



Shire of Ngaanyatjaraku

ON A JOURNEY

ORDINARY MEETING OF COUNCIL MINUTES

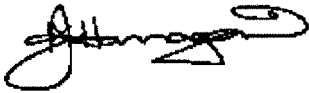
**Tjulyuru Cultural and Civic Centre
Warburton Community**

19 September 2018

SHIRE OF NGAANYATJARRAKU
ORDINARY MEETING OF COUNCIL

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

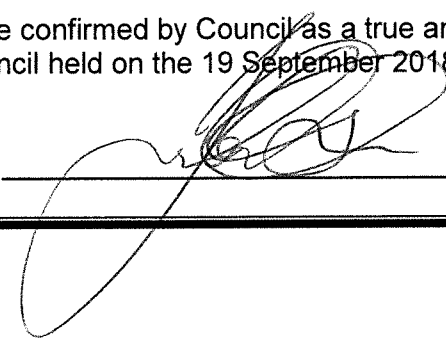
ACEO



Date: 19-09-2018

These minutes were confirmed by Council as a true and correct record of proceedings of the Meeting of Council held on the 19 September 2018.

Presiding Member: _____



Date: 26/10/2018

DISCLAIMER

The resolutions contained in these Minutes have not been confirmed by Council. The Shire of Ngaanyatjarraku warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Ngaanyatjarraku for any act, omission or statement or intimation occurring during a Council meeting.

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1. DECLARATION OF OPENING

The Presiding Member declared the meeting open at 1.12 pm.

2. ANNOUNCEMENT OF VISITORS

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

3. ATTENDANCE

3.1 PRESENT

Elected Members:	President Councillor Councillor Councillor Councillor	D McLean L West D Frazer A Jones... A Bates
Staff:	CEO	K Hannagan
Guests:	Nil	
Members of Public:	There were no members of the public in attendance at the commencement of the meeting.	

3.2 APOLOGIES

Cr P Thomas

3.3 APPROVED LEAVE OF ABSENCE

Cr. J Frazer

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) with not 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 leased land 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**
- 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 HELD 29 August 2018 (ATT 9.1)**

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr L West

That the Unconfirmed Minutes of the Ordinary Meeting of Council held on 29 August 2018 at the Council Chambers, Tjulyuru Cultural and Civic Centre, Warburton Community (ATTACHMENT 9.1) be confirmed as a true and accurate record.

Carried: 5/0

10. CEO REPORTS

10.1 PROGRESS ON THE IMPLEMENTATION OF COUNCIL DECISIONS, STATUS REPORT FOR AUGUST 2018

FILE REFERENCE:	GV.05
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	15 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author has no financial, proximity or impartiality interests 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

Wherever possible, Council decisions are implemented as soon as practicable after a Council meeting. However, there are projects or circumstances that mean some decisions take longer to action than others.

Ongoing monthly reports will show the status of Council Resolutions that have not been actioned.

Statutory Environment

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."

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'.

Financial Implications

There are no known financial implications for this matter.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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 10.1 - Council Resolutions - Status Report to August 2018.

Voting Requirement

Simple Majority

Officers Recommendation and Council Resolution

Moved: Cr D Frazer

Seconded: Cr A Jones

That Council notes the attached Council Resolutions – Status as at August 2018 (Attachment 10.1) and this report.

Carried: 5/0

10.2 ADMINISTRATIVE COMPLIANCE

FILE REFERENCE:	CS.06
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	15 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author has no financial, proximity or impartiality interests in the proposal.

Summary

For Council to consider the Monthly Report of outstanding actions to achieve administrative compliance with the Local Government Act 1995 and other projects / tasks.

Background

The Minister for Local Government appointed an Approved Adviser to work with the Shire to meet the administrative requirements of the Local Government Act 1995. The Approved Advisers' Scope of Work is to "Undertake a review of the Shire's policies, systems and procedures to establish the level of compliance with the legislative provisions of the Local Government Act 1995". The Approved advisor has also requested that other important projects / tasks / actions involving operational matters also be added to the calendar.

Comment

Shire Staff have compiled for the Approved Adviser and Council a list of tasks to be undertaken, commonly known as a Compliance / Action Calendar.

