presumption is for the street setback area to be free from buildings and structures, enabling a clear view to and from the street. This provides a comfortable and secure relationship and transition between public and private space.*

*From a social point of view, the street setback area and how it is developed and managed allows for comfortable communication and interaction between residents, neighbours and passers-by or callers who may not be known to the occupants. This creates the opportunity for casual and safe interaction to enhance a sense of community and safety.*

*At the same time, an open setback area provides for mutual surveillance between the street and building, enhancing security for the building (and its occupants) and for people passing by.*

*From a visual point of view, an open setback area provides a more attractive setting for the building. The street setback should also provide, depending on the location of essential services, adequate clearances from, and access to, essential services for reasons of safety and utility.*

*The same principles apply to communal streets and rights-of-way that provide the frontage to dwellings.*

*There will, of course, be exceptions, principally where the street is an arterial road carrying significant volumes of traffic.*

#### Frontage streets

*Street setback areas are an integral part of the streetscape and are fundamental to the amenity and particular character of residential localities. They may perform a number of different, but complementary roles:*

- continuity of the streetscape;*
- a visual setting for the dwelling;*
- a buffer against noise and general activity on the public street;*
- privacy for the dwelling;*
- visual connection to the street, its users and to neighbours;*
- space for car parking and access; and*
- a transition zone between the public street and private dwelling.*

*These considerations apply particularly to public streets to influence orientation of the main frontage to dwellings as it presents to the street. Similar principles apply to communal streets, and rights-of-way used to provide frontage to dwellings. Secondary or side streets may also function in this way.*

#### Side or secondary streets

*Different streetscape characteristics usually occur on secondary or side streets, with the street alignments formed by the long side boundaries of corner lots. These are characterised by side fences or walls rather than open gardens, and a small setback to the building.*

*In many cases these streetscapes are being altered by urban redevelopment and infill, by the subdivision of corner lots, creating new frontages to the side street. Where this happens, similar considerations to those for setbacks to frontage streets will apply although there will be scope for common-sense rationalisation between existing houses which create the character of the street and infill development.*

*The setback area should be open but with a reduced setback for practical and streetscape reasons. Private open space may be located to one side of the building rather than a narrow strip along the rear.” (Section 4.1, page 24)*

#### “Appropriate street setback distances

*In the case of new residential areas, the desirable street setback distance is often fixed as an integral part of the subdivision, for example as part of structure plan(s) or local development plan(s).*

*In the case of established residential areas with valued streetscapes, it will usually be the case that there is a consistent pattern of street setbacks. In these cases, new development should closely conform to the*

*established pattern. Where the pattern varies, a setback mid-way between that of the buildings on either side may be appropriate.*

*In established areas, it may be desirable for the decision-maker to stipulate setbacks for a particular area by setting them out in the local planning framework. The R-Codes Volume 1 street setback requirements apply in all other cases.*

*The manner in which street setbacks may be reduced is illustrated in figure 2a of the R-Codes Volume 1. This includes a provision allowing a street setback reduction of up to 50 per cent, providing the area of building (including any carport or garage) forward of the required street setback line is compensated for by an equal or greater area of open space behind the street setback line.*

*The prime purpose of this provision is to only allow a reduced setback from the street where this will create flexibility of design to achieve the design objectives for the area, and lead to a more varied and interesting streetscape. Figures 2a and 2b in the R-Codes Volume 1 illustrate situations where portions of the dwelling may intrude into the street setback provided there is a positive relationship with adjacent dwellings and the streetscape.*

#### Other structures

*Other than carports and garages (subject to clause 5.2.1 of the R-Codes Volume 1), no substantial structures are allowed in street setback areas. Structures that may be allowed are:*

- low fences or walls, which are the subject of separate consideration;*
- landscape or sculptural structures, ornamental features designed to enhance the relationship between street and dwelling; and*
- appropriately scaled archways or gateways, provided they are in character with the streetscape.*

*In addition, architectural features, including balconies, porches, chimneys and open verandahs, may be acceptable as minor incursions into the setback area, the criterion being that the main setback line is not unduly interrupted. Those minor incursions, where they do not exceed the limits prescribed at clause 5.1.2 C2.4, should not be taken into consideration when calculating average setback requirements.” (Section 4.1.1, page 25)*



**11.3 PROPOSED SECOND HAND/REPURPOSED RESIDENCE & SEA CONTAINERS /OUTBUILDING  
– 51 (LO 113) SHENTON STREET, MINGENEW**

**Location/Address:** 51 (Lot 113) Shenton Street, Mingenew  
**Name of Applicant:** Kerry Micke Designs for K. Thoars  
**Disclosure of Interest:** Nil  
**File Reference:** A803  
**Date:** 6 December 2024  
**Author:** Simon Lancaster, Planning Advisor  
**Authorising Officer:** Matt Fanning, Chief Executive Officer  
**Voting Requirements:** Simple Majority

**Summary**

The Shire has received an application seeking to undertake the following upon 51 (Lot 113) Shenton Street, Mingenew:

- site 3 second-hand transportable buildings and undertake works to repurpose them as a residence; &
- site 2 sea containers and undertake bridging roof works to create an outbuilding.

The application has been advertised for comment and 3 objections were received to the proposed development.

This report recommends approval subject to conditions relating to the visual appearance of the development, and the requirement that the applicant lodge a bond with the Shire as a guarantee that the works will be completed. Alternative resolution wording is also provided in this report in the event that Council instead wish to refuse the application.

**Key Points**

- 51 (Lot 113) Shenton Street, Mingenew is zoned 'Residential'
- The proposed development of a Second-Hand/Repurposed Dwelling is listed as a land use that must be advertised in this zone.

**OFFICER RECOMMENDATION – ITEM 11.3**

Council grants planning approval for a Second-Hand/Repurposed Dwelling and Outbuilding upon 51 (Lot 113) Shenton Street, Mingenew subject to the following:

**Conditions:**

- 1 Development shall be in accordance with the plans included as Attachment 11.3.3 with the December Council Agenda 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 buildings or land (not the subject of this consent/approval) considered by the local government Chief Executive Officer to represent significant variation from the approved development plan(s) requires further application and planning approval for that use/addition.
- 3 The development (inclusive of compliance with the conditions of this approval) must be completed within 24 months of the date of determination (i.e. prior to 12 December 2026).
- 4 A bond of \$5,000 must be lodged by the applicant with the Shire within 60 days of this determination, the bond will be returned upon completion of the requirements pertaining to the conditions of approval within a period of 24 months from the date of determination, and in the event that the works as described in the approved plans are not carried out within the 24 month timeframe the bond may be forfeited to the Shire.
- 5 The external wall and roof cladding of the residence must be of materials (of a non-reflective finish) and colours and finish that are to the satisfaction of the local government.

- 6 The external appearance of the outbuilding must be of materials (of a non-reflective finish) and colours and finish that are to the satisfaction of the local government and complementary to the colours of the residence.
- 7 The development must not be occupied until it is compliant with the Class 1 requirements of the Building Code of Australia, the *Health Act 1911* and the *Health (Treatment Of Sewage And Disposal Of Effluent And Liquid Waste) Regulations 1974* to the approval of the local government.
- 8 Any soils disturbed or deposited on site shall be stabilised to the satisfaction of the local government.
- 9 All stormwater must be contained and disposed of onsite to the satisfaction of the local government.
- 10 The outbuilding is only to be used for domestic purposes associated with the predominant habitable use, and must not be used for habitation, commercial or industrial purposes.
- 11 The installation and maintenance of landscaping about the development site for the purposes of screening and enhancing its visual appearance to the satisfaction of the local government.
- 12 The installation and maintenance of front boundary fencing of not more than 1.2m height for the purposes of screening and enhancing the development site's visual appearance, and the fence must be of materials and colour to the satisfaction of the local government.
- 13 All parking of vehicles (and trailers) associated with the development shall be provided for within the property boundary.
- 14 The installation and maintenance of the vehicle access/crossing place onto Shenton Street shall be to the satisfaction of the local government.
- 15 The vehicle access/crossing place and driveway shall be of a sealed standard to the satisfaction of the local government.
- 16 If the development/land use, the subject of this approval, is not substantially commenced within a period of two years after the date of determination, the approval shall lapse and be of no further effect.

**Advice Notes:**

- (a) Where an approval has so lapsed, no development/land use shall be carried out without the further approval of the local government having first been sought and obtained.
- (b) In regards to condition 4, in the event that the works as described in the application are not carried out within the 24 month timeframe, Shire staff will present a report to Council for its consideration outlining how the forfeited bond monies may be expended to address the outstanding works/conditions (this may include removal of the transportable buildings and sea containers from the property).
- (c) 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**

- 11.3.1 Application
- 11.3.2 Received Submissions
- 11.3.3 Applicant Response Submissions & Revised Application

**Background**

51 (Lot 113) Shenton Street, Mingenew is a 1,006m<sup>2</sup> property at the southern end of the Mingenew townsite.

Figure 11.3.1 – Location Plan for 51 (Lot 113) Shenton Street, Mingenew



Figure 11.3.2 – Aerial Photograph of 40 (Lot 108) Victoria Road, Mingenew



The applicant purchased Lot 113 on 22 March 2024 and subsequently chose to site a transportable building upon the property without obtaining any of the necessary prior approvals from the Shire.

The Shire wrote to the landowner on 17 May 2025 requiring them to either remove the building from Lot 113 or lodge an application with the Shire within 60 days.

Subsequent to being advised that their actions were unlawful the landowner then chose to site a second transportable building upon the property.

On 7 October 2024 the applicant prepared their application that is provided as **Attachment 11.3.1**.

**Figure 11.3.3 – View looking west at Lot 113 from Shenton Street  
also illustrating built form of neighbouring lots to the north and south**



The applicant is seeking approval to site 3 second-hand transportable buildings upon Lot 113 that would be connected by a verandah to form a residence under one roof.

A 3m x 6.05m (18.15m<sup>2</sup>) transportable building would contain a kitchen and bedroom area in one room.

Alongside this at a separation distance of 1.5m would be a 3m x 3m (9m<sup>2</sup>) transportable building that would contain a toilet, shower, bath and basin.

To the rear of these at a 4m separation distance would be a 3m x 6.05m (18.15m<sup>2</sup>) transportable that would contain an ensuite and main room that could be used as a 2<sup>nd</sup> bedroom.

The rooms in the transportable buildings would not be interconnected i.e. the occupant would physically have to leave one building to enter another.

The 3 buildings would be connected under one 132.38m<sup>2</sup> gable roof structure that would provide a 2m wide verandah around the front and sides of the buildings, and a 4m x 6.05m (24.2m<sup>2</sup>) patio area between the 2 front transportable buildings and the rear one.

The building is proposed to be clad in 'Southerly' colorbond custom orb wall cladding, with a band of feature darker 'Wallaby' colorbond around the base of the walls. The roof sheeting, gutter and fascia would be 'Wallaby' colorbond custom orb roof sheeting.

The residence would be would be setback 21.95m from the Shenton Street frontage to the east, 2m from the closest side (southern) property boundary and 3.41m from the northern side boundary.

The applicant is also seeking approval to site 2 x '20 foot' sea containers to the rear of the residence to serve as a greenhouse/outbuilding. The 2 sea containers would be set at a distance of 5m apart and it is proposed to install a dome shade cloth roof between them to create an open-ended middle section that would serve as

a vegetable garden. The sea containers are 6.05m x 3m in area and 2.4m high and together with the 6.05m x 5m domed roof area would create a total outbuilding area of 66.55m<sup>2</sup>.

The outbuilding would be sited 6m behind the residence, 6m from the rear/eastern property boundary, 4.075m from the closest side (northern) property boundary and 6.27m from the southern side boundary.

The submitted plans indicate the sea containers would be clad in 'Southerly' colorbond custom orb wall cladding and the angled skillion roof atop each sea container to connect into the domed roof would be 'Wallaby' colorbond custom orb roof sheeting.

Figure 11.3.3 – Proposed Colours



To assist in screening the development the applicant proposes a 1m high colorbond fence along the Shenton Street boundary and plant native trees and shrubs inside the front fence.

The applicant also proposes to establish fruit trees between the outbuilding and rear boundary.

The applicant proposes that the development project will take 3 years to complete.

#### Comment

The landowner has to date displayed a disregard for due process and it would be reasonable to make argument that approval of this development, even subject to conditions, would require a level of faith that they will deliver upon their proposal.

It is considered that the development if completed as per the submitted plans would ultimately present a built form that is not a significant departure from those around it, in what is the newest subdivision area of the Mingenew townsite.

However, if the applicant fails to deliver as per their submitted plans. this site will present in a manner that will be prejudicial to the amenity of the surrounding area.

On their submitted application the landowner proposes that the development will take 3 years to complete.

This is considered an unacceptable length of time for surrounding residents to be faced with the uncertainty and continuing poor amenity of the property.

It is suggested that any approval, if forthcoming from Council, be made subject to a 2 year (or even 1 year) timeframe in which the applicant must complete the works.

Further it is considered reasonable that the applicant should be required to lodge a bond with Council that would be held in reserve by the Shire and returned to them upon completion of the works. In the event that the works have not progressed in a satisfactory manner then Council may wish to consider the return of the bond void and utilise the funds in a manner that may assist in the improving of the site (which could, in

consultation with the landowner if required, even include removal, or action towards removal, of the transportable structures if the proposed works have not progressed as proposed by the applicant).

