



Shire of Ngaanyatjaraku
ON A JOURNEY

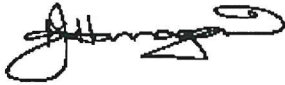
ORDINARY MEETING OF COUNCIL

MINUTES

29 September 2021
at
1.07 pm

SHIRE OF NGAANYATJARRAKU
ORDINARY MEETING OF COUNCIL

The Chief Executive Officer recommends the endorsement of these minutes at the next Ordinary Meeting of Council.



Chief Executive Officer

Date: 30-9-2021

These minutes were confirmed by Council as a true and correct record of proceedings of the Meeting of Council held on the 29 September 2021.

Presiding Member: _____



Date: 27/10/2021

1.	DECLARATION OF OPENING.....	4
2.	ANNOUNCEMENT OF VISITORS.....	4
3.	ATTENDANCE	4
3.1	PRESENT	4
3.2	APOLOGIES.....	4
3.3	APPROVED LEAVE OF ABSENCE.....	4
4.	PUBLIC QUESTION TIME	4
4.1	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
4.2	PUBLIC QUESTION TIME	4
5.	APPLICATIONS FOR LEAVE OF ABSENCE	4
6.	DECLARATION BY MEMBERS.....	4
6.1	DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA.....	4
6.2	DECLARATIONS OF INTEREST	6
7.	ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION.....	6
8.	PETITIONS, DEPUTATIONS, PRESENTATIONS	6
8.1	PETITIONS.....	6
8.2	DEPUTATIONS	6
8.3	PRESENTATIONS	6
9.	CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS.....	6
9.1	ORDINARY MEETING OF COUNCIL	6
10.	CEO REPORTS.....	7
10.1	PROGRESS ON THE IMPLEMENTATION OF COUNCIL RESOLUTIONS	7
10.2	REPORT OF THE RETURNING OFFICER ELECTION 2021	9
10.3	INDIGENOUS LAND USE AGREEMENT	11
10.4	USE OF COMMON SEAL	13
10.5	WARBURTON TOWN WATER PIPES	15
11.	DEPUTY CEO / DIRECTOR CORPORATE REPORTS.....	17
11.1	MONTHLY PAYMENTS LISTING	17
11.2	COUNCIL INVESTMENTS.....	19
11.3	MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDED	21
11.4	MONTHLY PAYMENTS LISTING	24
11.5	MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDED	26
12.	DIRECTOR GOVERNANCE & STRATEGIC REPORTS.....	29
13.	DIRECTOR INFRASTRUCTURE REPORTS	29
13.1	BUILDING RISK MANAGEMENT AND MAINTENANCE PLAN.....	29
13.2	CONTAMINATED SITES, NGAANYATJARRA LANDS.....	32
13.3	ACTION REPORT – WORKS ENGINEER	37
13.4	ACTION REPORT – ENVIRONMENTAL HEALTH & BUILDING SERVICES.....	38
13.5	REGIONAL ROADS GROUP (RRG) MEETING – AUGUST 2021	39
13.	NEW BUSINESS OF AN URGENT NATURE AS ADMITTED BY DECISION	41
14.	CONFIDENTIAL MATTERS	41
15.	NEXT MEETING.....	41
16.	CLOSURE OF MEETING	41

1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 1.07pm.

2. ANNOUNCEMENT OF VISITORS

The Presiding Member welcomed members of the public to the gallery.

3. ATTENDANCE

3.1 PRESENT

Elected Members:	President Deputy President Councillor Councillor Councillor Councillor	D McLean A Jones J Frazer D Frazer L West J Porter
Staff:	CEO DIS DGS AC	K Hannagan (via Zoom) L Morgan (via Zoom) C Green (via Zoom) S Richardson
Guests:		
Members of Public:	There were no members of the public in attendance at the commencement of the meeting.	

3.2 APOLOGIES

Cr. A Bates

3.3 APPROVED LEAVE OF ABSENCE

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.2 PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

6. DECLARATION BY MEMBERS

6.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA

Councillors are requested to give due consideration to all matters contained in the Agenda presently before the meeting.

6.2 DECLARATIONS OF INTEREST

Councillors to Note

A member who has an Impartiality, Proximity or Financial Interest in any matter to be discussed at a Council or Committee Meeting, that will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (a) Preside at the part of the Meeting, relating to the matter or;
- (b) Participate in or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under *Section 5.68 or Section 5.69 of the Local Government Act 1995*.

NOTES ON DECLARING INTERESTS (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have an interest in a matter.

These notes are included in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor, or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the *Local Government Act 1995*, but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) without less than 10 members i.e. sporting, social, religious etc), and the Councillor is not a holder of office of profit or a guarantor, and has not leasedland to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
 4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under *s.5.68(1)(b)(ii) or the Local Government Act*; or
 - 6.2 Where the Minister allows the Councillor to participate under *s.5.69(3) of the Local Government Act*, with or without conditions.

Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest
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7. ANNOUNCEMENTS BY THE PRESIDING MEMBER WITHOUT DISCUSSION

The Shire President gave Council an update on the Conclusion of the Complaint to the Australian Human Rights Commission (AHRC) and Mediation in the Federal Court.

Council Resolution

Moved: Cr J Porter Seconded: Cr D Frazer

That council receives the Shire President’s update on the Conclusion of the Complaint to the Australian Human Rights Commission and Mediation in the Federal Court as per Attachment 7.

Carried: 6/0

8. PETITIONS, DEPUTATIONS, PRESENTATIONS

8.1 PETITIONS

8.2 DEPUTATIONS

8.3 PRESENTATIONS

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

9.1 MINUTES OF ORDINARY MEETING OF COUNCIL

Voting Requirement
Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr L West Seconded: Cr J Frazer

That the Unconfirmed Minutes of the Ordinary Meeting of Council held on 25 August 2021 at the Council Chambers, Tjulyuru Cultural and Civic Centre, Warburton Community (as circulated and available on the Shires official website) be confirmed as a true and accurate record.

Carried: 6/0

10. CEO REPORTS

10.1 PROGRESS ON THE IMPLEMENTATION OF COUNCIL RESOLUTIONS

FILE REFERENCE:	GV.05
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	10 September 2021
DISCLOSURE OF INTERESTS:	The author has no financial, proximity or impartiality interest in the proposal.

Summary

The purpose of this agenda item is to report back to Council on the progress of the implementation of Council resolutions.

Background

The best practice in governance supports the regular review of Council decisions to ensure that they are actioned and implemented in a timely manner.

Comment

A resolution from the October 2020 meeting regarding nominations for Council consideration of an appointment of an external person to the A&R Committee is still in progress.