A copy of the list of tasks is attached for Councillors information. Further monthly reports will be made to Council advising progress against the task 'due dates'.

The main remaining items outstanding to achieve compliance are the Annual Report for 2016/17 and Audit for 2016/17 Financial Year End. Significant progress is now being made and it is proposed to be compliant by the end of December 2018.

Statutory Environment

Local Government Act 1995, various sections

Local Government (Financial Management) Regulations 1996, various sections

Local Government (Audit) Regulations 1996, various sections

Local Government (Administration) Regulations 1996, various sections

Financial Implications

The costs associated with the Approved Adviser are to be borne by Council, the Annual Budget takes this into account.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "High" risk and will require excellent controls,

managed by senior management / executive and subject to monthly monitoring with specific application of resources.

Policy Implications

There are no known Policy implications for this matter.

Attachments

Attachment 10.2 - Compliance Action List as at 15 September 2018

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr A Jones

That Council notes Compliance / Action Calendar as at 15 September 2018 (Attachment 10.2) and this Report..

Carried: 5/0

10.3 ATTENDANCE BY TELEPHONE CR THOMAS

FILE REFERENCE: GV.00

AUTHOR'S NAME AND POSITION: Kevin Hannagan
Acting Chief Executive Officer

DATE REPORT WRITTEN: 15 September 2018

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial, proximity or impartiality interests in the proposal.

Summary

For Council to consider a request from Cr Thomas to attend the next Ordinary meeting of Council by telephone.

Background

Cr P Thomas has advised that he may not be able to attend the next ordinary meeting of Council in person and has requested Council approval to attend by telephone.

Comment

Not applicable

Statutory Environment

Local Government Act 1995

5.25. Regulations about council and committee meetings and committees

- (1) *Without limiting the generality of section 9.59, regulations may make provision in relation to —*
- (a) *the matters to be dealt with at ordinary or at special meetings of councils; and*
 - (b) *the functions of committees or types of committee; and*
 - (ba) *the holding of council or committee meetings by telephone, video conference or other electronic means;*

Local Government (Administration) Regulations 1996

14A. Attendance by telephone etc. (Act s. 5.25 (1) (ba))

- (1) *A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if —*
- (a) *the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting; and*
 - (b) *the person is in a suitable place; and*
 - (c) *the council has approved* of the arrangement.*
- (2) *A council cannot give approval under subregulation (1)(c) if to do so would mean that at more than half of the meetings of the council, or committee, as the case may be, in that financial year, a person who was not physically present was taken to be present in accordance with this regulation.*

(3) *A person referred to in this regulation is no longer to be taken to be present at a meeting if the person ceases to be in instantaneous communication with each other person present at the meeting.*

(4) *In this regulation —*

suitable place means a place that the council has approved* as a suitable place for the purpose of this regulation and that is located —

(a) *in a townsite or other residential area; and*

(b) *150 km or further from the place at which the meeting is to be held under regulation 12, measured along the shortest road route ordinarily used for travelling;*

townsite has the same meaning given to that term in the Land Administration Act 1997 section 3(1).

** Absolute majority required.*

[Regulation 14A inserted in Gazette 31 Mar 2005 p. 1031.]

Financial Implications

There are no known financial implications.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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

Not applicable

Voting Requirement

Absolute Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr L West

Seconded: Cr D Frazer

That Council approves Cr P Thomas request to attend the next Ordinary Meeting of Council by telephone.

Carried: 5/0

10.4 AMENDMENT TO ADOPTION OF 2018/19 BUDGET

FILE REFERENCE:	FM.05
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	15 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author has no financial, proximity or impartiality interests in the proposal.

Summary

For Council to amend the Adopted 2018/19 Statutory Budget.

Background

The Statutory Budget was adopted at the 29 August 2018 meeting of Council.

Comment

Council adopted the following recommended due dates for the payment or rates by instalments:

Date of issue, 18 September 2018.

Option 1 (Full Payment)

Full amount of rates and charges including arrears, to be paid on or before 31 December 2018 or 35 days after the date of service appearing on the rate notice whichever is the later.