It is on this basis that the recommendation is for conditional approval of the application.

However, 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 second-hand/repurposed dwelling and outbuilding upon 51 (Lot 113) Shenton 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 The proposed development is not considered to be consistent with the objectives and provisions of the Mingenew Townsite Local Planning Strategy.*
- 4 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.*
- 5 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 21 October 2024 until 15 November 2024 with the Shire writing to the landowners of the 8 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 3 submissions had been received, all expressing objection to the application.

Copies of the received submission are provided as **Attachment 11.3.2**.

The applicant was provided with redacted copies of the submissions (as per standard Shire practice) and invited to make comment/respond to the issues raised in the submission period.

A copy of the applicant’s response to the issues raised during the advertising period, and their revised plans that include further proposed landscaping detail has been provided as **Attachment 11.3.3**.

### **Statutory Environment**

51 (Lot 113) Shenton Street, Mingenew is zoned ‘Residential R12.5’ under Shire of Mingenew Local Planning Scheme No.4 (‘the Scheme’).

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

- To provide for a range of housing and a choice of residential densities to meet the needs of the community.*
- To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.*

- *To provide for a range of non-residential uses, which are compatible with and complementary to residential development."*

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

*"second-hand dwelling means a dwelling that has been in a different location, and has been dismantled and transported to another location."*

The application might also be considered under the definition of 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."*

Both 'Second-hand Dwelling' and 'Repurposed Dwelling' are listed as an 'A' use within the 'Residential' zone 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."*

Clause 67 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists the following relevant matters to be considered by Council in considering a development application:

- "(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;...*
- ...(c) any approved State planning policy;...*
  - ...(fa) any local planning strategy for this Scheme endorsed by the Commission;...*
- ...(fa) any local planning strategy for this Scheme endorsed by the Commission;*
- (g) any local planning policy for the Scheme area;...*
- ...(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;...*

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- ...(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."

The following Aims of the Scheme from Clause 9 of the Shire Scheme may be considered of relevant in this matter:

*"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;  
to ensure there is sufficient supply of serviced and suitable land within Mingenew for existing and future housing, employment, commercial activities, community facilities, recreation and open space;  
to provide for a range of accommodation and lifestyle choices that meet the needs and aspirations of the community"*

**Policy Implications**

The Outbuildings Policy has the following objectives:

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

**Financial Implications**

Nil.

**Strategic Implications**

The following strategies and actions from the Shire's Strategic Community Plan are considered relevant in Council's assessment of this matter:

Strategy	Strategies/Actions	Council's Role	Partners
2.3 Cultural & Heritage	2.3.3 Enhance our natural and built environment and promote and protect the history and heritage within Mingenew	Support and manage	Community Groups
3.1 Housing	3.1.2 Develop local housing market (support new business model)	Investigate and support	Dept. Housing, Local entrepreneurs
4.1 Diversity of accommodation	4.1.1 Development of existing and future diverse accommodation options for business travellers and tourism	Facilitate	Local entrepreneurs and businesses

The Mingenew Townsite Local Planning Strategy notes the following of relevance:

Objectives	Planning Provisions
------------	---------------------



<p>O2.7 Encourage a consistent pattern in the orientation, scale, and siting of residential development.</p>	<p>P2.13 In the case of residential redevelopment new buildings and development proposals shall respect the predominant orientation, scale and size of buildings and regular street pattern. New development is not to be sited in a way that would create an undesirable pattern of development for the area.</p>
--	--

*“4.2.6 Architectural Style*

*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 verandahs 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.”*



Plate 6 Historic Residence



Plate 7 Police Residence



Plate 8 Contemporary Residence

## 12.0 CORPORATE SERVICES

### 12.1 FINANCIAL REPORT FOR THE PERIOD ENDED 31 OCTOBER & 30 NOVEMBER 2024

<b>Location/Address:</b>	Shire of Mingenew
<b>Name of Applicant:</b>	Shire of Mingenew
<b>Disclosure of Interest:</b>	Nil
<b>File Reference:</b>	FM.FRP
<b>Date:</b>	6 December 2024
<b>Author:</b>	Jack Smith, Senior Finance Officer
<b>Authorising Officer:</b>	Helen Sternick, Manager Corporate Services
<b>Voting Requirements:</b>	Simple Majority

#### Summary

Council is required by legislation to consider and adopt the Monthly Financial Report, including Statement of Financial Activity for the periods ended 31 October 2024 and 30 November 2024, as required by Regulation 34 (1) of the *Local Government (Financial Management) Regulations 1996*.

#### **OFFICER RECOMMENDATION – ITEM 12.1**

##### **Council receives:**

- 1) the Monthly Financial Report, including the Statement of Financial Activity, for the period 31 October 2024, as included at Attachment 12.1.1;
- 2) the Monthly Financial Report, including the Statement of Financial Activity, for the period 30 November 2024, as included at Attachment 12.1.2.

#### Attachments

12.1.1 Monthly Financial Report for the period ending 31 October 2024

12.1.2 Monthly Financial Report for the period ending 30 November 2024

#### Background

Council is provided with the Monthly Financial Report which has been developed in line with statutory reporting standards and provides Council with a holistic overview of the operations of the Shire of Mingenew.

The Monthly Financial Report for the period ended 31 October 2024 and 30 November 2024 includes the following:

- Statement of Financial Activity
- Statement of Financial Position
- Statement of Financial Activity Information
- Explanation of Material Variances
- Cash and Financial Assets
- Reserve Accounts
- Capital Acquisitions
- Disposal of Assets
- Receivables
- Other Current Assets
- Payables
- Rate Revenue
- Borrowings
- Lease Liabilities
- Other Current Liabilities
- Grants, Subsidies and Contributions

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- Capital Grants, Subsidies and Contributions
- Budget Amendments

Comment

A summary of the financial position as the end of October 2024:

	YTD Budget	YTD Actual	Variance
<b>OPERATING ACTIVITIES</b>			
Revenue from operating activities	3,166,092	3,167,529	0.05%
Expenditure from operating activities	(1,117,839)	(1,141,566)	(2.12%)
Non-cash amounts excluded from operating activities	(21,091)	(43,156)	(104.62%)
	<hr/>	<hr/>	
	2,027,162	1,982,807	(2.19%)
<b>INVESTING ACTIVITIES</b>			
Inflows from investing activities	839,682	427,202	(49.12%)
Outflows from investing activities	(1,348,449)	(588,119)	56.39%
	<hr/>	<hr/>	
	(508,767)	(160,917)	68.37%
<b>FINANCING ACTIVITIES</b>			
Inflows from financing activities	0	0	0.00%
Outflows from financing activities	(37,449)	(36,344)	2.95%
	<hr/>	<hr/>	
	(37,449)	(36,344)	2.95%
Surplus/(deficit) at the start of the financial year	<hr/>	<hr/>	
	1,670,211	1,600,242	(4.19%)
Surplus/(deficit) at 31 October 2024	<hr/>	<hr/>	
	3,151,157	3,385,788	7.45%
Cash at Bank Municipal – unrestricted		2,532,524	
Cash at Bank Municipal – restricted		1,154,151	
Cash at Bank Trust		50,001	
Reserve Term Deposit		1,107,459	
<b>Total</b>		<hr/>	
		<b>4,844,135</b>	

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A summary of the financial position as the end of November 2024:

	YTD Budget	YTD Actual	Variance
<b>OPERATING ACTIVITIES</b>			
Revenue from operating activities	3,278,853	3,245,829	(1.01%)
Expenditure from operating activities	(2,571,225)	(1,304,247)	49.28%
Non-cash amounts excluded from operating activities	1,225,933	(50,557)	(104.12%)
	1,933,561	1,891,025	(2.20%)
<b>INVESTING ACTIVITIES</b>			
Inflows from investing activities	1,254,752	537,822	(57.14%)
Outflows from investing activities	(1,617,997)	(735,434)	54.55%
	(363,245)	(197,612)	45.60%
<b>FINANCING ACTIVITIES</b>			
Inflows from financing activities	0	0	0.00%
Outflows from financing activities	(37,798)	(36,605)	3.16%
	(37,798)	(36,605)	3.16%
Surplus/(deficit) at the start of the financial year	1,670,211	1,600,242	(4.19%)
Surplus/(deficit) at 30 November 2024	3,202,729	3,257,050	1.70%
Cash at Bank Municipal – unrestricted		2,492,918	
Cash at Bank Municipal – restricted		1,088,167	
Cash at Bank Trust		50,001	
Reserve Term Deposit		1,107,459	
<b>Total</b>		<b>4,738,545</b>	

An explanation of the variances can be found at Note 3 in the attached Monthly Financial Reports, this commentary provides Council with an overall understanding of how the financial position is compared in relation to the amended budget.

As required by 1.3.3 Investment of Surplus Funds Procedures, details of Council's investment portfolio are provided within the supplementary information of the attachments on page 10.

The road agreement with Terra Mining, as at 30 November 2024, has contributed \$96,655 towards the Community Infrastructure Fund, of which \$32,056 remains outstanding. We are activity pursuing payment.

Debtor's accounts continue to be monitored with all efforts being made to ensure that monies are recovered.

**Consultation**

Nil.

**Statutory Environment**

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996

**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 the previous month (the **relevant 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

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- (b) budget estimates to the end of the relevant month; and*
  - (c) actual amounts of expenditure, revenue and income to the end of the relevant month; 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 relevant month and a note containing a summary explaining the composition of the net current assets.*
- (1B) The detail included under subregulation (1)(e) must be structured in the same way as the detail included in the annual budget under regulation 31(1) and (3)(a).*
- (1C) Any information relating to exclusions from the calculation of a budget deficiency that is included as part of the budget estimates referred to in subregulation (1)(a) or (b) must be structured in the same way as the corresponding information included in the annual budget.*
- (2) Each statement of financial activity is to be accompanied by documents containing —*
- [(a) deleted]*
  - (b) an explanation of each of the material variances referred to in subregulation (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 must be shown according to nature classification.*
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
- (a) presented at an ordinary meeting of the council within 2 months after the end of the relevant month; 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 2023-2033

14 Operating with a high standard of good governance and transparency

15 Financial practices are responsive to compliance requirements and revenue needs

## 12.2 LIST OF PAYMENTS FOR THE PERIOD 1 OCTOBER TO 30 NOVEMBER 2024

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** FM.CRD  
**Date:** 6 December 2024  
**Author:** Maria Snowden-Giles, Payroll/Finance Officer  
**Authorising Officer:** Helen Sternick, Manager Corporate Services  
**Voting Requirements:** Simple Majority

### Summary

This report recommends that Council receives the list of payments (including purchasing cards), made under delegated authority, for period 1 October to 30 November 2024.

### **OFFICER RECOMMENDATION – ITEM 12.2**

Council, in accordance with *Local Government (Financial Management) Regulations 1996* section 13 and 13A, receives the list of payments for the period of 1 October to 30 November 2024, as included at Attachment 12.3.1. represented by:

\$664,390.62	Municipal EFTs
\$41,162.61	Municipal EFT Purchasing Cards (Fuel Cards)
\$59,990.40	Municipal Direct Debit Department of Transport (Licencing) Payments
\$100,374.98	Municipal Direct Debit Other
\$5,068.11	Municipal Direct Debit Purchasing Cards (Credit and Fuel Cards)
\$177,140.55	Net Salaries
1,048,127.27	Total Payments

### Attachments

12.2.1 List of Payments – 1 October to 30 November 2024

### Background

Council has delegated, to the Chief Executive Officer, the exercise of its power to make payments from the Shire's Municipal and Trust funds. In accordance with section 13 of the *Local Government (Financial Management) Regulations 1996* a list of accounts paid by the Chief Executive Officer is to be provided to Council, where such delegation is made.

In accordance with section 13A of the *Local Government (Financial Management) Regulations 1996* a list of payments made by authorised employees via purchasing cards is to be provided to Council.

The list is to include 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*

**12. Payments from municipal fund or trust fund, restrictions on making**

- (1) A payment may only be made from the municipal fund or the trust fund —
  - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
  - (b) otherwise, if the payment is authorised in advance by a resolution of the council.

**13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.**

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
  - (a) the payee's name; and
  - (b) the amount of the payment; and
  - (c) the date of the payment; and
  - (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
  - (a) for each account which requires council authorisation in that month —
    - (i) the payee's name; and
    - (ii) the amount of the payment; and
    - (iii) sufficient information to identify the transaction, and
  - (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under sub-regulation (1) or (2) is to be —
  - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
  - (b) recorded in the minutes of that meeting.

**13A. Payments by employees via purchasing cards**

- (1) If a local government has authorised an employee to use a credit, debit or other purchasing card, a list of payments made using the card must be prepared each month showing the following for each payment made since the last such list was prepared —
  - (a) the payee's name.
  - (b) the amount of the payment.
  - (c) the date of the payment.
  - (d) sufficient information to identify the payment.
- (2) A list prepared under sub-regulation (1) must be —
  - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
  - (b) recorded in the minutes of that meeting.

**Policy Implications**

Payments have been made under delegation.

**Financial Implications**

The list of payments made in accordance with budget and delegated authority.