This action had originally been delayed due to Covid19 restrictions to aboriginal communities. However, given this restriction and that the Shire is in accordance with the LG Act not able to pay a sitting fee for attending any meetings, it may be best to seek further advice on this matter and reconsider the addition of independent A&RC members later. As such it is proposed to rescind this part of the 28 October 2020 Resolution so that this matter can be removed from future reports as an outstanding matter.

Statutory Environment

Local Government Act 1995:

Section 2.7

"Role of council

(1) The council —

(a) governs the local government's affairs; and

(b) is responsible for the performance of the local government's functions.

(2) Without limiting subsection (1), the council is to —

(a) oversee the allocation of the local government's finances and resources; and

(b) determine the local government's policies."

The above section of the Act notwithstanding, there is no specific legal requirement to present such a report to Council or for Council to receive or consider such a report. The decision to have the report in the Council's monthly agenda is entirely Council's prerogative. Staff acknowledge the critical and ongoing nature of the document, in that Council 'speaks by resolution'.

Section 5.100 of the Act expressly provides that a person who is a committee member but is not a council member or an employee is not to be paid a fee for attending any meeting.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.2, Maintain corporate governance, responsibility and accountability

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

There are no known policy implications for this matter.

Attachments

10.1 - Council Resolutions - Status Report

Voting Requirement

Absolute Majority

Officers Recommendation and Council Resolution

Moved: Cr D Frazer Seconded: Cr L West

That Council:

- 1. notes the attached Council Resolutions – Status table as at August OCM 2021, (Attachment 10.1) and this report, and**
- 2. rescinds Part 4 of Report 12.1 Resolution of 28 October 2020 being - Requests the CEO to commence the process to seek nominations for Council consideration of an appointment of an external person to the A&R Committee.**

Carried: 6/0

10.2 REPORT OF THE RETURNING OFFICER ELECTION 2021

FILE REFERENCE:	GV.07
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Returning Officer
DATE REPORT WRITTEN:	13 September 2021
DISCLOSURE OF INTERESTS:	The author has no financial, proximity or impartiality interests in the proposal.

Summary

This report is to brief elected members on the conduct of the election due to be held on 16 October 2021 and to provide an overview of statistics that relate to the election.

Background

The Shire is constituted of one District with 8 Councillors. The 2021 election consisted of the following vacancies:

- 1 Extraordinary; and
- 4 Ordinary.

Nominations closed at 4pm on Thursday 9 September 2021.

Comment

At the closing of nominations there were five nominations for 5 vacancies, as such all candidates were declared elected unopposed.

Therefore, the following people are elected as councillors for the Shire of Ngaanyatjarraku. The councillor will hold office until the date set out next to his or her name.

<u>Name</u>	<u>Expiry of term</u>
Benning, Alex	21 October 2023*
Porter, Julie	18 October 2025
Thomas, Preston Neil	18 October 2025
Jones, Andrew	18 October 2025
Frazer, Debra	18 October 2025

*indicates an extraordinary vacancy

Each successful candidate of the election is required to make a declaration before they can act in the capacity of an elector councillor. This is sometimes called a "swearing in" ceremony and takes place before the first council meeting following the election. The election of President and Deputy President will also be undertaken. It is proposed that this will be conducted at the Ordinary Council meeting scheduled for 1pm Wednesday 27 October 2021, at the Tjulyuru Cultural and Civic Centre, Warburton Community.

Statutory Environment

For this election the Chief Executive Officer acted as returning officer. The election was conducted on the basis of electors voting in person. Part 4 of the Local Government Act 1995 and Local Government (Elections) Regulations 1997 specify the way local government elections are to be conducted.

Financial Implications

The Budget for conducting the election was \$20,000 and the total cost of conducting the election this year was approximately \$2,500 for advertising in accordance with Electoral legislation.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.2, Maintain corporate governance, responsibility and accountability

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

Council Policy, 1.16, Council Election Caretaker Period

Attachments

Not Applicable

Voting Requirement

Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr J Frazer

Seconded: Cr D Frazer

That Council Notes the Returning Officers Report on the conduct of the 2021 Ordinary Election.

Carried: 6/0

10.3 INDIGENOUS LAND USE AGREEMENT

FILE REFERENCE:	LS.00
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	17 September 2021
DISCLOSURE OF INTERESTS:	The author has no financial, proximity or impartiality interests in the proposal.

Summary

This report is to brief elected members on the use of the Shires Common Seal for development of an Indigenous Land Use Agreement (ILUA) with Ngaanyatjarra Council (Aboriginal Corporation), on behalf of the Yarnangu Ngaanyatjarraku Parna (Aboriginal Corporation) as trustee for the Ngaanyatjarra Lands Common Law Holders and seek Councils approval to use the Common Seal to execute the ILUA for submission to the Native Title Tribunal.

Background

Councillors have received previous reports over the past 2.5 years on progress of the Shire development of an ILUA to cover the Shires Road network that it maintains. All roads within the Shire are not Dedicated or Gazetted and as such are not 'public' roads. As such a permit is required from NCAC to travel the roads. The purpose of the ILUA is to give the Shire authority to undertake maintenance and renewal of the existing road network. Any new roads or realignments will be undertaken in the normal manner by seeking Heritage and DEWR Environmental Clearances before doing so, thus adding such new works to the existing road network as maintained in the Shires Road Asset Maintenance Management system.

Comment

Accordingly, the Parties have agreed to enter into this Agreement, which will take effect as a common law contract upon execution and which they also intend to register as an Indigenous Land Use Agreement under Part 2 Division 3 Subdivision B of the NTA.

A copy of the ILUA has been made available separately to Councillors.

Statutory Environment

Local Government Act 1995:

Section 2.7

"Role of council

(3) The council —

(a) governs the local government's affairs; and

(b) is responsible for the performance of the local government's functions.

(4) Without limiting subsection (1), the council is to —

(a) oversee the allocation of the local government's finances and resources; and

(b) determine the local government's policies."

Financial Implications

Not applicable.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 2, Our Land

Outcome 5, Travelling our Land

Strategy: 5.1, Effective management and planning of road infrastructure

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

Council Policy, 1.17, Use of Common Seal

Attachments

Not Applicable

Voting Requirement

Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr D Frazer Seconded: Cr J Frazer

That Council:

- (1) Notes the Indigenous Land Use Agreement as made available separately to Councillors;**
- (2) Resolves that the Indigenous Land Use Agreement as made available separately to Councillors is confidential in accordance with s5.23 (2) the Local Government Act because it deals with;

(d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and**
- (3) Authorises the Shire President and Chief Executive Officer to attach the Common Seal to execute the ILUA for submission to the Native Title Tribunal.**

Carried: 6/0

10.4 USE OF COMMON SEAL

FILE REFERENCE:	IM.14
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	23 September 2021
DISCLOSURE OF INTERESTS:	The author has no financial, proximity or impartiality interests in the proposal.

