



# AGENDA FOR THE SPECIAL COUNCIL MEETING

29 JANUARY 2025



**Special Council Meeting Notice Paper**

**25 January 2025**

A Special Meeting of Council is called for Wednesday, 29 January 2025 in the Council Chambers, Victoria Street, Mingenew, commencing at 5:00pm, in accordance with s.5.4 of the *Local Government Act 1995*.

The purpose of the meeting is to consider

- A variation to the Road User, Contribution and Upgrade Agreement with Terra Mining, seeking to extend the existing agreement to 20 February 2025; and
- Authorisation to undertake a tender exempt process (under the WALGA Preferred Supplier Panel) for the Shire's Information and Communication Technology (ICT) managed services contract.

Members of the public are most welcome to attend.

**Shane Noon**  
**Acting Chief Executive Officer**  
23 January 2025

**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><br/>A formal process where members of the community present a written request to the Council.</p> | <p><b>Deputations</b><br/>A formal process where members of the community request permission to address Council or Committee on an issue.</p> | <p><b>Presentations</b><br/>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> |
|---|---|---|

### 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 SPECIAL MEETING OF COUNCIL TO BE HELD IN COUNCIL CHAMBERS  
ON 29 JANUARY 2025 COMMENCING AT 5:00PM.**

*In accordance with r.14I of the Local Government (Administration) Regulations, this meeting will be recorded and made publicly available on the Shire's website, with publication of meeting minutes.*

- 1.0 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS
  
- 2.0 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE
  
- 3.0 PUBLIC QUESTION TIME/PUBLIC STATEMENT TIME
  
- 4.0 DECLARATIONS OF INTEREST

## 5.0 CHIEF EXECUTIVE OFFICER

### 5.1 ROAD USER AGREEMENT VARIATION – TERRA MINING HAULAGE

|                                |  |
|--------------------------------|--|
| <b>Location/Address:</b>       | Shire of Mingenew                          |
| <b>Name of Applicant:</b>      | Terra Mining                               |
| <b>Disclosure of Interest:</b> | Nil  |
| <b>File Reference:</b>         | RD.PER.1                                   |
| <b>Date:</b>                   | 23 January 2025                            |
| <b>Author:</b>                 | Shane Noon, Acting Chief Executive Officer |
| <b>Voting Requirements:</b>    | Simple Majority                            |

#### Summary

To consider a contract variation granting an extension of term (to 20 February 2025) to the existing Road User, Contribution and Upgrade Agreement for Terra Mining to utilise Eleanor Street and Boolinda Road, Mingenew for haulage of iron ore from mining operations at Extension Hill, to the Geraldton Port.

#### Key Points

- Terra Mining were granted 12-month approval from the Shire for haulage of iron ore in December 2023, to 31 January 2025
- Terra have recently contacted the Shire to gain interim approval to haul post-31 January until the February Ordinary Council Meeting
- Whilst Terra was initially satisfied with the agreement terminating 31 Jan and proposing a new Agreement to commence in Feb, they have indicated that due to resourcing constraints, haulage will now be required for this period
- Terra have indicated they wish to seek approval for haulage to March 2026, but the longer-term arrangements will be considered at the February Council meeting

#### **OFFICER RECOMMENDATION – ITEM 5.1**

##### **Council:**

- 1. Endorses a variation to the current Road User, Contribution and Upgrade Agreement with Terra Mining Pty Ltd under clause 18, extending the term of the Agreement to 20 February 2025, subject to Terra Mining Pty Ltd paying all associated legal costs and other disbursements; and**
- 2. Authorises the Chief Executive Officer and Shire President to execute the Deed of Variation.**

#### Attachments

5.1.1 Correspondence from Terra Mining Pty Ltd seeking extension

#### Background

At the Special Council meeting in December 2023, Council considered a request from Terra Mining Pty Ltd (Terra) seeking a permit to utilise Eleanor Street and Boolinda Road for haulage of iron ore from their Extension Hill mine site to the Geraldton Port commencing in January 2024 for 12 months.

The consideration included a Road User, Contribution and Upgrade Agreement (the Agreement) which provided a mechanism for monitoring and addressing road impacts from additional heavy vehicle movements and a contribution to the Community Infrastructure Fund.