**Strategic Implications**

Strategic Community Plan 2023-2033

14 Operating with a high standard of governance and transparency

15 Financial practices are responsive to compliance requirements and revenue needs

### 12.3 SALE OF LAND FOR OVERDUE RATES AND CHARGES

Location/Address:	7 (Lot 5) Bride Street, Mingenew 20 (Lot 169) Linthorne Street, Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	RV.RAT.1 / A152 / A775
Date:	6 December 2024
Author:	Megan Smith, Finance/Rates Officer
Authorising Officer:	Helen Sternick, Manager Corporate Services
Voting Requirements:	Absolute Majority

#### Summary

To consider rate debt recovery on two properties that have been unpaid for at least 3 years, including Possession of Land, Sale by Public Auction under the 3-year Rule and, if not sold, Transfer of Land to the Shire.

#### Key Points

- Two properties have had their rates and charges unpaid for at least 3 years
- Under the 3-year rule the two properties can be sold via public auction
- Potential transfer of the properties to the Shire if they fail to sell for reserve price
- Potentially write off all outstanding rates and charges

#### **OFFICER RECOMMENDATION – ITEM 12.3**

##### **Council:**

1. Agrees to the sale by public auction or later by private treaty, of vacant land at 7 (Lot 5) Bride Street, Mingenew with a reserve of current market value due to 3-years of unpaid rates and charges;
2. Agrees that in the event 7 (Lot 5) Bride Street, Mingenew fails to sell, transfers the property to the Shire of Mingenew after a 12-month period from the date of the public auction;
3. Agrees to take possession of vacant land in accordance with Section 6.64 of the *Local Government Act 1995* at 20 (Lot 169) Linthorne Street, Mingenew due to non-payment of rates and service charges greater than 3-years;
4. Agrees to the sale by public auction or later by private treaty, of vacant land at 20 (Lot 169) Linthorne Street, Mingenew with a reserve of current market value due to >3-years of unpaid rates and charges;
5. Agrees that in the event of 20 (Lot 169) Linthorne Street, Mingenew fails to sell, transfer the property to the Shire after a 12-month period from the date of the public auction;
6. By Absolute Majority, writes off the remaining outstanding rates and charges on 7 (Lot 5) Bride Street, Mingenew and 20 (Lot 169) Linthorne Street, Mingenew, whether by a successful sale or in the event of no sale occurring, and seek approval from Department of Fire and Emergency Services (Form D) to write off the ESL charges; and
7. Delegates the proceedings of sale to the Chief Executive Officer.

#### Attachments

12.3.1 Guideline 22 – Possession of land for the recovery of rates and service charges

12.3.2 Summary extract of Guideline 22 - Revestment of land in the local government

#### Background

The property at 7 (Lot 5) Bride Street, Mingenew has rates outstanding for more than three years. On 15 June 2022, Council resolved to the sale of the vacant property by public auction with a reserve of \$5,000. A



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Notification of Taking Possession of Land Under Section 6.64 of the *Local Government Act 1995* (Form 2), was executed on 17 October 2022. A Notice to be Affixed on Land on Taking Possession (Form 3) was posted on the land and a Notice Requiring Payment of Outstanding Rates or Service Charges (Form 4) was published on 16 February 2023 on our website, Facebook page and noticeboard and on 24 February 2023 in the West Australian and Geraldton Guardian. The next step being the publication of a Notice of Sale of Land for Non-Payment of Outstanding Rates or Service Charges (Form 5) advising the public auction date and location, and efforts to engage an auctioneer to conduct a public auction have been unsuccessful, despite multiple attempts being made.

On 9 August 2023, the Shire received communication from the ratepayer's Power of Attorney who was unaware that the land was still held in the ratepayer's name until they were notified by the Water Corporation. A certified copy of the Power of Attorney was received, and a verbal indication was made of their intent to hand the land to the Shire in exchange for waiving all debt.

Legal advice was sought given the current status of the 3-Year possession process, the advice received indicated it was up to the Shire whether they wish to cease the 3-Year process or to 'acquire' the land directly, and that it would save further costs being incurred.

A copy of the current rates notice was forwarded to the Power of Attorney with a request to return a pro-forma contract of sale and written response drafted for completion to enable action by Council. An agreement, in principle, was reached for the Shire to purchase the land for \$1 in exchange for waiving all rates and charges per Council Resolution 12160823.

Both parties engaged conveyancers, however the Power of Attorney ceased all communications and was non-responsive with no further action taken on their part to facilitate the process. Recent contact by the Power of Attorney stated they preferred the Shire to pursue possession recovery as they are not able to deal with the matter further. Unfortunately, the timing of this notification left little time to reorganise an auctioneer to facilitate a public auction before the expiry of the forced possession deadline of 24 November 2024.

Rates 2014/15	\$314.70
Rates 2015/16	\$636.00
Rates 2016/17	\$655.00
Rates 2017/18	\$682.00
Rates 2018/19	\$700.00
Rates 2019/20	\$707.00
Rates 2020/21	\$707.00
Rates 2021/22	\$728.00
Rates 2022/23	\$764.00
Rates 2023/24	\$840.00
<u>Rates 2024/25</u>	<u>\$924.00</u>
Legal Charges	\$14,397.58
ESL Levies	\$846.00
<u>Interest to 29.02.2024</u>	<u>\$4,388.07</u>

*Interest calculations have been suspended*

Total Charges incurred: \$27,289.35

The Shire is also aware of an issue, whereby the boundary line may be encroached by a building and fence on the property of 9 Bride Street, Mingenew. This may need to be addressed for any future sale or development, including the requirement for a formal survey of the boundary.



The property at **20 (Lot 169) Linthorne Street, Mingenew** has rates outstanding for more than three years. Numerous efforts were made to locate the owner, with confirmation being received in September 2021 that the owner was deceased. A relative was eventually located via skip-tracing who confirmed the title holder died in December 2018 without a will. Extensive communications were undertaken in an effort to resolve the situation, and it was found that there were three family members that could have a claim on the property.

A meeting was held with the daughter of the deceased to discuss options and to determine whether an application for a Letters of Administration would be applied for with the Supreme Court and once custody of the property was awarded, the Administrator could dispose of it. The siblings mutually agreed on 10 August 2023 to not pursue this avenue and allow Council to possess the land and dispose of the property under a 3-year non-payment of rates.

Legal advice was sought and advice indicated the Shire should seek to apply for limited Letters of Administration purely to resolve the property issue however, the legal advice was later rescinded.

The unpaid rates to date are:

Rates 2018/19	\$700.00	
Rates 2019/20	\$707.00	
Rates 2020/21	\$707.00	
Rates 2021/22	\$728.00	
Rates 2022/23	\$764.00	
Rates 2023/24	\$840.00	
<u>Rates 2024/25</u>	<u>\$924.00</u>	<u>\$5,370.00</u>
Legal Charges		\$1,134.05
ESL Levies		\$632.00
<u>Interest to 31.08.2023</u>		<u>\$1,097.37</u>
<u>Total Charges incurred:</u>		<u>\$8,233.42</u>

*Interest calculations have been suspended*

Additional expenditure has been incurred for legal advice regarding Letters of Administration which has not been included on the rates, totalling \$11,000.



**Comment**

Previous legal proceedings that commenced to address the outstanding debts on these properties has been drawn-out due to a complex caveat, expired court orders, bailiff time frames, and AMPAC, Palisade Solicitors and Civic Legal advice that increased legal costs and created delays. This was further exacerbated by the inability to engage an auctioneer to conduct a public auction before the 7 Bride Street, Mingenew deadline.

Section 6.56 of the *Local Government Act 1995* generally requires court action to have been initiated prior to sale however the local government does not have to initiate recovery for monies owing if there is a reasonable belief that the cost of the proceedings under s6.56 will equal or exceed the value of the land. In the instance of 7 Bride Street, Mingenew the current balance is \$27,289.35 excluding any interest calculations since the suspension. In the instance of 20 Linthorne Street, Mingenew the current balance is \$8,233.42 excluding any interest calculations since the suspension.

The recent vacant land sales within the Shire range from \$11,000 to \$22,000 since 1 July 2023.

Block Size	Sale Price
784m <sup>2</sup>	\$11,000
822m <sup>2</sup>	\$11,000
850m <sup>2</sup>	\$15,000 - \$22,000* (*recent sale)
860m <sup>2</sup>	\$15,000
865m <sup>2</sup>	\$21,500 (most recent sale)
1006m <sup>2</sup>	\$15,000
1007m <sup>2</sup>	\$15,000
1012m <sup>2</sup>	\$15,000

The block size of 7 Bride Street, Mingenew is 1214m<sup>2</sup> and 20 Linthorne Street, Mingenew is 1101m<sup>2</sup>.

It is a requirement under the *Local Government Act 1995* that both properties are offered for sale by public auction.

A reserve may be set for Council to endeavour to recover some costs. If a property fails to sell by public auction, Council can accept offers by private treaty within a 12-month period from the date of the auction. After that time has elapsed, only then does Council have the option to transfer the property to itself.

Based on previous extensive costs and drawn-out time frames to address the debt with AMPAC, we are engaging Cloud Payment Group to resolve the status of these properties to enable Council to move forward. Cloud Payment Group have provided a cost-effective quotation and indication that a public auction could be conducted as early as March 2025.

Council may delegate the proceedings of sale to the Chief Executive Officer, including setting a reserve price as guided by the value of the property based on market sales. Although the Chief Executive Officer has an obligation to obtain the best price on the sale, there is no requirement that a sale takes place if the reserve price and conditions are not met.

### Consultation

AMPAC Rates Management  
Palisade Solicitors  
Civic Legal  
Cloud Payment Group  
Chief Executive Officer

### Statutory Environment

*Local Government Act 1995*

#### **6.64 Actions to be taken**

- (1) *If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —*
  - (a) *from time to time lease the land; or*
  - (b) *sell the land; or*
  - (c) *cause the land to be transferred to the Crown; or*
  - (d) *cause the land to be transferred to itself.*
- (2) *On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.*
- (3) *Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.*

#### **6.68. Exercise of power to sell land**

- (1) *Subject to subsection (2), a local government is not to exercise its power under section 6.64(1)(b) (in this Subdivision and Schedule 6.3 referred to as the **power of sale**) in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recover money due to it.*
- (2) *A local government is not required to attempt under section 6.56 to recover money due to it before exercising the power of sale where the local government —*
  - (a) *has a reasonable belief that the cost of the proceedings under that section will equal or exceed the value of the land; or*
  - (b) *having made reasonable efforts to locate the owner of the property is unable to do so.*
- (3A) *A local government is to ensure that a decision to exercise a power of sale without having, within the period of 3 years prior to the exercise of the power of sale, attempted under section 6.56 to recover the money due to it and the reasons for the decision are recorded in the minutes of the meeting at which the decision was made.*
- (3) *Schedule 6.3 has effect in relation to the exercise of the power of sale.*

#### **6.71. Power to transfer land to Crown or to local government**

- (1) *If under this Subdivision land is offered for sale but at the expiration of 12 months a contract for the sale of the land has not been entered into by the local government, it may by transfer, where the land is subject to the provisions of the Transfer of Land Act 1893, and by deed,*

*where the land is not subject to the provisions of that Act, transfer or convey the estate in fee simple in the land to —*

- (a) the Crown in right of the State; or*
- (b) the local government.*
- (2) When a local government exercises the power referred to in subsection (1)(a) in relation to any land all encumbrances affecting the land are, by virtue of this section of no further force or effect against that land and the Registrar of Titles or the Registrar of Deeds and Transfers, as the case requires, is to give effect to this section.*
- (3) When exercising the power referred to in subsection (1)(b) the local government is required to pay the sum secured by, or payable under, a mortgage, lease, tenancy, encumbrance or charge in favour of the Crown in right of the State or a department, agency, or instrumentality of the Crown in right of the State.*
- (4) Schedule 6.3 has effect in relation to the exercise of the power referred to in subsection (1).*

### **Policy Implications**

1.3.9 Debt Collection Policy

### **Financial Implications**

The current costs against both properties are considerable compared to the estimated likely market-value of the property and are increasing.

Should the properties sell at auction or by private treaty, the outstanding costs would be mitigated albeit there is a small likelihood the entirety of costs incurred by Council would be recovered.

There is a financial implication pertaining to writing off the debts and if the property is not sold by public auction or by private treaty, additional fees would apply in 12-months' time from the auction date which will be incorporated in that financial year's budget such as Landgate and conveyancing fees.

If Council elects to transfer the property to itself, at the appropriate time the property would become non-rateable and the outstanding amounts would have to be written off, including the ESL once approval had been granted by the Department of Fire and Emergency Services, but the land would be available to be utilised for Council's purposes.

The estimated total costs including conveyancing, legal costs and management of the process is approximately \$5,000 per property.

### **Strategic Implications**

Strategic Community Plan 2023-2033

14 Operating with a high standard of good governance and transparency

15 Financial practices are responsive to compliance requirements and revenue needs

**13.0 GOVERNANCE AND COMMUNITY**

**13.1 ANNUAL REPORT, FINANCIAL REPORT & INDEPENDENT AUDIT REPORT 2023/24**

**Location/Address:** Shire of Mingenew  
**Name of Applicant:** Shire of Mingenew  
**Disclosure of Interest:** Nil  
**File Reference:** FM.AUD.23.24  
**Date:** 6 December 2024  
**Author:** Helen Sternick, Manager Corporate Services  
Erin Greaves, Manager Governance and Community  
**Authorising Officer:** Matt Fanning, Chief Executive Officer  
**Voting Requirements:** Simple Majority

**Summary**

The 2023/24 Annual Report, Annual Financial Report and Auditor's Reports are presented to, initially the Audit & Risk Committee, then Council for adoption. Additionally, a proposed date has been set for the Annual Meeting of Electors.