Summary

The purpose of this agenda item is to report to Council for information, use of the Common Seal.

Background

In accordance with Council Policy 1.17, Use of Common Seal, Council is to receive a copy of details from the register of all Common Seals affixed for the previous month at the first Ordinary Council Meeting of each month.

Comment

The relevant extract from the Current Register – Use of Common Seal has been prepared for Council and is attached.

The Shire President will address Council at item 7, Announcements by the Presiding Member without discussion, further details associated with the Deed of Settlement.

Statutory Environment

Local Government Act 1995:

Section 2.7

“Role of council

(5) The council —

(a) governs the local government's affairs; and

(b) is responsible for the performance of the local government's functions.

(6) Without limiting subsection (1), the council is to —

(a) oversee the allocation of the local government's finances and resources; and

(b) determine the local government's policies.”

Financial Implications

Not applicable.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership

Outcome 8, A well-functioning organisation

Strategy, 8.2, Maintain corporate governance, responsibility and accountability

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

Council Policy, 1.17, Use of Common Seal

Attachments

Attachment 10.4, Extract from Current Register, Use of Common Seal

Voting Requirement
Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr J Porter Seconded: Cr L West

That Council receives and notes Attachment 10.4, Extract from Current Register, Use of Common Seal.

Carried: 6/0

10.5 WARBURTON TOWN WATER PIPES

FILE REFERENCE:	EH.00, RD.00, LS.00
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	24 September 2021
DISCLOSURE OF INTERESTS:	The author has no financial, proximity or impartiality interest in the proposal.

Summary

The purpose of this report is to update Council on the water pipes under Shire infrastructure in Warburton and potential increase in cost to the shire after replacement by the Department of Communities, Remote Essential Municipal Services provider.

Background

This matter is of major concern to the Shire as the Shire may be left with the incremental costs of reinstating the road network in Warburton before it can undertake any resealing program. Additionally, as the shire does not have a normal rate payer base it does not have the 'discretionary' funding to pay for damage to its road infrastructure by the State Government and its agents.

The Shire has previously sought legal advice on this matter from its lawyers and resulted in Council resolving to write to a letter to Remote Communities, Department of Communities requesting a meeting with representatives of the DoC to discuss the additional road maintenance and repair costs that the Shire has incurred and is likely to incur by reason of the pipeline replacement works undertaken.

At Council's July 2021 meeting, Councillors were briefed on issues related to this matter and resolved the following:

Officers Recommendation and Council Resolution

Moved: Cr J Porter Seconded: Cr L West

That Council:

- 1. notes Report 10.4: and**
- 2. endorses sending the draft letter as per Attachment 10.4(c) to Remote Communities, Department of Communities.**

Carried: 5/0

Comment

The Shire has asked that in accordance with its requests could REMS consult with the Shire in accordance with IPWEA's Local Government Guidelines for Restoration and Reinstatement in Western Australia dated February 2020 (Guidelines). These guidelines are consistent with State Legislation (see Statutory Environment) and advise as follows:

All persons intending to perform works in road reserves or on property managed by the Local Government that affects Local Government infrastructure are required to give sufficient notice and make an application for works in all cases other than emergency works. The general process for this is contained in Appendix B and the WALGA Policy Template Works in the Local Government Road Reserve which can be found on the WALGA website.

On Tuesday 21 September the CEO became aware that REMS had commenced a project to

upgrade the towns water filtration system. This is a project that was planned last financial year and is welcomed by the Shire and community. However, no consultation in accordance with legislation had been undertaken. As the Shire has repeatedly tried to ask REMS to do so, further advice was sought from the Shires lawyers McLeods. This culminated in a letter from the Shires lawyers stating the background and outlining REMS contravention of legislation.

It is pleasing to now advise Council that REMS have:

- responded to the Shires letter of 29 July 2021 and have agreed to meet with Shire Officers to discuss the impact on the Shires Road infrastructure associated with any future town water pipeline replacement project;
- made an application seeking approval to undertake trenching works across Shire roads in four locations, and on the verges in the community;
- responded to the Shire’s lawyer’s letter; and
- are now positively progressing matters with Shire Executive staff.

Statutory Environment

Local Government (Uniform Local Provisions) Regulations 1996

Reg 5:

(1) A person must not, without lawful authority —

- (a) interfere with the soil of, or anything on, land that is local government property; or
- (b) take anything from land that is local government property.

Penalty: a fine of \$5 000 and a daily penalty of \$500 for each day during which the offence continues.

Financial Implications

There are major financial implications for this matter if the Shire is left to reinstate the damaged road network without an appropriate funding contribution.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 2, Our Land

Outcome 5, Travelling our Land

Strategy: 5.1, Effective management and planning of road infrastructure

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Medium” risk and can be managed by Executive Staff.

Policy Implications

There are no known policy implications for this matter.

Attachments

Not applicable.

Voting Requirement

Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr J Frazer

Seconded: Cr D Frazer

That Council notes this report on resolving matters associated with compliance with the Local Government (Uniform Local Provisions) Regulations 1996, Reg 5.

Carried: 6/0

11 DEPUTY CEO / DIRECTOR CORPORATE SERVICES REPORTS

11.1 MONTHLY PAYMENTS LISTING

FILE REFERENCE:	FM.07
AUTHOR'S NAME AND POSITION:	Kerry Fisher Deputy CEO / Director Corporate
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	16 August 2021
DISCLOSURE OF INTERESTS:	The author has no financial, proximity or impartiality interest in the proposal

Summary

For Council to confirm the payment of accounts listed in the attached Accounts for Payment.

Background

In accordance with the Local Government (Financial Management) Regulations 1996 the Chief Executive Officer is required to present a list of payments to the Council at the next ordinary meeting of the council after the list is prepared.

Comment

The payments made are consistent with previous months.

Statutory Environment

Local Government (Financial Management) Regulations 1996

S13. 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 subregulation (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.*

Financial Implications

The Shire makes annual budget allocations for payment of accounts.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

There are no known policy implications for this matter

Attachments

11.1 – Payment Listings

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr D Frazer Seconded: Cr J Porter

That Council receives the Payment Listing, July 2021 totaling payments of \$835,710.49 as per Attachment 11.1.