Option 2 (Two Instalments)

First instalment to be received on or before 31 December 2018 or 35 days after the date of service appearing on the rate notice whichever is later and including all arrears and half the current rates and service charges; and

Second instalment to be made on or before 29 February 2019

Option 3 (Four Instalments)

First instalment to be received on or before 27 October 2018 or 35 days after the date of service appearing on the rate notice whichever is later and including all arrears and one quarter of the current rates and service charges;

Second instalment to be made on or before 29 December 2018;

Third instalment to be made on or before 2 March 2019; and

Fourth instalment to be made on or before 4 May 2019.

It has now come to light that 2019 is not a Leap Year and thus the date of 29 February 2019 does not exist. Furthermore the Shire's provider of Business Process Management Services, ITV have also advised that some of the instalment dates are difficult to provide within their SynergySoft rating software. As such it is recommended to amend the Adopted Budget and Statutory Budget Notes to reflect this change. The date of rate notice issue will also need amending to 21 September 2018 (a date, after the Council resolution amendment).

Statutory Environment

Divisions 5 and 6 of the *Local Government Act 1995* refer to the setting of budgets and raising of rates and charges. The *Local Government (Financial Management) Regulations 1996* details the form and content of the budget. The 2018/19 Annual Budget as presented is considered to meet statutory requirements.

Financial Implications

There are no known Financial Implications associated with amending the Rate Notice issue and instalment dates.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Outcome 4.3, Sustainable service delivery

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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

Not applicable

Attachments

Not Applicable

Voting Requirement

Absolute majority required

Officers Recommendation and Council Resolution

Moved: Cr A Jones

Seconded: Cr A Bates

That Council, with respect to the adopted 2018/19 Budget and Statutory Budget Notes, amend the Rate Notice issue and instalment dates as follows:

Pursuant to section 6.45 of the *Local Government Act 1995* and regulation 64(2) of the *Local Government (Financial Management) Regulations 1996*, Council adopt the following due dates for the payment of rates by instalments:

Date of issue, 21 September 2018.

Option 1 (Full Payment)

Full amount of rates and charges including arrears, to be paid on or before 29 October 2018 or 35 days after the date of service appearing on the rate notice whichever is the later.

Option 2 (Two Instalments)

First instalment to be received on or before 29 October 2018 or 35 days after the date of service appearing on the rate notice whichever is later and including all arrears and half the current rates and service charges; and

Second instalment to be made on or before 4 March 2019

Option 3 (Four Instalments)

First instalment to be received on or before 29 October 2018 or 35 days after the date of service appearing on the rate notice whichever is later and including all arrears and one quarter of the current rates and service charges;

Second instalment to be made on or before 28 December 2018;

Third instalment to be made on or before 1 March 2019; and

Fourth instalment to be made on or before 6 May 2019.

Carried: 5/0

10.5 APPROVAL OF INVOICES FOR PAYMENT

FILE REFERENCE:	FM.07
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	15 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author has a financial, proximity or impartiality interests in the proposal.

Note: Acting Chief Executive Officer to leave the Council Chamber prior to resolution of this item.

Summary

For Council to approve two Invoices from Core Business Australia for payment.

Background

The first invoice is related to previous Chief Executive Officer engaging Core Business Australia to provide contractor relief for the Deputy Chief Executive Officer position. The author of this report is an Associate of Core Business Australia and has provided casual relief services on an 'as required' basis by the Chief Executive Officer prior to his appointment by Council as an employee in June 2018. The former Chief Executive officer would also approve payment of subsequent invoices for services rendered.

The second invoice is related to a progress payment for RFQ 2017/18, Youth Services Review that Council awarded to Core Business Australia at its July 2018 Council meeting.

Comment

The Chief Executive Officer finished with Council before invoice one was received and the Acting Chief Executive Officer is not able to authorise invoices for payment that are related to him. Even though Council awarded services related to the second invoice, the Acting CEO still has a conflict in approving the payment. As such it is proposed to refer the attached invoices to Council for approval for payment.