An extract of the Council resolution is provided below:





**Consultation**

Terra Mining  
McLeods Lawyers

**Policy Implications**

Nil.

**Financial Implications**

The proposed variation will incorporate all existing terms, including the requirement for compensation associated with maintaining the road to an acceptable standard, and contributions to the Community Infrastructure Fund.

The estimated legal costs and associated disbursements are expected to be around \$800, and it is proposed that these costs be borne by Terra.

**Strategic Implications**

Strategic Community Plan 2023-2033

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

Corporate Business Plan 2024-2028

1.4a Negotiate road user agreements with relevant industry stakeholders, as required.

6.0 CORPORATE SERVICES

6.1 RFT02 24-25: INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) CONTRACTOR (MANAGED SERVICES PROVIDER)

Location/Address: Shire of Mingenew  
Name of Applicant: Shire of Mingenew  
Disclosure of Interest: Nil  
File Reference: IT.TEN.24.25  
Date: 23 January 2025  
Author: Jack Smith, Senior Finance Officer  
Authorising Officer: Helen Sternick, Manager Corporate Services  
Voting Requirements: Absolute Majority

Summary

The Shire's contract with our current Information and Communication Technology (ICT) provider is due to expire in mid-March. Due to the monetary value and multi-year nature of the engagement, the Shire is required to undergo a formal Request for Tender (RFT) process, for which the Chief Executive Officer does not have delegated authority to call for tenders under the tender exempt banner over the \$250,000 threshold.

To ensure operational continuity, delegate authority to the Chief Executive Officer to award the contract to a limit of \$320,000 for the full term of the contract. Awarding the tender promptly will meet the expiry date of the current contract and transition to a potential new provider.

Key Points

- Our current ICT contract ends in March with no further option to extend or renew; the Corporate Services team would like to release a Request for Tender package via the WALGA Preferred Supplier Panel as soon as possible to minimise disruption.
- Both the decision to handle the engagement under the Tender Exempt procurement stream, and the decision to award the contract to the successful tenderer, would ordinarily sit with Council; the Corporate Services team would like to take proactive steps to eliminate delays and compliance roadblocks in relation to the selection of, and contract negotiation with, the successful tenderer.

**OFFICER RECOMMENDATION – ITEM 6.1**

**Council:**

- 1) Authorises the release of RFT 02 24-25 Information and Communication Technology (ICT) Contractor (Managed Services Provider) as a Tender Exempt procurement in accordance with r.11 of the *Local Government (Functions and General) Regulations 1996* via the WALGA Preferred Supplier Panel; and
- 2) Delegates to the Chief Executive Officer, in accordance with section 5.42(1) of the *Local Government Act 1995*, by Absolute Majority, authority to award the contract for RFT 02 24-25 Information and Communication Technology (ICT) Contractor (Managed Services Provider) to the most advantageous tenderer, to a limit of \$320,000 ex GST for the term of the contract (\$64,000 ex GST per year).

Attachments

- 6.1.1 Request for Tender Package – ICT Managed Services
- 6.1.2 *Confidential: Appendix A Proposed Draft Contract (provided to Councillors under separate, confidential cover)*

### **Background**

The current Managed Service Agreement (MSA) was awarded on to Infinitem Technologies Pty Ltd ("Infinitem") in March 2020, and after a twelve month review the agreement was extended until March 2024. A clause in the agreement included the option for a further two (2) year term but neither party initiated this process, resulting in defaulting to the automatic extension of 12 months. This extension is due to expire on 17 March 2025.

Council staff have been actively working to compile the tender and contract management documents since February 2024. It is essential for effective contract management that the tender and contract is well-researched and comprehensively planned to ensure best outcomes for Council, and the tender provides adequate detail and flexibility for negotiating contract terms. With competing workloads this has been a significant undertaking by the Corporate Services team.

Since the commencement of the current MSA, the ICT environment has changed substantially, such as Cloud technology infrastructure and software, increased cybersecurity requirements and cybercrime. The proposed RFT includes day-to-day technical and operational support but also ongoing consultancy/advisory services in relation to ICT asset management, cyber security including training, network administration and bespoke projects. Broadening of the scope will allow for future improvements to meet the ever-changing ICT environment and proactive management of the successful tenderer by the supply of monthly reporting and quarterly meetings.