Carried: 6/0

11.2 COUNCIL INVESTMENTS

FILE REFERENCE:	FM.04
AUTHOR'S NAME AND POSITION:	Kerry Fisher Deputy CEO / Director Corporate
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	23 September 2021
DISCLOSURE OF INTERESTS:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

For Council to be advised of the Shires Municipal Account and Investments as attached.

Background

To invest the Shire of Ngaanyatjarraku surplus funds with consideration of risk and at the most favourable rate of interest available to it at the time, for that investment type, whilst ensuring that liquidity requirements are being met.

Comment

Preservation of capital is to be the principal objective with consideration given to liquidity, cash flow requirements and return on investment.

Preservation of capital is the principal objective of the investment portfolio. Investments are to be performed in a manner that seeks to ensure security and safeguarding the investment portfolio. This includes managing credit and interest rate risk within identified thresholds and parameters. The investment portfolio will ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring significant costs due to the unanticipated sale of an investment.

The investment is expected to achieve a predetermined market average rate of return that takes into account the Shire's risk tolerance. Any additional target set by the Shire will also consider the risk limitation and prudent investment principles.

The reduction of RBA interest rate has greatly reduced term deposit interest.

Statutory Environment

Local Government Act 1995

Section 6.14 Power to Invest

- (1) *Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the Trustees Act 1962 Part III.*
- (2A) *A local government is to comply with the regulations when investing money referred to in subsection (1).*
- (2) *Regulations in relation to investments by local governments may —*
 - (a) *make provision in respect of the investment of money referred to in subsection (1); and*
 - [(b) deleted]*
 - (c) *prescribe circumstances in which a local government is required to invest money held by it; and*
 - (d) *provide for the application of investment earnings; and*
 - (e) *generally, provide for the management of those investments.*

Local Government (Financial Management) Regulations 1996

19. *Investments, control procedures for*

- (1) A local government is to establish and document internal control procedures to be followed by employees to ensure control over investments.
- (2) The control procedures are to enable the identification of —
- (a) the nature and location of all investments; and
- (b) the transactions related to each investment.
- 19C. Investment of money, restrictions on (Act s. 6.14(2)(a))
- (1) In this regulation —
- authorised institution means —
- (a) an authorised deposit taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or
- (b) the Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;
- foreign currency means a currency except the currency of Australia.
- (2) When investing money under section 6.14(1), a local government may not do any of the following —
- (a) deposit with an institution except an authorised institution;
- (b) deposit for a fixed term of more than 3 years;
- (c) invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;
- (d) invest in bonds with a term to maturity of more than 3 years;
- (e) invest in a foreign currency.

Financial Implications

The Shires budgeted 2020/21 Interest Income will need to be reduced as part of the Mid-Year Budget Review process.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

Corporate Policy Finance 2.12 Investment.

Attachments

11.2 – Westpac screen prints of Municipal and Investment Accounts. (No monies are currently being held with any other institutions.)

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr J Porter

That the report on Council Investments as at Attachment 11.2 be received.

Carried: 6/0

11.3 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDED

FILE REFERENCE:	FM.10
AUTHOR'S NAME AND POSITION:	Kerry Fisher Deputy CEO / Director Corporate
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	12 September 2021
DISCLOSURE OF INTERESTS:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

For Council to receive the monthly financial report.

Background

Council is to prepare monthly financial reports as required by the Local Government (Financial Management Regulations) 1996.

Council has resolved those details and explanations of the material variances reflected on the Statement of Financial Activity are provided as required by Local Government (Financial Management) Regulation 34(1) (d). The attached statements include details of variances between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold of \$20,000 or 10.00% whichever is the greater (refer last page of statements). These materiality levels have been applied in the preparation of this report.

Comment

Comments in relation to budget to actual variances are included as notes (last page) in the Financial Reports attached. Comments related to 'Timing' refer to an estimate of when costs would occur at the time the budget was formulated versus actual costs being incurred. 'Permanent' variances to note are:

- Waste income is higher due to the September Quarter grant charge to DPC being raised in July;
- Road income higher as MRWA Direct grant raised in July but budgeted for in August;
- Housing Expenses are under budget in as the Maintenance Officer has not returned to the lands as yet to undertake budgeted works;
- Community Amenities expenditure under as difficulty in sourcing rubbish collection staff;
- Recreation expenditure under due to difficulty in recruiting replacement staff;
- Transport expenditure under due to difficulty sourcing grader operators and Covid border closures.
- Tourism under as consultancy project has begun but no invoices received to date.

Please note that depreciation has not been run yet due to finalization of previous years Audit.

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.

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 that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
 - (2) Each statement of financial activity is to be accompanied by documents containing
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
 - (3) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
 - (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
 - (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

Financial Implications

Monthly financial reporting is a primary financial management and control process. It provides the Council with the ability to oversee the Shire's financial performance against budgeted targets.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "Low" risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

No policy implications apply in the preparation of the report.

Attachments

11.3 - Monthly Financial Report.

Voting Requirement
Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr J Frazer Seconded: Cr L West

That Council receives the monthly financial report for July 2021.

Carried: 6/0

11.4 MONTHLY PAYMENTS LISTING

FILE REFERENCE:	FM.07
AUTHOR'S NAME AND POSITION:	Kerry Fisher Deputy CEO / Director Corporate
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	15 September 2021
DISCLOSURE OF INTERESTS:	The author has no financial, proximity or impartiality interest in the proposal

Summary

For Council to confirm the payment of accounts listed in the attached Accounts for Payment.

Background

In accordance with the Local Government (Financial Management) Regulations 1996 the Chief Executive Officer is required to present a list of payments to the Council at the next ordinary meeting of the council after the list is prepared.

Comment

The payments made are consistent with previous months.

Statutory Environment

Local Government (Financial Management) Regulations 1996

S13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

- (4) *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.*
- (5) *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—*
 - (iv) *the payee's name; and*
 - (v) *the amount of the payment; and*
 - (vi) *sufficient information to identify the transaction;*
and
 - (b) *the date of the meeting of the council to which the list is to be presented.*
- (6) *A list prepared under subregulation (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.*

Financial Implications

The Shire makes annual budget allocations for payment of accounts.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

There are no known policy implications for this matter

Attachments

11.4 – Payment Listings

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr D Frazer Seconded: Cr J Porter

That Council receives the Payment Listing, August 2021 totaling payments of \$1,005,176.77, as per Attachment 11.4.

Carried: 6/0

11.5 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDED

FILE REFERENCE:	FM.10
AUTHOR'S NAME AND POSITION:	Kerry Fisher Deputy CEO / Director Corporate
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	21 September 2021
DISCLOSURE OF INTERESTS:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

For Council to receive the monthly financial report.