Statutory Environment

Local Government Act 1995

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.*

Financial Implications

The associated cost of DCEO position has been made in the 2018/19 adopted budget.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.4.3, Provide local government services

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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

Not Applicable

Attachments

Attachment 10.5(a) – Core Business Australia, Invoice 0793

Attachment 10.5(b) – Core Business Australia, Invoice 0800

Voting Requirement

Simple Majority Required.

The Acting Chief Executive Officer left the Chamber at 1.25pm.

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr L West

That Council approves the attached Invoices 0793 and 0800 from Core Business Australia for payment.

Carried: 5/0

The Acting Chief Executive Officer returned to the Chamber at 1.26pm.

10.6 ROADS TO RECOVERY FUNDING UPDATE

FILE REFERENCE: GR.00

AUTHOR'S NAME AND POSITION: Kevin Hannagan
Acting Chief Executive Officer

DATE REPORT WRITTEN: 15 September 2018

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial, proximity or impartiality interests in the proposal.

Summary

For Council to be updated on the Roads to Recovery Funding Program.

Background

The Roads to Recovery Program supports the maintenance of the nation's local road infrastructure asset, which facilitates greater access for Australians and improved safety, economic and social outcomes.

Roads to Recovery Program allocations for the councils in each jurisdiction (except the ACT as it is a unitary jurisdiction) have been determined on the basis of the recommendations of the Local Government Grants Commissions in each state and the Northern Territory for the roads component of the Financial Assistance Grants.

Under the Roads to Recovery Program, direct funding to local councils is distributed according to a formula based on population and road length set by the Local Government Grants Commissions in each state and the Northern Territory. Each council's Roads to Recovery allocation is fixed for the life of the Program.

The five year grant program to the Shire of Ngaanyatjaraku for 2014 – 2019 is \$5,137,669.

Comment

In June 2018 the Shire was advised by Manager, Roads to Recovery that funding for the Shire of Ngaanyatjaraku had been stopped due to non-compliance with the Grant Conditions. Councils are required to provide Quarterly and Audited Annual Reports to the Department of Infrastructure, Regional Development & Cities (DIRDC). The Shire had not submitted any returns since its 2014/15 Annual Report and was to lose \$3,507,669 in funding as the program ends on 30 June 2019 and unspent funds would not be paid.

As part of the reporting requirements each Council is to provide an agreed amount of Shire 'own Source Expenditure' towards roads expenditure. This amount is known as the OSE Reference Amount and for the Shire is \$464,142.

Since June 2018 the 2015/16 Audited Annual Report was completed and sent to Roads to Recovery for acceptance. Unfortunately the Shires OSE Reference amount for the second year of the program was well under the amount required to be spent by the Shire. As such the Shire was in further breach of its agreement with DIRDC and the Shire was advised it would be receiving an official breach notice from the Minister in charge of the program. Since that time the 2016/17 and 2017/18 Annual Reports have been completed / audited and the Shire is now within its OSE Reference Amounts.

After further negotiation with the Department the following has been agreed:

1. Funding of \$3,507,669 will now be accessible to the Shire to be spent by 30 June 2019;
2. Approval on spending these funds on major improvements along the full length of the Jameson Wannan Road, commonly known as the 'Cutline'.
3. Advice attached from DIRDC that they have decided to Exempt the Shire of Ngaanyatjaraku from the Conditions set out in Part 3 of the Roads to Recovery funding conditions in respect of Councils OSE for 2015-16.

Statutory Environment

Local Government Act 1995

- 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.*

Financial Implications

The Shire will no longer be losing \$3,507,669 from the Roads to Recovery Grant Program.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.4.3, Provide local government services

Risk Management

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

Policy Implications

Not Applicable

Attachments

Attachment 10.6 – Letter from Department of infrastructure, Regional Development & Cities

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr A Jones

That Council notes this report and that the Shire is now compliant with conditions associated with the Roads to Recovery Grant Program.

Carried: 5/0

10.7 FINANCIAL ASSISTANCE GRANTS, ROAD FUNDING

FILE REFERENCE: RD.00

AUTHOR'S NAME AND POSITION: Kevin Hannagan
Acting Chief Executive Officer

DATE REPORT WRITTEN: 15 September 2018

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial, proximity or impartiality interests in the proposal.