**Key Points**

- Audit completed by Nexia Australia on behalf of the Office of the Auditor General with an unqualified audit with an emphasis of matter – restatement of comparative balances.
- One Moderate item in the Management Letter on the final audit of the Annual Financial Report, relating to certain assets within categories of building non-specialised and building specialised that were being depreciated at a shorter useful life than the Shire's depreciation policy.
- The Annual Report information has been compiled, in accordance with s.5.53 of the Local Government Act 1995.

**OFFICER RECOMMENDATION / AUDIT & RISK COMMITTEE RECOMMENDATION – ITEM 13.1**

**Council:**

- a) By Absolute Majority, receives the Annual Report 2023/24 including the signed Annual Financial Report and Independent Auditor's Report for the 2023/24 financial year in accordance with s.5.54 of the *Local Government Act 1995*; and
- b) Holds its Annual Meeting of Electors on Wednesday, 5 February 2025 at 5:00pm to discuss the contents of the annual report and any other matters, in accordance with s5.27 of the *Local Government Act 1995* and Regulation 15 of the *Local Government (Administration) Regulations 1996*.

**AMENDED OFFICER RECOMMENDATION – ITEM 13.1**

**Council:**

1. By Absolute Majority, receives the Annual Report 2023/24 including the amended and signed Annual Financial Report and Independent Auditor's Report for the 2023/24 financial year in accordance with s.5.54 of the *Local Government Act 1995*, as attached, noting no significant adverse findings;
2. Notes the auditor's "moderate" finding, relating to certain assets within the categories of building non-specialised and building specialised which were being depreciated at a shorter useful life than the Shire's depreciation policy, and the management response indicating it will review the fixed asset register to ensure alignment with the depreciation policies.

3. Holds its Annual Meeting of Electors on Wednesday, 5 February 2025 at 5:00pm to discuss the contents of the annual report and any other matters, in accordance with s5.27 of the *Local Government Act 1995* and Regulation 15 of the *Local Government (Administration) Regulations 1996*.

### Attachments

- 5.1.1 2023/24 Annual Report, including Annual Financial Report and Audit Report (*to be provided a separate late attachment on Monday, 9 December 2024*)
- 5.1.2 OAG Letter to President & Management Letter Attachment

### Background

Pursuant to Section 7.9 of the *Local Government Act 1995* ("LGA"), an Auditor is required to examine the accounts and annual financial report submitted by a local government for audit. The Auditor is also required, by 31 December following the financial year to which the accounts and report relate, prepare a report thereon and forward a copy of that report to:

- (a) Mayor or President; and
- (b) The Chief Executive Officer; and
- (c) The Minister.

Furthermore, in accordance with Regulation 10(4) of the *Local Government (Audit) Regulations 1996* ("*Audit Regulations*"), where it is considered appropriate to do so, the Auditor may prepare a Management Report to accompany the Auditor's Report, which is also to be forwarded to the persons specified in Section 7.9 of the LGA.

The Audit and Risk Committee is required to examine the reports of the auditor after receiving a report from the Chief Executive Officer on the matters reported and:

- Determine if any matters raised require action to be taken by the local government; and
- Ensure that appropriate action is taken in respect of those matters.

The Audit and Risk Committee is also required to review a report prepared by the CEO on any actions taken in respect of any matters raised in the report of the auditor and present the report to Council for adoption. A copy of the report is to be forwarded to the Minister prior to the end of the next financial year or 6 months after the last report prepared by the auditor is received, whichever is the latest in time.

The Audit and Risk Committee is required to review the Audit Exit Report and the Annual Financial Report, incorporating the statement by the Chief Executive Officer.

There is also a requirement from the Department of Infrastructure, Transport, Regional Development, Communications and the Arts – National Land Transport Act 2014, Part 8 for the Statement of Receipts and Expenditure and Own Source Expenditure for the Roads to Recovery (R2R) Program and the Local Roads and Community Infrastructure Program (LRCI) Phases 3 and 4 to be audited, previous this has been completed Nexia Australia and signed off by the Office of the Auditor General (OAG) but this year it was not required to be signed by the OAG. Therefore, Nexia Australia completed and signed the audit of these programs. There is not a statutory requirement for this to be reported through this Committee or Council but is considered better practice.

The Audit and Risk Committee considered the Annual Report 2023/24, Annual Financial Report and Exit Report at a meeting held 26 November 2024. Subject to minor and immaterial formatting amendments foreshadowed by the OAG, the documents were received by the Committee and were to be recommended to Council for adoption. The Annual Financial Report and Exit Report were subsequently finalised and signed by the Shire and the Shire's Auditors and submitted to the OAG for the Auditor General's sign off. On Monday, 2 December 2024, the Shire

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 12 DECEMBER 2024

received a request from the Auditors that the OAG was seeking to review how local governments record fees collected for Department of Transport (DoT) transactions:

*"For a recent Shire we identified a prior year error in the current year. The Shire had incorrectly recorded the fees collected (some LGs are collecting MV licensing and registrations fees) on behalf of DoT as their own revenue instead of accounts payable, and subsequent remittance of this amount to DoT as expenditure. As an agent of DoT, the Shire should have only accounted the commission received as revenue."*

Whilst this request has come after the Exit Interview and signing off on the financials by the Auditors and the Shire, and the Shire had already identified this is an historical error and remedied the way these transactions are recorded for the 2024/25 financial year, the OAG has deemed this a necessary late adjustment and has indicated that a paragraph will be included in the revised audit opinion as an emphasis on matter.

Due to this information being received late (final documents received), it will be necessary to update the Financial Statistics within the Annual Report 2023/24.

### Comment

#### Annual Report

The 2023/24 Annual Report has been prepared and, as required under s.5.53 of the Act, the Annual Report includes:

- The Shire President's Report
- The CEO's Report
- An overview of Strategic Community Plan and Corporate Business Plan achievements
- An overview of SCP and CBP major initiatives proposed extending into 2023/24
- The Annual Financial Statements and Audit Report
- Employee remuneration details
- A report on training completed by Elected Members
- Other information as prescribed

#### Annual Financial Report

The Auditors are required to determine if the Annual Financial Statements are deemed to be '*unqualified*', meaning it is considered to be a fair and transparent financial representation, correct, free from fraud and error and prepared within statutory requirements.

The Office of the Auditor General (OAG) recognised the Shire of Mingenew as an entity following best practice as a finding on its financial and auditing in 2021/22 and 2022/23 and has demonstrated a good history of unqualified audits (no adverse findings).

#### Audit Report

The Auditors are required to report any identified material weakness in the accounting and internal control systems. This year there was only one finding identified during the final audit – it was noted that the Shire had certain assets within categories of building non-specialised and building specialised that were being depreciated at a shorter useful life than the Shire's depreciation policy.

It should be noted that, while the Asset Register is reconciled to the movement in the General Ledger on a monthly basis, the estimated useful life and depreciation rates settings within SynergySoft's Asset Module are reviewed less frequently. In the past, such checks and updates have been prompted by, or have otherwise coincided with, external revaluation activities. As these activities were not required to be performed during the 2023/2024 financial year, thorough verification of the underlying depreciation rates were not undertaken. A systematic review of the Fixed Asset Register will be performed during the current financial year to ensure alignment with the Shire's depreciation policies, and internal control procedures will be updated accordingly.



### Electors' Meeting

Should Council accept the Annual Report at the 12 December Ordinary Council meeting, an Electors' Meeting must be held within 56 days. This would require a meeting to be held prior to 7 February 2025 (the day of the meeting is excluded from the count). The Shire has proposed the last Wednesday in January 2024 (29) to ensure it can comply with these requirements.

### Consultation

- Nexia Australia
- Office of the Auditor General

### Statutory Environment

#### **Local Government Act 1995**

#### **6.4. Financial report**

- (1) *A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.*
- (2) *The financial report is to —*
  - (a) *be prepared and presented in the manner and form prescribed; and*
  - (b) *contain the prescribed information.*
- (3) *By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor —*
  - (a) *the accounts of the local government, balanced up to the last day of the preceding financial year; and*
  - (b) *the annual financial report of the local government for the preceding financial year.*

#### **7.9. Audit to be conducted**

- (1) *An auditor is required to examine the accounts and annual financial report submitted for audit and, by the 31 December next following the financial year to which the accounts and report relate or such later date as may be prescribed, to prepare a report thereon and forward a copy of that report to —*
  - (a) *the mayor or president; and*
  - (b) *the CEO of the local government; and*
  - (c) *the Minister.*
- (2) *Without limiting the generality of subsection (1), where the auditor considers that —*
  - (a) *there is any error or deficiency in an account or financial report submitted for audit; or*
  - (b) *any money paid from, or due to, any fund or account of a local government has been or may have been misapplied to purposes not authorised by law; or*
  - (c) *there is a matter arising from the examination of the accounts and annual financial report that needs to be addressed by the local government,*

*details of that error, deficiency, misapplication or matter, are to be included in the report by the auditor.*
- (3) *The Minister may direct the auditor of a local government to examine a particular aspect of the accounts and the annual financial report submitted for audit by that local government and to —*
  - (a) *prepare a report thereon; and*
  - (b) *forward a copy of that report to the Minister,*

*and that direction has effect according to its terms.*
- (4) *If the Minister considers it appropriate to do so, the Minister is to forward a copy of the report referred to in subsection (3), or part of that report, to the CEO of the local government.*

#### **7.12A. Duties of local government with respect to audits**

- (1) *A local government is to do everything in its power to —*
  - (a) *assist the auditor of the local government to conduct an audit and carry out the auditor's other duties under this Act in respect of the local government; and*
  - (b) *ensure that audits are conducted successfully and expeditiously.*
- (2) *Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.*

- (3) *A local government must —*
  - (aa) *examine an audit report received by the local government; and*
  - (a) *determine if any matters raised by the audit report, require action to be taken by the local government; and*
  - (b) *ensure that appropriate action is taken in respect of those matters.*
- (4) *A local government must —*
  - (a) *prepare a report addressing any matters identified as significant by the auditor in the audit report, and stating what action the local government has taken or intends to take with respect to each of those matters; and*
  - (b) *give a copy of that report to the Minister within 3 months after the audit report is received by the local government.*
- (5) *Within 14 days after a local government gives a report to the Minister under subsection (4)(b), the CEO must publish a copy of the report on the local government's official website.*

### **5.53 Annual Reports**

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain –*
  - (a) *a report from the mayor or president; and*
  - (b) *a report from the CEO; and*
  - (c), (d) *deleted*
  - (e) *an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year; and*
  - (f) *the financial report for the financial year; and*
  - (g) *such information as may be prescribed in relation to the payments made to employees; and*
  - (h) *the auditor's report prepared under section 7.9(1) or 7.12AD(1) for the financial year; and*
  - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and*
  - (hb) *details of entries made under section 5.121 during the financial year in the register of complaints, including —*
    - (i) *the number of complaints recorded in the register of complaints; and*
    - (ii) *how the recorded complaints were dealt with; and*
    - (iii) *any other details that the regulations may require; and**such other information as may be prescribed.*

### **5.54. Acceptance of annual reports**

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted\* by the local government no later than 31 December after that financial year.*  
*\* Absolute majority required.*
- (2) *If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

### **5.55. Notice of annual reports**

*The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.*

### **5.27. Electors' general meetings**

- (1) *A general meeting of the electors of a district is to be held once every financial year.*
- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

**Local Government (Audit) Regulations 1996**

**10. Report by auditor**

- (1) *An auditor's report is to be forwarded to the persons specified in section 7.9(1) within 30 days of completing the audit.*
- (2) *The report is to give the auditor's opinion on —*
  - (a) *the financial position of the local government; and*
  - (b) *the results of the operations of the local government.*
- (3) *The report must include a report on the conduct of the audit.*
- (4) *Where it is considered by the auditor to be appropriate to do so, the auditor is to prepare a management report to accompany the auditor's report and to forward a copy of the management report to the persons specified in section 7.9(1) with the auditor's report.*

**Local Government (Financial Management) Regulations 1996**

**17A. Valuation of certain assets for financial reports**

- (1) *In this regulation —*

***carrying amount**, in relation to a non-financial asset, means the carrying amount of the non-financial asset determined in accordance with the AAS;*

***fair value**, in relation to a non-financial asset, means the fair value of the non-financial asset measured in accordance with the AAS;*

***right-of-use asset**, of a local government, includes the local government's right to use —*

- (a) *Crown land; or*
- (b) *other land that is not owned by the local government,*

*that is vested in the local government at nil or nominal cost for an indefinite period for the purpose of roads or for any other purpose;*

***vested improvement**, in relation to a local government, means a pre-existing improvement on land of which the care, control or management is vested in the local government at nil or nominal cost for an indefinite period.*

- (2) *A local government must show in each financial report for a financial year ending on or after 30 June 2020 —*

- (a) *the fair value of all of the non-financial assets of the local government that are —*
  - (i) *land and buildings that are classified as property, plant and equipment; or*
  - (ii) *investment properties; or*
  - (iii) *infrastructure; or*
  - (iv) *vested improvements that the local government controls;*

*and*

- (b) *the carrying amount of all of the non-financial assets of the local government that are plant and equipment type assets measured using the cost model in accordance with the AAS; and*
- (c) *the carrying amount of all of the right-of-use assets of the local government (other than vested improvements referred to in paragraph (a)(iv)) measured using the cost model in accordance with the AAS.*

*[(3) deleted]*

- (4) *A local government must revalue a non-financial asset of the local government referred to in subregulation (2)(a) —*

- (a) *whenever the local government is of the opinion that the fair value of the asset is likely to be materially different from its carrying amount; and*

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 12 DECEMBER 2024

- (b) *in any event, within a period of no more than 5 years after the day on which the asset was last valued or revalued.*
- (5) *A non-financial asset is to be excluded from the assets of a local government if the fair value of the asset as at the date of acquisition by the local government is under \$5,000.*

### **Policy Implications**

Council has adopted a set of Terms of Reference which outline:

“The primary objective of the Audit and Risk Committee “the Committee” is to accept responsibility for the annual external audit and liaise with the local government's auditor so that Council can be satisfied with the performance of the local government in managing its statutory and fiscal affairs.