Background

Council is to prepare monthly financial reports as required by the Local Government (Financial Management Regulations) 1996.

Council has resolved those details and explanations of the material variances reflected on the Statement of Financial Activity are provided as required by Local Government (Financial Management) Regulation 34(1) (d). The attached statements include details of variances between Year to Date (YTD) Budget and YTD Actual data as per the adopted materiality threshold of \$20,000 or 10.00% whichever is the greater (refer last page of statements). These materiality levels have been applied in the preparation of this report.

Comment

Comments in relation to budget to actual variances are included as notes (last page) in the Financial Reports attached. Comments related to 'Timing' refer to an estimate of when costs would occur at the time the budget was formulated versus actual costs being incurred. 'Permanent' variances to note are:

- Education & welfare income is higher due to early invoicing for rental of the EYL building;
- Housing income is higher due to early invoicing for rental;
- Waste income is higher due to the September Quarter grant charge to DPC being raised in July;
- Recreation income is higher due to early invoicing for rental of the CRC offices;
- Transport income higher as FAGS income received earlier than budgeted for;
- Governance expenses are under as GL profiling is causing timing issues to appear;
- Housing expenses are under budget in as the Maintenance Officer has not returned to the lands as yet to undertake budgeted works;
- Community Amenities expenditure under as difficulty in sourcing rubbish collection staff;
- Recreation expenditure under due to difficulty in recruiting replacement staff;
- Transport expenditure under due to difficulty sourcing grader operators and Covid border closures.
- Tourism under as consultancy project has begun but no invoices received to date.

Please note that depreciation has not been run yet due to finalization of previous years Audit.

Statutory Environment

Local Government Act 1995

6.4. Financial report

(3) A local government is to prepare an annual financial report for the preceding financial

year and such other financial reports as are prescribed.

(4) The financial report is to —

- (a) be prepared and presented in the manner and form prescribed; and
- (b) contain the prescribed information.

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.

- (6) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c); and
 - (b) budget estimates to the end of the month to which the statement relates; and
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (7) Each statement of financial activity is to be accompanied by documents containing
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
 - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (8) The information in a statement of financial activity may be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (9) 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.
- (10) 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.

Financial Implications

Monthly financial reporting is a primary financial management and control process. It provides the Council with the ability to oversee the Shire's financial performance against budgeted targets.

Strategic Implications

Plan for the Future 2021 – 2031

Goal 3, Our Leadership: Showing the way for our communities

Outcome 8, A well-functioning organisation

Strategy, 8.1, Maintain corporate governance, responsibility and accountability

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

No policy implications apply in the preparation of the report.

Attachments

11.5 - Monthly Financial Report.

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr A Jones Seconded: Cr L West

That Council receives the monthly financial report for August 2021.

Carried: 6/0

12. DIRECTOR GOVERNANCE & STRATEGIC REPORTS

13. DIRECTOR INFRASTRUCTURE SERVICES REPORT

13.1 BUILDING RISK MANAGEMENT AND MAINTENANCE PLAN

FILE REFERENCE:	CP.00
AUTHOR'S NAME AND POSITION:	Les Morgan Director Infrastructure Services
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	5 September 2021
DISCLOSURE OF INTERESTS:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

The Shire of Ngaanyatjarraku needs to take a systematic approach to the management of its buildings in order to maintain these facilities in a sustainable manner and to enhance the safety of users. To achieve this a document titled "Building Risk Management and Maintenance Plan 21/22" (Attachment 13.1) has been prepared to set out a path to develop well targeted plans that guide the identification and remediation of building defects and hazards.

Implementation of this strategic document should enhance the safety of users and decrease the life-cycle costs of buildings by focusing on preventative maintenance through proactive identification of defects. Thereby, enhancing the Shire's sustainability through developing concise and well targeted maintenance budgets and reducing exposure to risk.

Background

It has been the past practice of the Shire to maintain its buildings on a reactive basis. This practice not only places extra financial burden on the Shire, it increases the risk of harm to users, thereby increasing exposure to litigation. Hence, a proactive approach has been developed to shift this practice to one where the Shire can act more preventatively. Proactive inspections seek to identify defects and repair them before they become major defects, thereby enhancing the safety of users and useful lives, whilst reducing life-cycle costs.

Comment

Cost-Effectiveness

The Shire faces challenges due to its remoteness, isolation, lack of a consistent rate income and the ramifications that these incur. Thus, it is vital that the Shire acts in the most cost-effective way possible. Preventative maintenance not only enhances cost-effectiveness through fixing defects before they are major repairs, it also incorporates flexibility to enable remedial works to be carried out at the time and manner that is most financially beneficial.

An example of this is putting together work packages of a number of remedial projects to promote quantities of scale and to enable contractors and/or consultants to only have to travel here once to repair a number of issues.

Transparency

In implementing this plan, it is important that the integrity of the Shire's actions be maintained through a transparent priority system that ensures that the most critical defects are addressed first. Accordingly, it is proposed to prioritise remedial works via a two-tiered approach that

firstly takes into account how critical the defect is (consequence) and then takes into account the level of use of a building (likelihood).

To clarify, a hazard that affects the health and safety of individuals in a building will be placed high in the priority system. Similarly, a safety issue at someone's residence is also more critical than one in an administration or community building as people generally spend more time in their home and sleep there, thereby placing them at greater risk.

General

The attached plan should bring about many benefits to the Shire and its constituents including, enhanced safety, improved condition, maximised life-cycle, reduced costs and reduced exposure to litigation. Accordingly, it is considered that the proposal be endorsed.

Statutory Environment

Section 5W, Principles concerning resources, responsibilities etc. of public body or officer, of the Western Australian Civil Liability Act, outlines:

"The following principles apply in determining whether a public body or officer has a duty of care or has breached a duty of care in proceedings in relation to a claim to which this Part applies:

- (a) the functions required to be exercised by the public body or officer are limited by the financial and other resources that are reasonably available to the public body or officer for the purpose of exercising those functions;*
- (b) the general allocation of those resources by the public body or officer is not open to challenge;*
- (c) the functions required to be exercised by the public body or officer are to be determined by reference to the broad range of its activities (and not merely by reference to the matter to which the proceedings relate);*
- (d) the public body or officer may rely on evidence of its compliance with the general procedures and applicable standards for the exercise of its functions as evidence of the proper exercise of its functions in the matter to which the proceedings relate.*

As the Shire's allocation of funds towards the maintenance of building cannot be challenged in determining liability for an incident, it then becomes crucial that Council identifies issues, prioritises them and carries out the work in priority order until funding has expired.