Summary

For Council to be updated on the Financial Assistance Grants Funding Program for Roads.

Background

The Financial Assistance Grant program consists of two components:

1. a general purpose component which is distributed between the states and territories according to population (i.e. on a per capita basis), and
2. an identified local road component which is distributed between the states and territories according to fixed historical shares.

Both components of the grant are untied in the hands of local government, allowing councils to spend the grants according to local priorities.

Local government grants commissions in each State and the Northern Territory recommend the distribution of the funding under the Financial Assistance Grant program to local governing bodies in accordance with the Act and the National Principles for allocating grants.

The 2017/18 Road grant allocation for the Shire was \$607,588.

Comment

A review has been undertaken of the shires Road network and the Shires Road Asset Management Maintenance System (RAMM) has been updated. This system is uploaded each year for checking by Main Roads WA and is submitted to the Grants Commission to be used in determining each Councils Road Grant allocation. Effectively if the length of a Councils Road network increases then their maintenance and renewal requirement has also increased and as such there will be a change to the grant provided.

As a result of more accurate road length data now contained in the Shires RAMM system the Shires 2018/19 Road Grant has increased by \$49,621 to \$657,209.

This increase in funds will be taken up in the Shires Mid-year Budget Review.

Statutory Environment

Local Government Act 1995

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.*

Financial Implications

The Shire will receive an increase of \$49,621 in 2018/19 from the Financial Assistance Grant Program for Road funding.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.4.3, Provide local government services

Risk Management

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

Policy Implications

Not Applicable

Attachments

Not Applicable

Voting Requirement

Simple Majority Required.

1.31pm Cr D Frazer left the Chamber.

1.35pm Cr D Frazer returned to the Chamber.

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr L West

That Council notes this report and that the Shire will take up the increase in funding in its Mid-Year Budget Review.

Carried: 5/0

10.8 ANNUAL REPORTS 2014/15 & 2015/16 AND AGM OF ELECTORS

FILE REFERENCE:	CS.13
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	16 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author has no financial, proximity or impartiality interests in the proposal.

Summary

The Local Government Act 1995 ("the Act") requires that Council accepts the draft Annual Report for 2014/15 and 2015/16, including the Financial and Auditors Report, no later than 31 December or within two months of the Auditor's Report becoming available if that is not received prior to 31 December of that FYE.

Council is also required to select a date, time and venue for the Annual General Meeting of Electors.

Background

Under section 5.53 of the Act, the Shire is required to prepare an Annual Report for each financial year. The report is to contain:

- A report from the Shire President and the Chief Executive Officer;
- An overview of the Plan for the Future, including any major initiatives that are proposed to commence or continue in the next financial year;
- The Financial Report;
- The Auditor Report;
- Prescribed information in relation to payments made to employees; and
- Any other prescribed information.

Copies of the Annual Reports for 2014/15 and 2016/16 will be placed on the Shire's website when adopted.

Council is also requested to give consideration to determining the date, time and location of the Annual General Meeting (AGM). The meeting must be held within 56 days from the date Council accepts the Annual Report and Financial Statements. If Council accepts the Annual Report at this meeting the latest possible date for the AGM is Tuesday, 13 November 2018.

Comment

It is recommended the Annual Report be considered by the electors of the Shire at the AGM to be held on the 24 October 2018 commencing at 1.00 pm prior to the Ordinary Meeting of Council in Warburton.

Statutory Environment

Local Government Act 1995

5.27. *Electors' general meetings*

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

5.29. *Convening electors' meetings*

- (1) *The CEO is to convene an electors' meeting by giving —*
 - (a) *at least 14 days' local public notice; and*
 - (b) *each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.*
- 2) *The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.*

5.53. Annual reports

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain —*

5.54. Acceptance of annual reports

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.*

** Absolute majority required.*

Financial Implications

The financial implications are detailed in the Annual Financial Report.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

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

Policy Implications

Not Applicable

Attachments

Attachment 10.8(a) – Annual Report 2014/15

Attachment 10.8(b) – Annual Report 2015/16

Copies will be provided to Councillors and tabled at the meeting and will also be publicly available at the Shire Office Reception or on request 3 days prior to the meeting.