The Audit and Risk Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its term of reference. This is in order to facilitate informed decision-making by Council in relation to the legislative functions and duties of the local government that have not been delegated to the CEO.”

### **Financial Implications**

Nil

### **Strategic Implications**

Strategic Community Plan 2023-2033

- 14 Operating with a high standard of governance and transparency
- 15 Financial practices are responsive to compliance requirements and revenue needs

13.2 DISABILITY ACCESS AND INCLUSION PLAN 2024-2029

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	CP.ACC.1
Date:	6 December 2024
Author:	Erin Greaves, Manager Governance and Community
Authorising Officer:	Matt Fanning, Chief Executive Officer
Voting Requirements:	Simple Majority

**Summary**

Following a review of the Shire's Disability Access and Inclusion Plan 2019-2024 an updated Plan has been developed for 2024-2029, in accordance with the *Disability Services Act 1993* (the Act).

**Key Points**

- The Disability Services Act 1993 requires local governments to review and adopt a Disability Access and Inclusion Plan at least every 5 years
- After issuing a survey and public notice period, responses have been collated and analysed to inform an updated Plan for 2024-2029
- The Plan must demonstrate how it is to achieve compliance with the Principles applicable to people with disability and the Objectives for services and programmes, as outlined in the Act

**OFFICER RECOMMENDATION – ITEM 13.2**

**Council:**

1. adopts the Disability Access and Inclusion Plan (DAIP) 2024-2029, in accordance with s.28 of the *Disability Services Act 1993*, as presented; and
2. lodges the updated DAIP 2024-2029 with the Department of Communities; and
3. gives local public notice of availability of the Plan, in accordance with s.29A of the *Disability Services Act 1993*; and
4. includes consideration of the DAIP Action Plan in the next review of the Corporate Business Plan, subject to annual Budget provisions.

**Attachments**

13.2.1 Disability Access and Inclusion Plan 2024-2029

**Background**

The *Disability Services Act 1993* definition of disability is:

***Disability*** means a disability —

- (a) which is attributable to an intellectual, psychiatric, cognitive, neurological, sensory, or physical impairment or a combination of those impairments; and
- (b) which is permanent or likely to be permanent; and
- (c) which may or may not be of a chronic or episodic nature; and
- (d) which results in —
  - (i) a substantially reduced capacity of the person for communication, social interaction, learning or mobility; and
  - (ii) a need for continuing support services.

The aim of the Shire's Disability Access and Inclusion Plan (DAIP) is to ensure Mingenew is inclusive and supportive of people with disability and empowers people with disability to participate meaningfully in all parts

of our community. The DAIP considers the communities' priorities, better practices strategies and Shire resources to improve services and events, buildings and facilities, information, quality of service, complaints, consultation processes and employment in relation to living with disabilities.

The Shire's most recent Disability Access and Inclusion Plan (DAIP) 2019-2024 was adopted by Council on 21 August 2019 and is due to expire this year. Following a review of the existing DAIP, an updated Plan is presented for Council consideration.

The Plan must demonstrate how it is to achieve compliance with the Principles applicable to people with disability (Schedule 1 of the Act) and the Objectives for services and programmes (Schedule 2 of the Act). The Shire must then report annually on its progress for achieving the mandated outcome areas and Shire strategies.

### Comment

The updated DAIP 2024-2029 includes:

- an overview of the current legislation
- Shire's Access and Inclusion Policy statement
- An overview of achievements from the 2019-2024 DAIP
- A review of consultation activities and feedback to inform the new Plan
- 2024-2029 Outcomes and Action Plan
- How the Plan is to be monitored and reported on
- Disability support resources for the Midwest

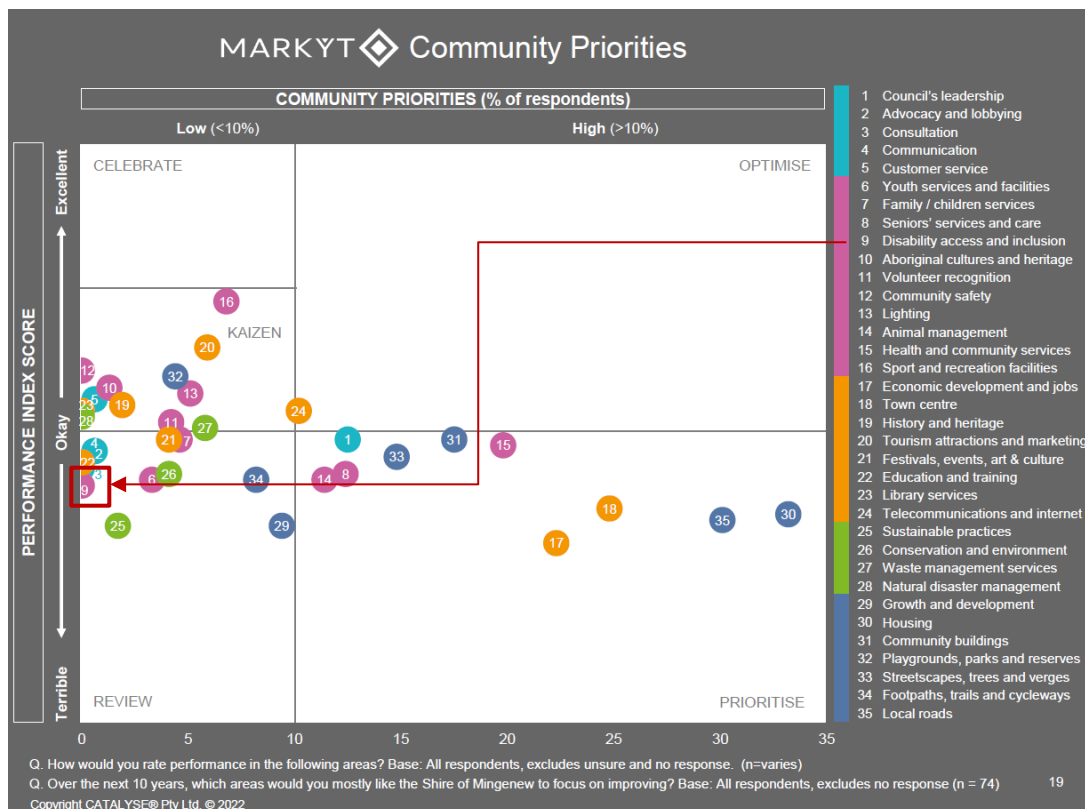
Some of the key projects and initiatives achieved from the DAIP 2019-2024 include (highlighted within the Plan from page 6):

- Adoption of key policies to support accessibility:
  - 1.2.10 Access and Inclusion Policy
  - 1.2.11 Accessible Information Policy
  - 1.2.12 Reasonable Adjustment Policy
- Installation of universal access toilet during refurbishment of the Mingenew Railway Station
- Construction of sensory playground and pathways for connectivity and wheelchair / mobility scooter access at Cecil Newton Park
- Installation of ACROD parking on Phillip Street to service Mingenew Health Centre, Day Care Centre and Autumn Centre
- Disability access ramp and paths, unisex, disabled toilets and ACROD parking installed in new Tennis Clubhouse build
- Renovation of Aged Persons Units (4) bathrooms to improve accessibility
- Consideration of people with disability in new Strategic Community Plan 2023-2033

The new 2024-2029 Action Plan is guided by community priorities set through the Strategic Community Plan 2023-2033 review process, 2022 Community Scorecard and feedback from the DAIP survey in 2024. Any capital projects highlighted in the SCP and Long Term Financial Plan (LTFP) have been carried over into the DAIP to ensure due consideration of disability access and inclusion principles.

It is proposed that implementation of the DAIP will be transferred as a new action in the next Corporate Business Plan update 2025/26 to ensure a strategic approach to disability access and inclusion.

The Community Scorecard in 2022, indicated that respondents (estimated to make up approximately 25% of the population, at the time) considered disability access and inclusion a relatively low priority compared with other priority areas. It may be surmised, based on survey and ABS data, that the low priority is a result of the small population of people living with disability in Mingenew, there was a low number of respondents to the surveys who live with or provide support for people with disability, and/or respondents affected by age-related mobility issues may not identify as “disabled”. Regardless, the new DAIP provides strategies that are reflective of the feedback we did receive, and achievable actions based on current and anticipated resources. Below is a snapshot of the communities’ priorities and how they rate the Shire’s performance (from 2022):



From the recent 2024 DAIP survey, there was an overwhelming response on the need to upgrade and extend the town footpath network to provide safe transportation routes for people of all abilities. The Shire had identified this need prior to the Plan and has already made application to the Department of Transport for funding to implement its 10 Year Shared Pathways Plan. The focus of the Pathways Plan is to connect key amenities including, the main street, the school, health centre, caravan park, Museum, new (under construction) Childcare Centre and sporting and community facilities.

A summary of comments and suggestions from the 2024 DAIP survey respondents is provided below and each item includes the Action Plan reference where this has been addressed in the Plan:

- No disabled access toilet at Rec Centre (2.1e)
- Existing footpaths are in disrepair, uneven and kerb ramps too high (2.1a)
- Insufficient paths for people using walkers, wheelchairs, gophers and prams (2.1a)
- Fencing at Cecil Newton Park not disabled friendly (2.1b)
- Townsite roads in poor state and not suitable for gophers and wheelchairs etc. (2.1a)
- Limited setup for people with visual impairment (3.1-3.3)
- Use matt paper so less reflective (3.2a)
- Transport Service for accessing services outside of Mingenew (1.4a)
- Ensuring building handrails are in good condition (2.1)
- More footpaths (2.1a) and employment opportunities (7.1a)
- Move the obstructing fence from the pathway on Shenton Sreet, at Cecil Newton Park (2.1b)
- Add path to the Caravan Park, through the Windmill Park (2.1a)

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 12 DECEMBER 2024

- Re-lay or replace brick paving in town (2.1a)
- Set Budget to upgrade pathways and seek suitable grants (2.1a)
- New paving (no bricks) (2.1a)
- Improve roads and footpaths (2.1a). Provide better access for disabled people in areas such as the Old Railway Station (2.1c) and the Recreation Centre (2.1e)

The Action Plan is a guiding document for Council decision-making, where financial there are financial implications, and implementation will therefore, be subject to Budget approvals and availability of suitable resources.

### Consultation

A survey was issued in August, inviting members of the public to participate in a survey that aimed to identify disability challenges and priorities to inform the new DAIP. The survey was released online and in print form.

The Shire received 25 responses to the survey. Of the 25 respondents, 8 people were living with disability and 4 were providing support to a family or friend who is living with disabilities.

The Shire also engaged directly with seniors at the Autumn Centre and invited the Mingenew CRC and Mingenew Primary School to provide any feedback or comment.

A public notice was also issued in the Midwest Times 7 October 2024 and Mingenew Matters inviting general submissions. No individual submissions were received however the notice did direct people to visit the website which included the link to the online survey.