Section 2.7 of the Local Government Act 1995 states:

"Role of council

- (1) The council —*
 - (a) governs the local government's affairs; and*
 - (b) is responsible for the performance of the local government's functions.*
- (2) Without limiting subsection (1), the council is to —*
 - (a) oversee the allocation of the local government's finances and resources; and*
 - (b) determine the local government's policies."*

Financial Implications

There are no additional financial ramifications inherent in adopting the attached plan.

Strategic Implications

Plan for the Future 2021 - 2031

Goal 2, Our Land

Outcome 6 Living on our Land

Strategy 6.1 Maintain Shire owned buildings and facilities

Action 6.1.1 Develop and implement maintenance plans

Goal 3, Our Leadership

Outcome 8 A well-functioning organisation

Strategy, 8.2 Provide a good place to work

Action 8.2.2 Provide good housing and working conditions for employees

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is “Low” and can be managed by routine procedures and is unlikely to need specific application of resources.

By shifting the Shire’s operation to a strategic proactive approach, likelihood is targeted by addressing minor defects before they become major, thereby, minimising consequence and risk overall. Generally, proactive inspections seek to identify potential issues before:

- An emergency response is required, or
- The issue impacts on the building in a manner that may affect its structural integrity, shorten its useful life and thus increase life-cycle costs

Policy Implications

There are no known policy implications for this matter.

Attachments

Attachment 13.1 – Building Risk Management and Maintenance Plan 21/22

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr J Frazer

Seconded: Cr D Frazer

That Council endorses the attached Building Risk Management and Maintenance Plan 21/22.

Carried: 6/0

13.2 CONTAMINATED SITES, NGAANYATJARRA LANDS

FILE REFERENCE:	PH.00
AUTHOR'S NAME AND POSITION:	Les Morgan Director Infrastructure Services
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	21 September 2021
DISCLOSURE OF INTERESTS:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

The Shire engaged a consultancy to develop an appropriate model for waste management services across all of the communities in the Ngaanyatjarra Lands. The consultancy visited each of the communities in November 2020 and identified a number of issues that present immediate risk to human health, including landfill sites that may contain asbestos and/or materials possibly containing asbestos.

Since receiving this information, the Shire has made a number of attempts to have this issue addressed by the appropriate authority without success. Accordingly, this report seeks Council endorsement of a new stronger path forward to seek an adequate remedy to this situation.

Background

Recent Correspondence

The following is a summary of the relevant correspondence that has taken place regarding waste and landfills within the Ngaanyatjarra Lands:

- 10/7/19 Letter from Shire President to Minister for Housing noting the exemption of the Department of Housing to pay any rates or waste fees in respect of the departments public housing situated in remote aboriginal communities.
- 16/7/19 Letter from Shire President to Minister for Housing requesting funding through Remote Essential Municipal Services (REMS), that is used to provide funding for waste services in the Kimberley and Pilbara Regions. Note: The Shire was omitted (by the State) from provision of such services when the Federal Government transferred service provision to the State.

Reply dated 13/11/19 referred the matter to the Department of Communities.

- 8/6/20 Letter from the Shire President to the Minister for Local Government advising of the Shire's financial sustainability issues and an inability to provide waste services without funding (due to the exemption by the State) and as such the need to reduce waste collection services to the community. Repeated the request for including rubbish collection in the existing REMS Contract with NCAC, given that this service model is already used in the Kimberley and Pilbara regions.

Reply dated 16 July 2020 indicated that the Department would need to liaise with other agencies prior to providing a response.

- 11/6/20 Letter from Shire President to Director General, Department of Water and Environmental Regulation (DWER) advising that waste collection services were unable to continue beyond 1/10/20 due to lack of funding. Restated request for urgent funding via REMS to

avoid negative environmental and health impacts to remote aboriginal communities. Noted previous agreement of 14/12/19 with the Department of Communities that the Minister would provide a letter to NCAC advising of the amendment of their REMS Contract to include rubbish services for the Shire, which has not been actioned to date.

Reply from the Director General of DWER, on 20/7/20 acknowledging that the Shire would not be required to provide a waste services which it is not able to fund, but only advised that Department of Local Government, Sport and Cultural Industries (DLGSC) was the "lead agency" on this issue and was coordinating with Department of Communities in "working towards a set of solutions".

- 9/10/20 Letter from the Minister for Housing noting that the Department of Communities "acknowledges progress in exploring options to support the Shire has been "slow" and advised a working group had been formed, which had met to work through the issues.
- 25/2/21 Letter from the Shire President to the Minister for Local Government, informing him of serious health risks (including asbestos in unlicensed community landfills) arising from a failure in the provision of waste collection and disposal services in remote aboriginal communities in the Shire.
- 30/6/21 Email to Business Systems Co-ordinator, Contaminated Sites, Science and Planning, DWER from the Shire's Environmental Health & Building Officer, asking to check DWER's Contaminated Sites Register and advise if any contaminated sites, specifically landfill sites within the Shire, were reported to DWER.
- 26/7/21 Email to Business Systems Co-ordinator, Contaminated Sites, Science and Planning, Department of Water and Environmental Regulation from the Shire's Environmental Health & Building Officer asking if this has been finalised and can the Shire access the DWERS data base to ascertain whether the Shire has any registered contaminated sites.
- 14/8/21 Email to Business Systems Co-ordinator, Contaminated Sites, Science and Planning, Department of Water and Environmental Regulation from the Shire's Environmental Health & Building Officer outlining that the Shire's CEO has submitted the Licence Agreement that they sent the Shire and that the Shire haven't heard anything from DWER regarding being able check the database for contaminated sites within the Shire.
- 17/8/21 Email from Business Systems Co-ordinator, Contaminated Sites, Science and Planning, DWER to the Shire's Environmental Health & Building Officer outlining that they appreciate that we don't have the infrastructure or staff to invest too much time on this and attached a list of sites that DWER has for the Shire of Ngaanyatjaraku.

DWER Contaminated Sites

The list of registered contaminated sites was forwarded to the Shire on 17th August 2021, and contains 10 sites that can be broken down as follows:

- Spill site (not landfill) = 1 site
- Power Station = 9 sites

In short, no landfill sites have been registered with DWER, the owner of all the known sites is the Department of Planning, Lands & Heritage. Enquiries have identified that nobody was responsible for management of the communities unlicensed landfill sites.

National Strategic Plan for Asbestos Awareness – 2019/2023

As it is highly likely that materials identified may be asbestos at some of the landfill sites, identified by the Shire's consultant, and as the sites are owned by the State Government, it is considered relevant to take a look at the above plan which the State Government is a signatory to.