Voting Requirement

Absolute Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr A Jones

That with respect to the 2014/15 and 2015/16 Annual Reports, Council:

- 1. Accepts the 2014/15 and 2015/16 Annual Reports as per Attachments 10.8(a) & 10.8(b);**
- 2. Hold the Annual General Meeting of Electors on 24 October 2018 commencing at 1.00 pm prior to the Ordinary Meeting of Council in Warburton; and**
- 3. Advertise the 2014/15 and 2015/16 Annual Reports and Annual General Meeting of Electors giving at least 14 days local public notice in accordance with section 5.29 of the Local Government Act 1995.**

Carried: 5/0

10.9 COUNCILLOR RESIGNATION

FILE REFERENCE: GV.07

AUTHOR'S NAME AND POSITION: Kevin Hannagan
Acting Chief Executive Officer

DATE REPORT WRITTEN: 16 September 2018

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial, proximity or impartiality interests in the proposal.

Summary

For Council to be advised of the response letter from the WA Electoral Commissioner.

Background

At the August meeting Council resolved:

"That pursuant to section 4.17(3) and 4 (A) of the Local Government Act 1995, Council requests the WA Electoral Commissioner to permit the vacancy created by the resignation of Councillor Beverley Thomas to remain unfilled until the next ordinary election in October 2019."

Comment

A response letter has now been received from the WA Electoral Commissioner advising of approval to defer filling the vacancy until the October 2019 ordinary Elections.

Statutory Environment

Local Government Act 1995:

4.17. Cases in which vacant offices can remain unfilled

(3) If a councillor's office becomes vacant under section 2.32 and under subsection (4A) this subsection applies, the council may, with the approval of the Electoral Commissioner, allow the vacancy to remain unfilled and, subject to subsection (4), in that case, the term of the member who held the office is to be regarded in section 4.6 as ending on the day on which it would have ended if the vacancy had not occurred.*

** Absolute majority required.*

(4A) Subsection (3) applies —

(a) if —

(i) the office is for a district that has no wards; and

(ii) at least 80% of the number of offices of member of the council in the district are still filled; or

(b) if —

(i) the office is for a ward for which there are 5 or more offices of councillor; and

(ii) at least 80% of the number of offices of councillor for the ward are still filled.

(4) If an ordinary or an extraordinary election is to be held in a district then an election to fill any vacancy in the office of councillor in that district that was allowed to remain unfilled under subsection (3) is to be held on the same election day and Division 9 applies to those elections as if they were one election to fill all the offices of councillor for the district or ward that need to be filled.

Financial Implications

There are now no financial implications related with this item.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership
Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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

Not applicable

Attachments

Attachment 10.9 – Letter from WA Electoral Commissioner.

Voting Requirement

Simple majority

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr A Jones

That Council receives the letter from the WA Electoral Commissioner (Attachment 10.9) advising of approval to defer filling the vacancy created by the resignation of Councillor Beverley Thomas until the October 2019 ordinary Elections.

Carried: 5/0

11. DEPUTY CEO REPORTS

11.1 PAYMENTS LISTING, AUGUST 2018

FILE REFERENCE:	FM.07
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	15 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

For Council to confirm the payment of accounts listed in the Accounts for Payment, August 2018.

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

Not applicable.

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

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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 11.1 – Payment Listings, August 2018

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr D Frazer

That Council receives the Payment Listings, August 2018 totalling payments of \$919,166.90, as per Attachment 11.1.

Carried: 5/0

11.2 COUNCIL INVESTMENTS AS AT 15 SEPTEMBER 2018

FILE REFERENCE:	FM.04
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	15 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	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 at 15 September 2018.

Background

To invest the Shire of Ngaanyatjaraku 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 Shire had in its Asset Replacement Reserve, funds from the State Government's grant for Royalties for Regions for the Early Years Learning Centre for the building extensions. Now that the project has been finished the funds plus interest (\$625,253) have been transferred to the Shire's Municipal Account as project payment have been made from that account.

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 amount invested in the Cash Management Account includes \$1,200,000 of 2018/19 Financial Assistance Grants paid in advance and approximately \$350,000 of Employee Entitlements.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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 CS2.7 Investments.