An initial discovery phase will need to be undertaken to properly catalogue our ICT assets and map the existing network, and to facilitate the handover from Infinitem to the new Managed Services Provider (MSP) - should that eventuate - laying the groundwork for future projects.

Other than supporting the Shire's day-to-day ICT needs, it is also envisaged that our MSP will play a key role in future projects, including a staged transition away from our current legacy systems to a more integrated, cloud-based solution. Such advisory work and hands-on support with respect to asset management and network administration has been historically out-of-scope.

### **Comment**

Due to the aggregated cost of the proposed RFT being greater than \$250,000 and the use of the tender exempt process under the WALGA Preferred Supplier Panel, the CEO does not have delegated authority to call for tenders, therefore is being presented to Council.

To provide assurances to Council in relation to the second part of this recommendation re: the delegated authority of the CEO to award the tender and execute the related contracts, the following internal controls have been implemented:

- The RFT contains transparent disclosures that set out the evaluation criteria to be used, with weighting given to each element, ensuring a fair and objective assessment process;
- The assessments will be conducted and recorded by staff other than the CEO;
- The RFT supplies the proposed (draft) contract in its entirety, which solidifies and sets the limits for the Scope of the final contract, which the CEO must work within.

After careful review, staff are satisfied that the proposed contract addresses the observed deficiencies with the previous arrangement; it quantifies the qualitative aspects of service delivery in an ICT-specific context, and maps deliverables to the remedies and enforcement mechanisms available to the Shire. Including this information with the RFT should also deter submissions from respondents who are not prepared to be held accountable for performance and/or may be unwilling or unable to absorb costs in relation to the Shire's ongoing compliance activities (i.e. audits, insurance reviews, and cyber security testing).

If the RFT is not awarded prior to the expiry of the extended MSA or timing issues occur with handover, a monthly agreement with Infinitum might be an option to ensure continuance of business operations until the successful tenderer has sufficient time to complete the transition.

Should no suitable tenders be received that have a monetary value within the delegated limit, the decision will be referred to Council, potentially at a Special Council meeting in March 2025, to reduce any business continuity risk.

### Consultation

Internal staff, LGIS's risk and cyber specialists, and WALGA's procurement specialists, to ensure the structure and content of the request and contract documents, jointly and severally, would be fit for purpose, and adequately address the Shire's operational and financial risks.

### Statutory Environment

To the best of our knowledge, this recommendation is consistent with the Local Government Act 1995 and the Local Government (Functions and General) Regulations 1996. Specifically, we refer to Part 4 – Provision of Goods & Services, Division 2 – Tenders for providing for goods or services, Section 11 – When tenders have to be publicly invited, Subsection 2(b), which states:

#### Division 2 — Tenders for providing goods or services (s. 3.57)

##### 11. When tenders have to be publicly invited

(1A) In this regulation —

**COVID-19 declaration** has the meaning given in the *Emergency Management Act 2005* section 77C(1);

**state of emergency declaration** has the meaning given in the *Emergency Management Act 2005* section 3.

(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$250 000 unless subregulation (2) states otherwise.

(2) Tenders do not have to be publicly invited according to the requirements of this Division if —

(a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or

(aa) the supply of the goods or services is associated with a state of emergency or a COVID-19 declaration; or

(b) the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program;

### Policy Implications

1.3.1 Purchasing Policy (Oct 2024) applies to this activity, with the relevant provisions outlined below:

#### **1.4 PURCHASING THRESHOLDS AND PRACTICES**

##### **1.4.1. Defining the Purchasing Value**

*The Shire will apply reasonable and consistent methodologies to assess and determine Purchasing Values, which ensure:*

- a) The appropriate purchasing threshold and practice is applied in all purchasing activities; and*
- b) Wherever possible, purchasing activity for the same category of supply is aggregated into single contract arrangements to achieve best value and efficiency in future purchasing activities where the requirements are able to be provided by a single supplier.*