The Federal Government's Asbestos Safety and Eradication Agency (ASEA) released the above plan in 2019. ASEA are also the guiding agency of the plan for all tiers of government. This plan includes actions, with the actions relevant to this matter being:

- Establishing or maintaining trusted single sources of asbestos-related information at the national and jurisdictional level.
- Collaborating to develop a national picture of where Asbestos Containing Materials (ACMs) are located in homes, commercial and public buildings, infrastructure and land.
- Encouraging effective management of asbestos contaminated land.

Signatories have given an undertaking to align their jurisdictional and local action plans with the national priorities and strategic actions. All signatories are to monitor, evaluate and report against their action plans with ASEA. ASEA have given an undertaking to support the national priorities and strategic actions by:

- Tracking performance against the national targets, and
- Collating signatories' strategic actions and where performance gaps are identified, recommend new activities.

Comment

In attempting to address this situation the Shire has persistently raised the issue of funding waste collection and the likely asbestos and other toxic materials at the existing landfills with the State Government. However, these issues have not been addressed in any significant way and the landfills have not even been registered as contaminated sites.

The Contaminated Sites Act – 2003, Part 2, Section 11 (4) eludes that the Shire does not have a statutory duty to report contaminated sites but having reported this matter to the State Government and that it appears they also have not reported them, the Shire must take further action. Hence, the Shire needs to take a stronger stance on this issue in the interests of its community's health.

As the Shire has attempted to inform the State Government of the identified potentially contaminated sites and have them registered and remediated without success, it is considered appropriate that the following actions be taken:

- The Shire officially seek to have the potentially contaminated sites, identified by its consultants, considered for registration on DWER's contaminated sites list.

The Department may not do this until it has independently confirmed by an appropriate consultancy that the sites contain asbestos and toxic substances.

- If the above action does not succeed, the Shire may consider further action:
 - The Shire inform DWER that the State Government may be in breach of the Contaminated Sites Act – 2003.
 - The Shire inform the Asbestos Safety and Eradication Agency (ASEA) of these potentially contaminated sites and ask them to ensure that the State Government meet its obligations under the National Strategic Plan for Asbestos Awareness and under the Contaminated Sites Act – 2003.

Statutory Environment

Contaminated Sites Act – 2003, Part 2 — Reporting, classifying and recording sites, Division 1 — Reporting of sites, Section 11. Reporting of known, or suspected, contaminated sites

- (1) *A person may report to the CEO (of the Department) any site that the person knows, or suspects, is contaminated.*
- (2) *A report is to —*
 - (a) *be in the prescribed form;*
 - (b) *contain a description of the location and extent of the site sufficient to identify it; and*

- (c) *summarise the information on which the person bases their knowledge or suspicion that the site is contaminated.*
- (3) *Except as provided in subsection (5), a person referred to in subsection (4) must report to the CEO any site that the person —*
 - (a) *knows is contaminated, within 21 days after the day on which the person first knew that the site was contaminated, or such later period as the CEO approves in writing before the expiry of that 21 days; or*
 - (b) *suspects is contaminated, as soon as it is reasonably practicable to do so.*
- (4) *The following persons have a duty to report a site under subsection (3) —*
 - (a) *an owner or occupier of the site;*
 - (b) *a person who knows, or suspects, that he or she has caused, or contributed to, the contamination;*
 - (c) *an auditor engaged to provide a report that is required for the purposes of this Act in respect of the site.*
- (5) *It is a defence to a charge of an offence under subsection (3) for the person to prove that the person knew or believed on reasonable grounds that —*
 - (a) *the site had already been reported to the CEO;*
 - (b) *the contamination, or suspected contamination, was caused by a discharge of waste of which the CEO had already been notified under section 72 of the EP Act; or*
 - (c) *the site was, or was to be, reported under a programme approved by the CEO under section 12, or in a programme submitted for that approval and approval has not been refused.*
- (6) *A person does not contravene subsection (3), even though he or she does not comply with that provision, during the period of 6 months after the commencement of this Act.*
- (7) *The CEO is to ensure that each owner and occupier of a site in relation to which the CEO has received a report is informed in writing within 14 days after the day on which the report was received that a report has been made under this section or that reasonable attempts have been made to do so.*
- (8) *Subsection (7) does not apply in respect of an owner or occupier who made the report.*
- (9) *A person must not report a site —*
 - (a) *maliciously; and*
 - (b) *without reasonable grounds to believe or suspect that the site was contaminated.*

Division 4 — Contaminated sites database and other records, Section 19. Contaminated sites database — public access

- (1) *The CEO is to keep an accurate and up to date contaminated sites database containing-*
 - (a) *a list of all sites classified as —*
 - (i) *contaminated — remediation required;*
 - (ii) *contaminated — restricted use;*
 - (iii) *remediated for restricted use;*
 - (b) *a description of the location and extent of each of those sites sufficient to identify it; and*
 - (c) *a description of the nature and extent of the known contamination of each of those sites.*
- (2) *The CEO is to ensure that members of the public have access, free of charge, to the contaminated sites database.*

Financial Implications

There are major financial ramifications inherent in this report to investigate the landfill sites, identify and undertake remedial action. The Shire has reported the matter to DPLH as the landowner and they are awaiting a response for funding to commence the process in the State Governments recent budget.

Strategic Implications

Integrated Strategic Plan 2018 – 2028

Goal 2, Our People

Outcome 2.2 Healthy People

Strategy, 2.2.1 No Rubbish

Goal 3, Leadership

Outcome 3.2 Good Leadership

Strategy, 3.1.2 Financially sustainable local government

Risk Management

The risk inherent in the contaminated sites is deemed “High” under the Shire’s Risk Matrix which requires a prioritised response.

Policy Implications

N/A

Attachments

N/A

Voting Requirement

Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr J Porter

Seconded: Cr A Jones

That Council endorses the following action to have the potentially Contaminated Sites, identified by the Shire’s Consultants, listed on Department of Water and Environmental Regulation Contaminated Sites register:

- (1) The Shire formally write to the Director General of the Department of Water and Environmental Regulation, officially informing of these potentially Contaminated Sites, in accordance with the Contaminated Sites Act – 2003.**

Carried: 6/0

13.3 ACTION REPORT – WORKS ENGINEER

FILE REFERENCE:	RD.00
AUTHOR'S NAME AND POSITION:	Peter Kerp Works Engineer
AUTHORISING OFFICER AND POSITION:	Les Morgan Director Infrastructure
DATE REPORT WRITTEN:	23 September 2021
DISCLOSURE OF INTERESTS:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

To inform Council of Works Engineering activities and actions for the preceding month.

Background

Not applicable

Comment

See attachment.