Attachments

Attachment 11.2 – Westpac screen print of Municipal and Investment Accounts

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr A Jones

That the report on Council Investments as at 15 September 2018 be received.

Carried: 5/0

11.3 SUNDRY DEBTORS – RATES (MINING TENEMENTS)

FILE REFERENCE:	FM.08
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	15 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

For Council to consider writing-off an irrecoverable rate debtor for mining tenement E69/03068, Assessment 2527.

Background

As per August Council Report, a review of remaining rate debtor balances has been undertaken to determine action required to clean up the outstanding debtors.

Comment

A follow up letter to the holder of the above Mining Tenement has resulted in advice from the tenement holder that:

- due to repeated unsuccessful attempts to secure an Access Agreement to enter the tenement, investors had pull out from the company;
- the tenement was forfeited by the Mining Department two months ago due to unpaid Rent; and
- the company is insolvent and has filed for deregistration.

As such the Shire will not be able to recover the debt.

Statutory Environment

Local Government Act 1995

6.12. Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
- (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
- (b) *wave or grant concessions in relation to any amount of money; or*
- (c) *write off any amount of money,*
which is owed to the local government.

** Absolute majority required.*

Financial Implications

The write-off of the rate debtor considered irrecoverable will result in an expense to the Shire for the 2018/19 Financial Year End of \$1,305.13.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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

Attachment 11.3 – Register for Tenement E69/03068.

Voting Requirement

Simple Majority Required.

Officer's Recommendation**Officers Recommendation and Council Resolution**

Moved: Cr A Jones

Seconded: Cr A Bates

That Council approves the write-off the balance of mining tenement rate debtor Assessment A2527 of \$1,305.13 which includes penalty interest.

Carried: 5/0

11.4 REVIEW OF WARTA SHOP STOCK FOR WRITE-OFF

FILE REFERENCE:	PE.00
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	15 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

For Council to consider writing-off obsolete stock from the Warta Shop with a stock value of \$6,326.

Background

Each June financial year end a stock-take is undertaken to ascertain the stock value of paintings and aboriginal artifacts stock on hand..

Comment

Generally the stock level is valued around \$30,000 to \$50,000. As at 30 June 2018 the stock-take valued stock as follows:

Artefacts			\$	3,843.00
Clothing			\$	270.00
Books / CDs / DVDs			\$	27,495.00
Miscellaneous			\$	2,596.00
Jewellery			\$	268.00
Paintings / Artworks			\$	60,898.00

Books / CDs / DVDs stock is higher than previous years as items that were previously held in storage were not included in the stock-take.

Paintings / Artworks are considerably higher as stock was recently purchased from Warakurna and added to the collection. Additionally tourist numbers visiting the shop of dropped remarkably due to recent adverse comments on Grey Nomad travel websites. As such painting sales have slowed and the Shire has had to reduce purchases of stock as stock levels are now exceptionally high.

Attachment 11.4 lists items held in stock for some time that are not selling, as such they should be written off. It is proposed to keep these items as give-away gifts with purchases from the Warta Shop.

Statutory Environment

Local Government (Functions and General) Regulations 1996

30. *Dispositions of property excluded from Act s. 3.58*

-
(3) A disposition of property other than land is an exempt disposition if —
(a) its market value is less than \$20 000;

Financial Implications

The write-off of the stock considered obsolete will result in an expense to the Shire for the 2018/19 Financial Year End of \$6,326.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjarraku's 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

Attachment 11.4 – Warta Shop items for write-off.

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr L West

Seconded: Cr A Bates

That Council approves the write-off of the obsolete items contained in Attachment 11.4 with a total stock value of \$6,326.

Carried: 5/0

11.5 GVROC – GOLDFIELDS RECORDS STORAGE FACILITY

FILE REFERENCE:	IM.14
AUTHOR'S NAME AND POSITION:	Kevin Hannagan Deputy Chief Executive Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	16 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

For Council to consider withdrawing from the Joint Venture to save the Shire \$17,600 per annum for a facility the Shire does not use.

Background

In January 2013 ten of the GVROC Shires entered into a joint venture agreement to create and manage a regional archives and records management and storage facility to be located in Kalgoorlie.