### Statutory Environment

#### Disability Services Act 1993

#### **28. Disability access and inclusion plans**

- (1) *Each public authority must have a disability access and inclusion plan to ensure that in so far as its functions involve dealings with the general public, the performance of those functions furthers the principles in Schedule 1 and meets the objectives in Schedule 2.*
- (2) *A disability access and inclusion plan must meet any prescribed standards.*
- (3) *A public authority must lodge its disability access and inclusion plan with the Commission —*
  - (a) if the authority was established before the commencement of the Disability Services Amendment Act 2004, without delay;*
  - (b) if the authority is established after the commencement of the Disability Services Amendment Act 2004, within 12 months after the day on which it is established.*
- (4) *A public authority may amend its disability access and inclusion plan at any time.*
- (5) *A public authority may review its disability access and inclusion plan at any time.*
- (6) *After reviewing its disability access and inclusion plan, a public authority must lodge a report of the review with the Commission in accordance with subsection (7).*
- (7) *Not more than 5 years is to elapse —*
  - (a) between the day on which a public authority first lodges its disability access and inclusion plan with the Commission and the day it lodges a report of a review of the plan with the Commission;*  
*or*
  - (b) between the lodgment of the report of one review of a plan and the lodgment of the report of another review of the plan.*
- (8) *After reviewing its disability access and inclusion plan, a public authority may amend the plan or prepare a new plan.*
- (9) *If at any time a public authority amends its disability access and inclusion plan or prepares a new plan, whether after a review or not, it must lodge the amended or new plan with the Commission as soon as practicable after doing so.*



(10) *A public authority must undertake public consultation in accordance with the procedure specified in the regulations when preparing, reviewing or amending a disability access and inclusion plan.*

**29. Report about disability access and inclusion plan**

(2) *A local government or regional local government that has a disability access and inclusion plan must include in its annual report prepared under section 5.53 of the Local Government Act 1995 a report about the implementation of the plan.*

**29A. Disability access and inclusion plans to be made available**

*A public authority that has a disability access and inclusion plan must ensure that the plan is made available to people with disability, and the public generally, by publication in the prescribed manner.*

**29B. Public authorities to ensure implementation of disability access and inclusion plan**

*A public authority that has a disability access and inclusion plan must take all practicable measures to ensure that the plan is implemented by the public authority and its officers, employees, agents or contractors.*

Disability Services Regulations 2004

**7. Standards for disability access and inclusion plans (s. 28)**

*For the purposes of section 28(5) of the Act, the standards that a disability access and inclusion plan must meet are those specified in Schedule 2.*

**8. Information in reports about disability access and inclusion plans (s. 29)**

*For the purposes of section 29(4) of the Act, a report about a disability access and inclusion plan must include information relating to —*

- (a) *progress made by the relevant public authority and any agents and contractors of the relevant public authority in achieving the desired outcomes specified in Schedule 3; and*
- (b) *the strategies implemented by the relevant public authority to inform its agents and contractors of its disability access and inclusion plan.*

**9. Publication of disability access and inclusion plans (s. 29A)**

*For the purposes of section 29A, a public authority must publish its disability access and inclusion plan in a document that is made available —*

- (a) *on request, at the offices of the authority —*
  - (i) *in an electronic format; and*
  - (ii) *in hard copy format in both standard and large print; and*
  - (iii) *in an audio format on cassette or compact disc; and*
- (b) *on request, by email; and*
- (c) *on any website maintained by or on behalf of the authority,*

*and notice of which is given in a newspaper circulating throughout the State or, in the case of a local government, the district of that local government under the Local Government Act 1995.*

**10. Procedure for public consultation by authorities (s. 28)**

(1) *For the purposes of section 28(10) of the Act, a public authority is to undertake consultation in relation to its disability access and inclusion plan by calling for submissions either generally or specifically —*

- (a) *by notice in a newspaper circulating throughout the State or, in the case of a local government, the district of that local government under the Local Government Act 1995; and*
- (b) *on any website maintained by or on behalf of the public authority.*

(2) *Nothing in subregulation (1) prevents a public authority from also undertaking any other consultation*

**Policy Implications**

Equal Opportunity Policy

**Financial Implications**

Many of the actions identified in the Plan will be incorporated into capital project costs already identified in the Shire's Long Term Financial Plan, or absorbed into operational expenditure (business as usual).

**Strategic Implications**

Strategic Community Plan 2023-2033

- 7.2 Support and include disabled and vulnerable community members
  - a. Review and implement the Shire's Disability Access and Inclusion Plan

13.3 COUNCIL MEETING DATES 2025

Location/Address: Shire of Mingenew  
 Name of Applicant: Shire of Mingenew  
 Disclosure of Interest: Nil  
 File Reference: GV.CMT  
 Date: 6 December 2024  
 Author: Erin Greaves, Manager Governance and Community  
 Authorising Officer: Matt Fanning, Chief Executive Officer  
 Voting Requirements: Simple Majority

**Summary**

To review the bi-yearly meeting schedule utilised in 2022 to 2024 and consider setting the Ordinary Council meeting dates for 2025.

**Key Points**

- Since 2022, the Ordinary Council meetings have been scheduled to generally be held on the third Wednesday of every second month (excluding January)
- The recommendation is to return to continue with the bi-monthly schedule (excluding January), with an additional meeting in November, based on explanatory notes provided in the attached Discussion Paper and summarised in this report
- The proposed schedule also offers an alternative meeting date for April, to hold the meeting outside of Autumn school holidays
- Council is required to set and give local public notice of the date, time and place of its ordinary council meetings at least once every calendar year

**OFFICER RECOMMENDATION – ITEM 13.3**

**Council:**

1. Notes the ‘Discussion Paper – Frequency of Council Meetings’, as attached; and
2. Sets the 2025 Ordinary Council meeting dates to commence at 5:00pm, in accordance with Regulation 12(1) of the *Local Government (Administration) Regulations 1996*, as per the below schedule:

Council Meeting Dates 2025
January 2025 – Nil
19 February 2025
30 April 2025
18 June 2025
20 August 2025
15 October 2025
19 November 2025
10 December 2025

3. Unless local public notice is provided to the contrary, all Council meetings are to be held in Council Chambers located at 21 Victoria Street, Mingenew.
4. Notes that, in accordance with new legislative provisions, Council is required to make recordings (audio, as a minimum) of council meetings, in accordance with s.5.23A of the *Local Government Act 1995* and Part 2A of the *Local Government (Administration) Regulations 1996*, and such information be included in the local public notice to inform the community.

**Attachment**

13.3.1 Discussion Paper – Frequency of Council Meetings

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 12 DECEMBER 2024

### Background

At the 17 November 2021 Ordinary Council meeting, a Councillor motion was presented requesting a direction to the CEO to prepare a meeting schedule for 2022 to be based upon an intent to hold Ordinary Council meetings every two months. As such, Council agreed at the December 2021 Ordinary meeting to trial the new model with a review proposed to be conducted in June 2022.

Following a review, Council ultimately decided to continue with the bimonthly Council meeting model at the June Ordinary meeting. The same format was continued for 2023 and 2024.

As the Shire has maintained the bi-monthly meeting arrangements for 3 years, it is considered appropriate to once again review the arrangements therefore a Discussion Paper has been prepared.

### Comment

The review has been conducted, tracking trends and needs around meeting setting, and the recommendation for 2025, is to remain with the bi-monthly meeting schedule, with an exception to holding a meeting in November to accommodate decision making resulting from the 2025 local government elections and reducing the workload for the December meeting (when a majority of Councillors have external commitments related to harvest activities).

Whilst Council has historically held 11 Ordinary Meetings per year, there is no prescriptive requirement under legislation or our Standing Orders Local Law to do so. Section 5.3(2) of the *Local Government Act 1995* requires Ordinary Meetings be held at least every three months and Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996* requires that Council's financial statements are brought to an Ordinary Meeting within two months of the end of the month they apply to. That said, the typical minimum number of Ordinary Meetings held by WA local governments is 10, with some small Shires holding no December or January meeting. At present, no Local Governments appear to meet less frequently than this.

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

Should Council wish to continue to hold ordinary meetings every second month, the following schedule is recommended for Council Meetings and Concept Forums (based on meeting dates falling on the third Wednesday of the month, excluding April and December as explored below and in the Discussion Paper):

Council Meeting Dates 2025	Concept Meeting Dates 2025
January 2024 – Nil	January 2025 – Nil
19 February 2025	19 February 2025
March 2025 - Nil	19 March 2025
30 April 2025	30 April 2025
21 May 2025 - Nil	21 May 2025
18 June 2025	18 June 2025
16 July 2025 - Nil	16 July 2025
20 August 2025	20 August 2025
17 September 2025 - Nil	17 September 2025
15 October 2025	15 October 2025
19 November 2025*	19 November 2025
10 December 2025	10 December 2025

\* It is recommended to include an ordinary meeting in November, as explained below.

## MINGENEW SHIRE COUNCIL ORDINARY MEETING AGENDA – 12 DECEMBER 2024

The following considerations have been made in setting the proposed meeting dates for 2025:

- The Easter weekend (public holidays) falls on Friday, 18 April to Monday, 21 April in 2025 and the scheduled date for the ordinary meeting is the Wednesday before (16 April 2025) however this date does fall in the first week of the school holidays (12-27 April 2025). Council could consider holding the meeting the week before on 9 April however, this may present a challenge for staff to prepare the monthly financials, or after, on 30 April which is anticipated will have less negative impact.
- Similar to April, the proposed meeting for July falls during school holidays which are set for 5-20 July 2025. This meeting could be adjusted to 23 July to avoid the holidays if required however there hasn't typically, been challenges with attendance for this month in the past so no change is proposed.
- School holidays in Spring fall 27 September to 12 October 2025, and the set meeting dates (17 September and 15 October) are therefore not likely to impact attendance
- Local Government Ordinary Elections are scheduled to be held on the third Saturday in October, which falls on 18 October 2025. The October Council meeting date is scheduled 15 October 2025.
- Council typically conducts the election for President and Deputy, swears in new Councillors and considers the appointment of Committee members at a meeting in November (following a local government election, therefore should bi-monthly meetings be scheduled, it should be noted that a Special Meeting may be required in November). This need has been anticipated and therefore included in the schedule as an additional meeting.
- December meetings are typically held on the second Wednesday so as to provide sufficient time to action decision-making prior to closing for the year (likely to be 20 December 2025), whilst providing staff sufficient time to prepare the monthly financial statements. In 2024 there was a clash with the school for their presentation night however, we have been advised the date for this event in 2025 is set for 17 December and does not warrant a change.

### Consultation

Executive Management Team

WALGA

### Statutory Environment

#### ***Local Government Act 1995***

##### ***5.3. Ordinary and special council meetings***

- (1) A council is to hold ordinary meetings and may hold special meetings.*
- (2) Ordinary meetings are to be held not more than 3 months apart.*
- (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.*

#### ***Local Government (Financial Management) Regulations 1996***

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

- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be*
  - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
  - (b) recorded in the minutes of the meeting at which it is presented.*

### Policy Implications

Nil.

### Financial Implications

No direct financial savings are expected, however there may be some efficiency gains as noted above.

### Strategic Implications

Strategic Community Plan 2023-2033

- 14.1 Seek innovative ways to continually improve organisational efficiency and effectiveness
- 17.1 Identify and promote incentives and alleviate barriers to create an environment for civic pride and participation on Council

13.4 DISPOSAL OF PROPERTY – LEASE OF 2-6 ELEANOR STREET, MINGENEW

**Location/Address:** 2-6 (Lot 1) Eleanor Street, Mingenew  
**Name of Applicant:** Great Southern Fuels  
**Disclosure of Interest:** Nil  
**File Reference:** CP.LSO.8 / A871  
**Date:** 6 December 2024  
**Author:** Erin Greaves, Manager Governance and Community  
**Authorising Officer:** Matt Fanning, Chief Executive Officer  
**Voting Requirements:** Simple Majority

**Summary**

Great Southern Fuels, who have been leasing 2-6 (Lot 1) Eleanor Street, Mingenew on Deposited Plan 56161 since July 2012, have requested a further extension of lease. All extension options have been fulfilled under the previous lease therefore, Council is required to consider a new lease and must following the requirements of s.3.58 of the *Local Government Act 1995* regarding disposal of property. After following a public notice period, inviting submissions, Council must now consider the disposal and any submissions received.

**Key Points**

- The Shire is the freehold owner of 2-6 (Lot 1) Eleanor Street, Mingenew on which the unmanned fuel site is currently located
- A local government may dispose of property (including by lease) in accordance with s.3.58 of the Local Government Act 1995
- The current lessee (Gradow Pty Ltd, trading as Great Southern Fuels) has indicated a desire to renew the expired lease following the lapse of the lease on 30 June 2024.
- Council resolved to give local public notice of the proposed disposal, inviting submission at its October Ordinary Council meeting
- At the close of submissions, no submissions were received

**OFFICER RECOMMENDATION – ITEM 13.4**

**Council**

1. Notes there were no submissions received after local public notice was given and submissions closed 11 November 2024;
2. Resolves to dispose of 2-6 (Lot 1) Eleanor Street, Mingenew on Deposited Plan 56161 (by lease), in accordance with s3.58(3) of the *Local Government Act 1995*, to Gradow Pty Ltd (trading as Great Southern Fuels) [ABN: 65 367 095 233] for the purpose of providing an unmanned fuel supply service and amenities, at the Market Value Rent of \$17,500 ex GST per annum for a term of up to 5 years (with 3 x 5 year extension options).
3. Delegates authority to the Chief Executive Officer to negotiate and execute the lease based on the above terms, affixing the Common Seal in accordance with Council's Common Seal Policy.

**Background**

The Shire of Mingenew has an existing lease with Gradow Pty Ltd for a fuel supply service at Lot 303, Eleanor Street, Mingenew (transferred to Gradow Pty Ltd, from Centrel Pty Ltd in 2018 by decision of Council). The lease initially commenced on 1 July 2012 and had three 3-year extension options in favour of the Lessee and at the Lessee's sole discretion. The Lessee has exhausted those extension options, and the lease lapsed on 30 June 2024. The lease is currently operating on a month-to-month arrangement until such time as a decision is made on the lease renewal.