Statutory Environment

Not applicable

Financial Implications

No known financial implications for this matter.

Strategic Implications

Plan for the Future 2021 - 2031

Goal 2, Our Land

Outcome 5, Travelling our Land

Strategy: 5.1, Effective management and planning of road infrastructure

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "Low" risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

There are no known policy implications for this matter.

Attachments

Attachment 13.3 – Action Report, Works Engineering

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr J Frazer

That Council receives the Action Report, Works Engineering for September 2021.

Carried: 6/0

13.4 ACTION REPORT – ENVIRONMENTAL HEALTH & BUILDING SERVICES

FILE REFERENCE:	EM.00
AUTHOR'S NAME AND POSITION:	Maurice Walsh EHO & Building Officer
AUTHORISING OFFICER AND POSITION:	Les Morgan Director Infrastructure
DATE REPORT WRITTEN:	16 September 2021
DISCLOSURE OF INTERESTS:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

To inform Council of Environmental Health & Building Services activities and actions for the preceding month.

Background

Not applicable

Comment

See attachment.

Statutory Environment

Not applicable

Financial Implications

No known financial implications for this matter.

Strategic Implications

Plan for the Future 2021 - 2031

Goal 1, Our People

Outcome 2, Healthy People

Strategy: 2.2, Ensure appropriate regulatory health and waste services provision with funding

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "Low" risk and can be managed by routine procedures and is unlikely to need specific application of resources.

Policy Implications

There are no known policy implications for this matter.

Attachments

Attachment 13.3 – Action Report, EHO / Building Services

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr J Frazer

That Council receives the Action Report, EHO / Building Services for August 2021.

Carried: 6/0

13.5 REGIONAL ROADS GROUP (RRG) MEETING – AUGUST 2021

FILE REFERENCE:	RD.00
AUTHOR'S NAME AND POSITION:	Les Morgan Director Infrastructure Services
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Chief Executive Officer
DATE REPORT WRITTEN:	23 rd September 2021
DISCLOSURE OF INTERESTS:	The author has no financial, proximity or impartiality interest in the proposal.

Background

The following is a summary of the discussion points of the RRG meeting held in August 2021.

Road Asset Preservation Model

The Preservation Model was considered by State Council in May. In line with the State Council resolution, WALGA President wrote to Chair of the Local Government Grants Commission, requesting that Commission officers be available to brief RRGs on those changes.

Condition Assessment of Roads of Regional Significance

Talis commenced the second phase of the project to assess the condition of Roads of Regional Significance, which covers the Goldfields regions. The survey also includes videos of significant unsealed roads and condition of access roads to remote Aboriginal communities. The Shire of Ngaanyatjarraku was the first Shire to have completed this work.

Road Safety Management System

WALGA, MRWA and South-West RRG finalised changes to project priority guide and criteria model to provide more focus on road safety when setting road programs. This is an important pilot to deliver the commitment agreed in the State Road Funds to Local Government Agreement to establishing a road safety management system.

Regional Road Safety Program

\$35m program for sealed shoulders and audible edge lines on 1000km of Local Government roads in 21/22 developed with Local Governments and MRWA. Program completed in 6 month lots from July 21. First round of projects approved by Federal Government.

Regional Roadworks Signage Review

Engagement with Local Governments, traffic management industry, contractors, transport industry and public about their experience with roadworks signs in regional Western Australia. This consultation together with findings of video-recorded drive of road works and desktop analyses were used to inform recommendations to the Minister for Transport.

Draft State Infrastructure Strategy

Work commenced to identify opportunities, threats and missed chances for Local Government because of the infrastructure strategy as set out in draft "Foundations for a Stronger Tomorrow". Local Governments encouraged to participate in the forums being delivered by Infrastructure WA.

Preferred Supplier Program

With the completion of the transition process for Roads Infrastructure and Depot Services, WALGA's is focusing on improving the Preferred Supply Panel. First stage of process is reviewing the suite of specifications available. The review is being undertaken with technical consultants and industry bodies to ensure relevance. Local Government encouraged to provide feedback on specs or Supplier Performance.

Comment

The condition assessment of Roads of Regional Significance will give the Shire more relevant and up to date data for grant submissions involving Roads of Regional Significance within the LGA. This project also presented the Shire with the opportunity to engage the condition rating consultancy at a very cost-effective price to undertake condition rating of the Shire's roads. This has been completed and results are awaited.

There are some concerns about the new proposed Road Safety Management System, as it is inherently biased towards higher trafficked roads in metropolitan LGA's due to there not being a per-capita ingredient to balance priorities. For example, if a road that had a traffic volume of 15 vehicles per day had 5 crashes on it annually, it would more than likely be prioritised below a road that had a traffic volume of 200 vehicles per day and 15 crashes of a similar nature, due to the number of crashes alone. However, if the roads were assessed on the number of accidents per 10,000 vehicles, then a different picture may be shown on which road is the most dangerous as shown in the table below:

Criteria	Road A	Road B
Vehicles per day	15	200
Serious crashes per annum	5	15
Vehicles per annum	5,475	73,000
Serious crashes per 10,000 vehicles	9.0	2.0

Hence, 9 out of every 10,000 vehicles using Road A are involved in a serious crash, whilst 2 out of every 10,000 vehicles using Road B are involved in a serious crash. This clearing shows that the risk of having an accident on Road A is 4½ times greater than on Road B. This underlines the importance of this per-capita equalising factor. More accidents do not necessarily mean it is a more dangerous road. Hence, the Shire has submitted comments on this proposal to correct this bias that does not give a true picture of the danger a road may present.

Statutory Environment

Not applicable

Financial Implications

No known financial implications for this matter.

Strategic Implications

Plan for the Future 2021 - 2031

Goal 2, Our Land

Outcome 5, Travelling our Land

Strategy: 5.1, Effective management and planning of road infrastructure

Risk Management

This item has been evaluated against the Shire's Risk Management Assessment Matrix. The perceived level of risk is "Low" and is unlikely to need specific application of resources.

Policy Implications

There are no known policy implications for this matter.

Attachments

Not applicable

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr J Porter

Seconded: Cr L West

That Council receives the report.

Carried: 6/0

13. NEW BUSINESS OF AN URGENT NATURE AS ADMITTED BY DECISION

14. CONFIDENTIAL MATTERS

15. NEXT MEETING

Scheduled for Wednesday, 27 October 2021 at the Tjulyuru Cultural and Civic Centre, Warburton Community commencing at 1:00 pm.

16. CLOSURE OF MEETING

There being no further business to discuss the Presiding Member closed the meeting at 2.00pm.