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*A category of supply can be defined as groupings of similar goods or services with common: supply and demand drivers; market characteristics; or suppliers.*

### *Strategic Purchasing Value Assessments*

*The Shire will periodically review recent past purchasing activity across its operations to identify categories of supply for which the Shire will have continuing need and which can be aggregated into single contract arrangements in order to achieve best value for money and efficiency in future purchasing activity.*

*The assessment of aggregated expenditure for the same category of supply capable of being supplied by a single supplier will determine the Purchasing Value threshold applicable to future purchasing activity...*

*...The calculated estimated Purchasing Value will determine the applicable threshold and purchasing practice to be undertaken.*

The sum of invoices from Infinitum since they were first engaged in 2018 came to \$410,698.41 (inc. GST) as at 31 October, 2024. Some of this expenditure relates to the purchase of physical assets, some to subscription-based software, and the balance to Managed Services, including remote technical support. It is envisaged that the Shire's next MSP will take ownership of all functions relating to our ICT assets and third-party licensing, including procurement.

Similarly, it is envisaged that the new Agreement will span a similar timeframe, with built-in options to extend the relationship beyond the initial term.

It is therefore appropriate to aggregate these amounts for the purpose of determining the relevant Purchasing Threshold that should apply to this engagement.

### *1.4.2. Table of Purchasing Thresholds and Practices*

#### *Supplier Order of Priority*

*The Shire will consider and apply, where applicable, the following Supplier Order of Priority:*

#### *Priority 1*

##### *Existing Prequalified Supplier Panel or other Contract*

*Current contracts, including a Panel of Prequalified Suppliers or contracted supplier, must be used where the Shire's supply requirements can be met through the existing contract.*

*If the Shire does not have a current contract relevant to the required supply, then a relevant WALGA PSA may be used.*

There is no option to further renew or extend the service under our existing contract with Infinitum.

#### *Priority 2*

##### *Local Suppliers*

*Where the Purchasing Value does not exceed the tender threshold and a relevant local supplier is capable of providing the required supply, the Shire will ensure that wherever possible quotations are obtained from local suppliers permanently located within the District as a first priority, and those permanently located within surrounding Districts as the second priority.*

*If no relevant local supplier is available, then a relevant WALGA PSA may be used.*

Since the estimated value of the contract far exceeds the tender threshold of \$250,000, Priority 2 does not apply to this activity.

#### *Priority 3:*

##### *Tender Exempt - WALGA Preferred Supplier Arrangement (PSA)*

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*Use a relevant WALGA PSA regardless of whether or not the Purchasing Value will exceed the tender threshold.*

*However, if a relevant PSA exists but an alternative supplier is considered to provide best value, then the CEO, or an officer authorised by the CEO, must approve the alternative supplier.*

*Reasons for not using a PSA may include:*

- i. Local supplier availability (that are not within the PSA); or,*
- ii. Social procurement – preference to use Aboriginal business or Disability Enterprise.*

*If no relevant WALGA PSA is available, then a relevant State Government CUA may be used.*

ICT Services fall under category PSP001 of the WALGA Preferred Supplier Panel, with 206 pre-qualified suppliers listed as at 31 October 2024. We believe this pool of candidates should be of sufficient size and depth to attract a number and diversity of responses that will meet our requirements and ensure a competitive tender process.

### **Financial Implications**

Until the responses are received, we cannot quantify the extent of the budgetary impact to Council, if any. The current budget has accounted for the same services and licences to be provided, under the same schedule of rates, up to 30 June, even though our contract with Infinitum expires sooner.

Managed Service Agreement expenditure is included within the Long Term Financial Plan 2025-2036, over the next five (5) years it has an allocation of \$308,614 (an average of \$61,723 per year). Although the limit set in the recommendation is above the LTFP allocation, this is allowing for the increases from the wider scope in the RFT from the original MSA.

### **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

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**7.0 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**8.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

Nil.

**9.0 CONFIDENTIAL ITEMS**

Nil.

**10.0 TIME AND DATE OF NEXT MEETING**

Next Ordinary Council Meeting to be held on Wednesday, 19 February 2025 commencing at 5.00pm.

**11.0 CLOSURE**

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

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

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

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