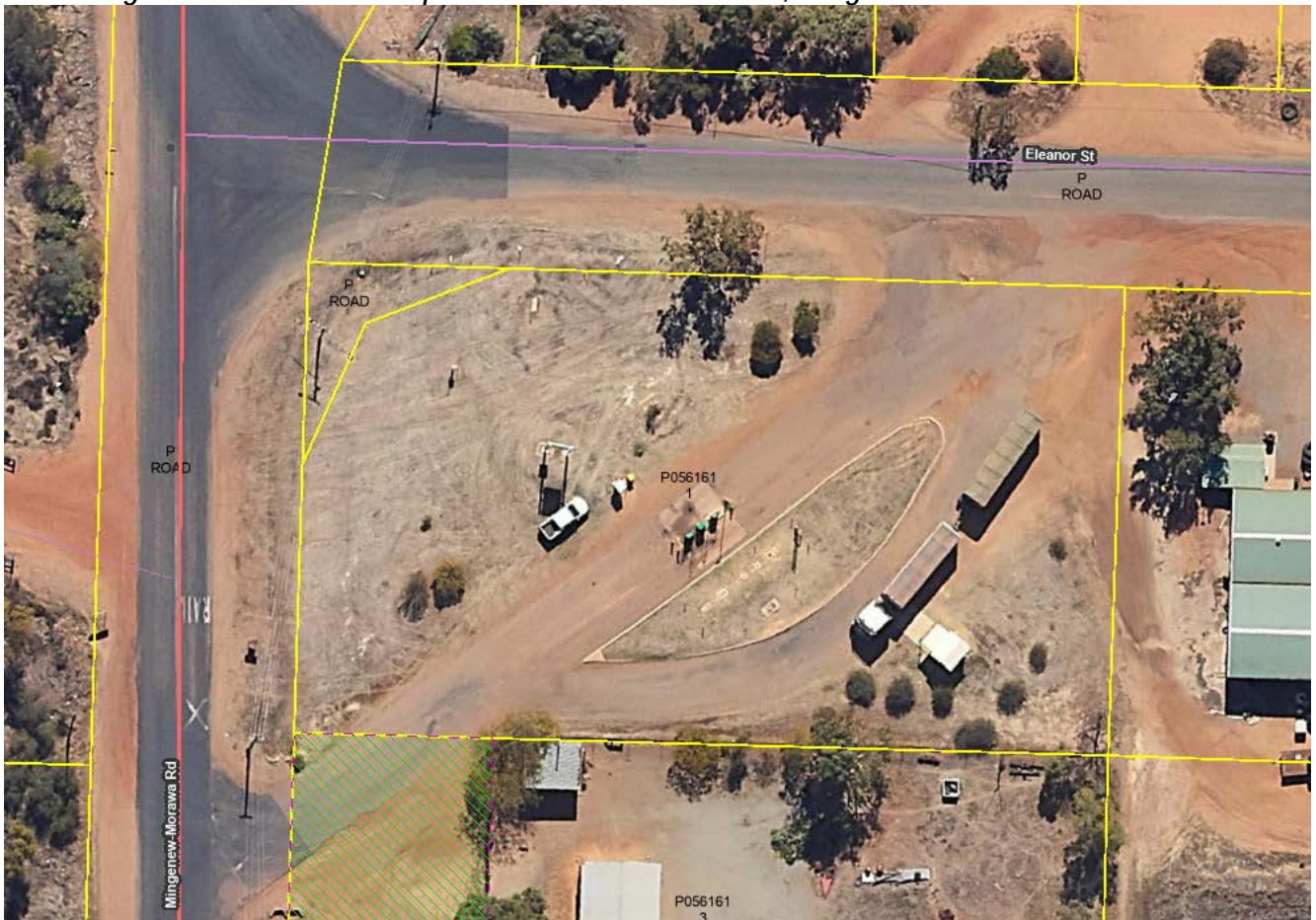
The lessee has expressed a desire to enter into a new lease based on the previous lease terms.

The lease on the property includes the following installations

- 1 x unleaded bowser
- 1 x ultimate unleaded bowser
- 1 x diesel bowser
- 1 x outdoor payment terminal
- 1 x 25,000L underground fuel tank (divided into three compartments)
- Unisex single-stall toilet

The layout of the property is shown below.

*Figure 1 – Site of Fuel depot site – 2-6 Eleanor Street, Mingenew*



### Comment

A market rental valuation undertaken on 12 August 2024 determined a fair market rental of \$17,500 ex GST per annum.

Local public notice provided a description of the property concerned, details of the proposed disposition and an invitation for submissions to be made before 9am, 11 November 2024. The notice was published in the Midwest Times on 23 October 2024, in an October edition of the Mingenew Matters and published on the Shire's website.

No submissions were received at the close of submissions.

### Consultation

Acumentis, Property Advisory Services

McLeods Lawyers

Paiker & Overmeire Lawyers (agent of Great Southern Fuels)

### **Statutory Environment**

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.*

### **Policy Implications**

Local Planning Scheme No.4

2-6 Eleanor Street, Mingenew is zoned 'General Industry' under the Shire of Mingenew's Local Planning Scheme No.4, the objectives of which are:

- To provide appropriately located, accessible, serviced and level industrial land to cater for the needs of anticipated industrial development within the townsite area.
- To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses.
- Seek to manage impacts such as noise, dust and odour within the zone.



**Financial Implications**

Under the current leasing arrangements, Council receives approximately \$1,110 per month in rent (\$13,320 per annum) plus reimbursement of costs associated with pumping out septic tanks and cleaning of the public toilets.

There may be minor legal costs associated with reviewing and executing the lease.

**Strategic Implications**

Strategic Community Plan 2023-2033

3. Supporting infrastructure initiatives that makes business easy and support them to thrive

3.1 Actively encourage pride in local businesses to represent town

13.5 DISPOSAL OF PROPERTY – LEASE OF 70 MIDLANDS ROAD, MINGENEW

**Location/Address:** 70 (Lot 105) Midlands Road, Mingenew (Reserve 36604)  
**Name of Applicant:** Elders Ltd  
**Disclosure of Interest:** Nil  
**File Reference:** CP.LSO.18  
**Date:** 6 December 2024  
**Author:** Erin Greaves, Manager Governance and Community  
**Authorising Officer:** Matt Fanning, Chief Executive Officer  
**Voting Requirements:** Simple Majority

**Summary**

Elders Rural Services Australia Limited (Elders) are proposing a licence agreement for consideration to formally occupy Crown Reserve 36604 at 70 (Lot 105) Midlands Road, Mingenew for the purpose of "*The storage of any product or item related to any operation of any business of the Lessee which may include, but is not limited to, the storage of tanks, trailers, trucks, field bins, sheep feeders and related activities or any other lawful use.*" After following a public notice period, inviting submissions, Council must now consider the disposal and any submissions received.

**Key Points**

- The Shire holds the management order for Crown Reserve 36604 which includes permission to lease, subject to permission from the Minister for Lands
- A local government may dispose of property (include by lease or licence) in accordance with s.3.58 of the Local Government Act 1995
- Elders have had permitted use of the property without a formal agreement in place
- Council resolved to give local public notice of the proposed disposal, inviting submission at its October Ordinary Council meeting
- At the close of submissions, no submissions were received

**OFFICER RECOMMENDATION – ITEM 13.5**

**Council:**

1. Notes there were no submissions received after local public notice was given and submissions closed 11 November 2024;
2. Resolves to dispose of crown Reserve 36604 at 70 (Lot 105) Midlands Road, Mingenew (by licence), in accordance with s3.58(3) of the *Local Government Act 1995*, to Elders Rural Services Australia Limited [ABN 72 004 045 121] for the purpose of "*the storage of any product or item related to any operation of any business of the Lessee which may include, but is not limited to, the storage of tanks, trailers, trucks, field bins, sheep feeders and related activities or any other lawful use.*", for \$1,820 ex GST per annum for a term of up to 5 years (with 3 x 5 year extension options).
3. Delegates authority to the Chief Executive Officer to negotiate and execute the licence based on the above terms, affixing the Common Seal in accordance with Council's Common Seal Policy.

**Background**

The Shire's records indicate that the land has been utilised by Elders based on a lease agreement originally entered into in October 1997.

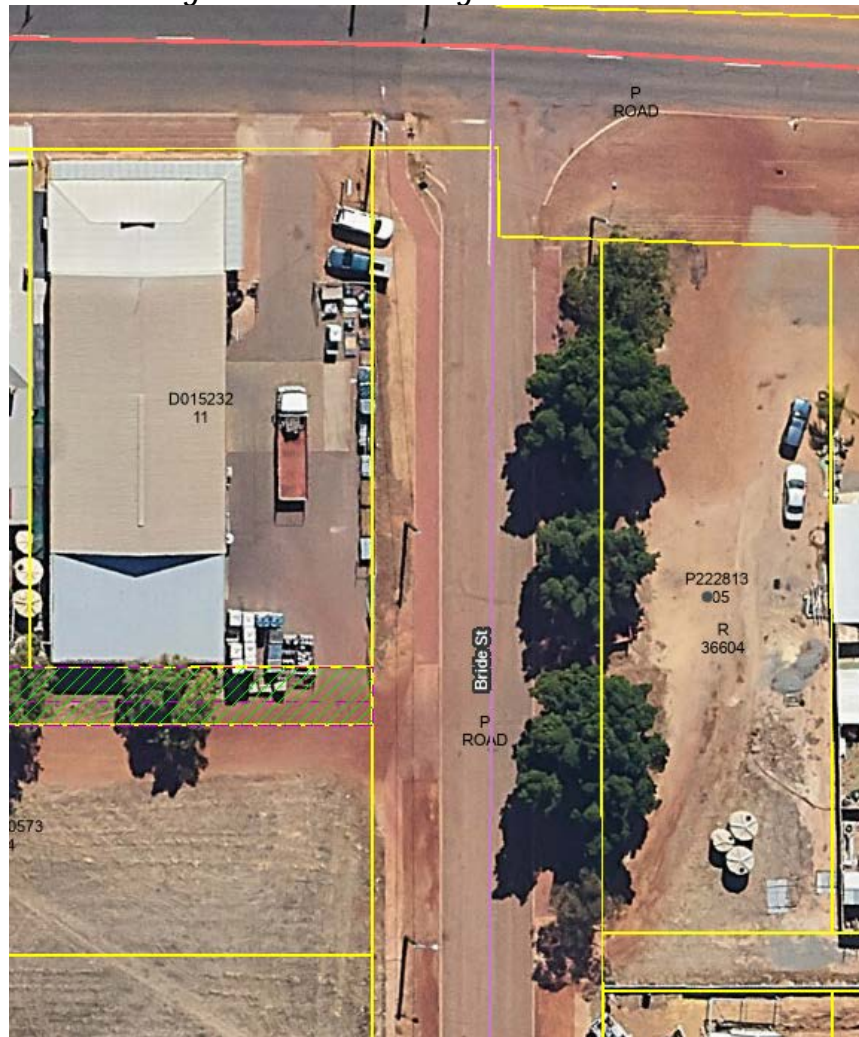
Crown Reserve 36604 at 70 (Lot 105) Midlands Road is vested with the Shire of Mingenew for the current purpose of "*use and requirements of the Shire of Mingenew*". In 2012, it was discovered that the reserve's management order and purpose did not permit leasing of the land, and a formal request was subsequently

made to the Department of Planning, Lands and Heritage (DPLH) seeking a change to the purpose and to permit leasing.

The process of administering the change in reserve purpose and negotiating the terms under which Elders wish to use the land have taken significant time.

Elders Mingenew is located opposite Reserve 36604, as shown below:

*Figure 1 – satellite image of Reserve 36604*



As can be seen from the above image, the property currently used for the Mingenew Elders shopfront has limited storage capacity.

### Comment

Elders have responsibly been using and maintaining the property for many years and the Shire has no other current use for the land. Whilst there may be a future commercial opportunity to develop the land, given its main street frontage, there have been no enquiries to suggest demand at this time. Council could consider reducing the initial term and subsequent extension terms to provide some flexibility to respond to market and development changes.

Elders are seeking to enter into a licence agreement, rather than lease. The main difference being that a lease provides a legal right to exclusive possession whereas a licence only provides a contractual right to occupy.

The Shire has made enquiries with the applicant to determine if they were interested in the option to purchase, should the Minister permit however Elders' preference at this time is to occupy the land under a licence agreement. Council could consider including advice to the lessee and the DPLH that Council has no objection to the Department disposing of Reserve 36604 should the licensee wish to purchase the property and this can be dealt with in the suproperty, report to Council.

To assist in determining a fair market rent, a market rental valuation was undertaken on 15 July 2024 and recommended a rate of \$1,820 ex GST per annum. The confidential market report (separate attachment) indicates that comparative market research is limited due to low demand for vacant land rental. It was however, noted that rural industry, and oil and gas activity in the region has improved growth.

It is noted that the Reserve is the former CWA Building site and is listed in the Shire's Local Heritage Survey (LHS) as a Category 4 listing and an extract for the LHS is provided below:

History

*The Mingenew Yandanooka branch of the Country Women's Association (CWA) formed at a public meeting in the Mingenew Hall in February 1929, and a younger set formed in July 1929. The CWA was instrumental in establishing the Bush Nursing Association to facilitate a district nurse, that was achieved in March 1930. The CWA essentially employed the nurse, while also planning to build a hospital. In 1931 they applied for Lot 1 to build their restroom. It was built in 1936, with meetings in the hall meanwhile. The rest room was an appreciated service for mothers and children in the district. CWA organised a special relief fund during the Depression, catered for functions, and various community services, including considerable work to improve the conditions at the Aboriginal Reserve (Littlewell). On 14 March 1979, cyclone Hazel destroyed the CWA restrooms. Members utilised the RSL Hall for meetings and continued service to the community. In 1946 Yandanooka members formed their own branch.*

Statement of Significance

*The site of the CWA Rest rooms represents the considerable historical significance of the Mingenew Yandanooka branch of the Country Women's Association and their members. The community services that the CWA provided were invaluable in the early all phases of the development of Mingenew and the district. The specific considerations of women and families is a tradition that continues."*

Local public notice provided a description of the property concerned, details of the proposed disposition and an invitation for submissions to be made before 9am, 11 November 2024. The notice was published in the Midwest Times on 23 October 2024, in an October edition of the Mingenew Matters and published on the Shire's website.

No submissions were received at the close of submissions.

Consultation

Acumentis, Property Advisory Services  
'Zoe Haskett, Corporate Property Specialist, Elders

Statutory Environment

*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.*

### **Policy Implications**

Local Planning Scheme No.4

70 (Lot 105) Midlands Road, Mingenew is zoned 'Rural Townsite' under the Shire of Mingenew's Local Planning Scheme No.4, the objectives of which are:

- 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.

### **Financial Implications**

The Shire has budgeted for the proposed income from the agreement to lease/occupy the land.

### **Strategic Implications**

Strategic Community Plan 2023-2033

3. Supporting infrastructure initiatives that makes business easy and support them to thrive

3.1 Actively encourage pride in local businesses to represent town

### 13.6 DEALING WITH CHALLENGING BEHAVIOURS POLICY

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	CM.POL
Date:	6 December 2024
Author:	Erin Greaves, Manager Governance and Community
Authorising Officer:	Matt Fanning, Chief Executive Officer
Voting Requirements:	Simple Majority

#### Summary

To reduce the potential psychosocial hazard risk, a 'Dealing with Challenging Behaviours' Policy has been developed which clearly defines how the organisation responds to harmful behaviours and provides support for employees who may be exposed to the risk.

#### Key Points

- It is necessary for the Shire to have appropriate control measures in place to deter harmful behaviours in the workplace, and this action was identified in the Shire's Risk Register
- This policy identifies and addresses the potential psychosocial risks associated with external customers, members of the public, contractors and other visitors who interact with workers (including employees, volunteers and contractors) who may display harmful behaviour, and the supported response
- Whilst it is not a common occurrence, there are occasions where workers are exposed to this risk and it is important for Council to establish a position to support staff in holding people account / establishing consequences for poor behaviour

#### **OFFICER RECOMMENDATION – ITEM 13.6**

**Council adopts the Council Policy 1.2.19 'Dealing with Challenging Behaviours Policy' as presented.**

#### Attachments

13.6.1 Dealing with Challenging Behaviours Policy (NEW)

13.6.2 Customer Service Charter

#### Background

Obligations under the *Work Health and Safety Act 2020* and *Work Health and Safety Regulations 2020* specifically require a Person conducting a business or undertaking (PCBU), the Shire, must appropriately manage psychosocial risks.

The exposure to harmful behaviour, such as violence, harassment, bullying and aggression is one such potential risk identified within the workplace and considered a moderate risk as per the Shire's internal Risk Register.

A single or irregular exposure to these hazards may not create psychosocial risks however, if workers are exposed to a hazard (or a combination of these hazards) over a prolonged period or in a severe way they can cause psychological and physical harm.

Workers may be more likely to experience harmful behaviours or be more severely affected by it, because of their sex, gender, sexuality, age, migration status, disability and literacy. The risk of experiencing harm rises when a person faces multiple forms of discrimination. Attributes that make a person more vulnerable to these behaviours can also make workers less likely to report concerns or incidents. It is therefore, important to create an environment in which workers are supported to appropriately respond.

### Comment

Whilst the frequency of interactions with persons who conduct themselves inappropriately when interacting with workers is low, the Shire's ability to eliminate this risk is not possible. Therefore, along with this proposed policy, other control measures are in place to support a safe work environment to at-risk workers, which includes but is not limited to:

- Working in Isolation Policy (internal WHS Policy)
- Monitoring of front counter (in-person and via camera)
- Physical barrier between front counter staff and members of the public / customers

The Shire does have a Customer Service Charter (attached), which guides employee behaviour in interacting with Shire customers however it does not provide appropriate authority to respond to inappropriate behaviour from other parties.

### Consultation

Shire employees

Executive Leadership Team

### Statutory Environment

*Work Health and Safety Act 2020*

*Work Health and Safety (General) Regulations 2022*

#### **55A. Meaning of psychosocial hazard**

*A psychosocial hazard is a hazard that —*

- (a) *arises from, or relates to —*
  - (i) *the design or management of work; or*
  - (ii) *a work environment; or*
  - (iii) *plant at a workplace; or*
  - (iv) *workplace interactions or behaviours; and*
- (b) *may cause psychological harm (whether or not it may also cause physical harm).*

#### **55B. Meaning of psychosocial risk**

*A psychosocial risk is a risk to the health or safety of a worker or other person arising from a psychosocial hazard.*

#### **55C. Managing psychosocial risks**

*A person conducting a business or undertaking must manage psychosocial risks in accordance with Part 3.1 other than regulation 36.*

#### **55D. Control measures**

(1A) *In this regulation —*

*workers' accommodation means premises to which section 19(4) of the Act applies.*

- (1) *A person conducting a business or undertaking must implement control measures —*
  - (a) *to eliminate psychosocial risks so far as is reasonably practicable; and*
  - (b) *if it is not reasonably practicable to eliminate psychosocial risks — to minimise the risks so far as is reasonably practicable.*
- (2) *In determining the control measures to implement, the person must have regard to all relevant matters, including —*
  - (a) *the duration, frequency and severity of the exposure of workers and other persons to the psychosocial hazards; and*
  - (b) *how the psychosocial hazards may interact or combine; and*
  - (c) *the design of work, including job demands and tasks; and*
  - (d) *the systems of work, including how work is managed, organised and supported; and*
  - (e) *the design and layout, and environmental conditions, of the workplace, including the provision of —*

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- (i) safe means of entering and exiting the workplace; and*
- (ii) facilities for the welfare of workers; and*
- (f) the design and layout, and environmental conditions, of workers' accommodation; and*
- (g) the plant, substances and structures at the workplace; and*
- (h) workplace interactions or behaviours; and*
- (i) the information, training, instruction and supervision provided to workers.*

**Policy Implications**

New policy, as outlined above.

**Financial Implications**

Nil.

**Strategic Implications**

Strategic Community Plan 2023-2033

17.2 Maintain a safe work environment and proactive safety culture



## 14.0 WORKS

### 14.1 REQUEST TO INCREASE TRAINING BUDGET 2024/25

Location/Address:	Shire of Mingenew
Name of Applicant:	Shire of Mingenew
Disclosure of Interest:	Nil
File Reference:	PE.TRD
Date:	6 December 2024
Author:	Shane Noon, Works Manager
Authorising Officer:	Matt Fanning, Chief Executive Officer
Voting Requirements:	Simple Majority

#### Summary

To improve internal capability and competency to deliver on Council's road and related infrastructure projects, including maintenance, it is proposed that Council increase the training Budget allocation in the 2024/25 financial year to deliver on-the-job training to the Shire's Works Crew.

#### Key Points

- The Shire's internal Training Plan 2024/25 identified a need to provide training to applicable staff on plant operation and road construction and maintenance techniques
- Appropriate training providers have been sought to meet the need, and a suitable package has been identified
- Council's current staff training budget does not include provision for this expense therefore it is proposed the Budget allocation be increased

#### **OFFICER RECOMMENDATION – ITEM 14.1**

**Council increases the Staff Training Budget by \$25,000 ex GST, to deliver the 'Best Practice Unsealed Roads Management Training Course' to applicable Shire staff.**

#### Background

The Shire has developed in internal Training Plan 2024/25 that incorporates any skill or knowledge gaps, based on risk assessment and feedback identified through the performance review process. One of the needs identified, included training for the Works Crew to learn appropriate plant operation techniques for unsealed road maintenance.

After researching appropriate training options, the Shire has identified a suitable program to be delivered by Unsealed Roads - <https://unsealedroads.com/>.

Whilst efforts have been made to identify and compare alternative programs, this program is unique to this training provider and therefore, is considered a 'sole-supplier' for the purposes of procurement. Other providers do offer similar training but not as an all-inclusive package that meets the Shire's needs to cover:

- On-the-job plant operation training
- Road maintenance techniques and material selection
- Budgeting and programming
- Resource materials for ongoing reference

### Comment

The proposed training program, by Unsealed Roads provides a comprehensive suite of on-the-job, practical training, as well guidance resources and templates for the Shire to utilise. A summary of the training program is provided below:

#### **Day 1 : Training Day - Onsite with Operational Crew to Video Current and Alternative Techniques**

- Commencing with Introductory Session, Followed by Infield Videoing of Grading Crew
- Crew 1. Grader, Water Truck & Roller

#### **Day 2 : Training Day - Onsite with Operational Crew to Video Current and Alternative Techniques**

- Commencing with Introductory Session, Followed by Infield Videoing of Grading Crew
- Crew 2. Grader, Water Truck & Roller

#### **Day 3 : Training Day - Onsite with Operational Crew - Resheeting (One Location)**

- Both graders same location

#### **Day 4 : Morning Session - In Office Training on Best Practice Operational Techniques**

- Includes critique of grading & resheeting videos, material quality and agreed standards for grading
- *Recommended Staff: All Grading Crew, Supervisory and Management Staff*

#### **Day 4: Afternoon Session - Management of Unsealed Road (Service Levels, Budgeting and Benchmarking)**

- Review of Services Levels, Budgeting and Programming
- *Recommended Staff : Supervisory, Management and Asset Management Staff*

#### **Day 5: Morning Session - Continue Management of Unsealed Road (Service Levels, Budgeting and Benchmarking)**

- Review of Services Levels, Budgeting and Programming. Finish at Lunch Time
- *Recommended Staff : Supervisory, Management and Asset Management Staff*

#### **Council Specific Handover of Materials**

- PowerPoint Presentation pdf's, Grading Videos, Activity Procedures, Excel Service Budget Models

The quote for the training totals \$25,385 ex GST, inclusive of travel expenses for the training provider to attend Mingenew over the six days.

This training program provides an opportunity to ensure we have a knowledgeable and skilled workforce and demonstrates investment in our people and therefore delivers positive outcomes and best value for money for the community. Strategically Council has indicated a desire to grow our own talent and will assist in retaining quality people.

The process training and adopted documentation would provide clear direction that will be used in future road user agreements and works completed by employees and contractors either working for the Shire of Mingenew or a third party.

### Consultation

Executive Leadership Team

### Statutory Environment

Local Government Act 1995

### Policy Implications

1.3.1 Purchasing Policy

The training provider is considered to meet the definition of 'sole supplier', as outlined in the policy:

***"1.4.6. Unique Nature of Supply (Sole Supplier)***

*An arrangement with a supplier based on the unique nature of the goods or services required or for any other reason, where it is unlikely that there is more than one potential supplier may only be permitted where the:*

- a) purchasing value is estimated to be over \$5,000; and*
- b) purchasing requirement has been documented in a detailed specification; and*
- c) specification has been extensively market tested and only one potential supplier has been identified as being capable of meeting the specified purchase requirement; and*
- d) market testing process and outcomes of supplier assessments have been evidenced in records, inclusive of a rationale for why the supply is determined as unique and why quotations / tenders cannot be sourced through more than one potential supplier.*

*An arrangement of this nature will only be approved for a period not exceeding one (1) year. For any continuing purchasing requirement, the approval must be re-assessed before expiry, to evidence that only one potential supplier still genuinely exists."*

**Financial Implications**

Cost of the training all-inclusive of travel and accommodation meals is \$27,923. For 6 team members to attend this onsite 5 days of training this equates to an investment of \$4,656 per person. The cost to send staff off site to attend this type of training is far greater than \$4,656 per person, when considering the down time and shortage of Shire employee resources and travel and accommodation expenses.

There are sufficient funds within the estimated budget closing surplus to cover the costs of the training, this was due to the increased opening surplus since the finalisation of the 2023/24 Annual Financial Report.

**Strategic Implications**

Strategic Community Plan 2023-2033

- 1.2 Develop, deliver and review the Shire's Local Roads Improvement Plan and Shared Pathways Plan
- 5.2 Offer career opportunities – "Grow Your Own" targeted at the local market

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15.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

17.0 CONFIDENTIAL ITEMS

Nil.

18.0 TIME AND DATE OF NEXT MEETING

Next Ordinary Council Meeting to be held on Wednesday, 19 February 2025 (*subject to Council approval of proposed Council Meeting Dates 2025*) commencing at 5.00pm.

19.0 CLOSURE

The meeting was closed at \_\_\_pm.

These minutes were confirmed at an Ordinary Council meeting on 19 February 2025

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

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