Comment

The purpose of the project was:

- (1) To raise the overall level of records management capacity within local governments in the Region in a manner that provides maximum efficiency but does not raise the overall cost of records management activities for any one or more of the Participants; and
- (2) To develop a commercial records storage business that is easily accessed by the Participants, and which services the Region, and which will provide a commercial rate of return to the Participants which underwrite and participate in the Project.

The Shire of Ngaanyatjarraku has paid annual operating costs of \$17,600 per annum for the last 5 years but has never used the facility. As such this conflicts with purpose (1) above in that it has provided no efficiency and has raised overall the cost of records management for the Shire.

The Acting Chief Executive Officer has recently visited the facility in Kalgoorlie and can advise that the facility is not fire proofed or has an overhead fire system installed. As such the facilities on offer are no different than the Shires compactus system located in Warburton.

Shire officers will soon be undertaking a project to clean and tidy-up the whole office environment that is currently very untidy and dusty. It is proposed to review all records management and consider other off-site storage located in Warburton.

As such there is no value to the Shire in remaining a party to the 2013 agreement. It is noted that in 2017 a new agreement was proposed but the Shire has not yet signed this agreement.

Statutory Environment

Section 3.61. Establishing regional local government

- (1) *Two or more local governments (referred to in this Division as the participants) may, with the Minister's approval, establish a regional local government to do things, for the participants, for any purpose for which a local government can do things under this Act or any other Act.*

Financial Implications

The Shire is required to give three months' notice and will be required to pay its pro-rata quarterly payment upon withdrawal.

Furthermore the Shire would be liable for its share of any liabilities over assets of the Joint Venture. The Annual Financial Statement information provided to the Shire indicates that the joint venture has now liabilities in excess of assets. An email request has been made to the CEO of the Shire of Coolgardie who is the Manager of the Goldfields Record Storage Facility to confirm this.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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

Not Applicable

Voting Requirement

Simple Majority Required

Officers Recommendation and Council Resolution

Moved: Cr A Bates

Seconded: Cr A Jones

That Council in accordance with the GVROC, Archives and Record Management Agreement, 2013:

- 1. Gives the Shire of Coolgardie three months' notice of the Shire of Ngaanyatjaraku's intention to withdraw from the joint venture;**
- 2. Agrees to pay a proportion of its contribution to the projects budget (calculated pro-rata to date of retirement); and**
- 3. Subject to confirmation from the Shire of Coolgardie that the Shire of Ngaanyatjaraku's share of any liabilities of the joint venture to the extent they do not exceed its share of the assets of the joint venture.**

Carried: 5/0

12. EHO & BUILDING SERVICES REPORTS

12.1 ACTION REPORT – ENVIRONMENTAL HEALTH & BUILDING SERVICES

FILE REFERENCE:	EM.00
AUTHOR'S NAME AND POSITION:	Phil Swain Principal EHO & Building Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	16 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

To inform Council of Environmental Health program & Building Services activities and actions through the period on-site August 2018.

Background

Not applicable

Comment

Also attached is a copy of the Food Act 2008 and Public Health Act 2016 Report submitted in accordance with the Food & Health Act.

Statutory Environment

Not applicable

Financial Implications

No known financial implications for this matter.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership

Outcome 4.2, A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku's 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 12.1 – Action Report, EHO / Building Services, August 2018

Attachment 12.2 - Food Act 2008 and Public Health Act 2016 Report

Voting Requirement

Simple Majority Required.

Officers Recommendation and Council Resolution

Moved: Cr A Jones

Seconded: Cr L West

That Council receives the Action Report, EHO / Building Services for August 2018.

Carried: 5/0

12.2 NGAANYATJARRA COUNCIL – PROPOSED USE OF 10 YEAR BATTERY LIFE TAMPERPROOF SMOKE DETECTORS IN DWELLINGS

FILE REFERENCE:	DB:02
AUTHOR'S NAME AND POSITION:	Phil Swain Health & Building Officer
AUTHORISING OFFICER AND POSITION:	Kevin Hannagan Acting Chief Executive Officer
DATE REPORT WRITTEN:	9 September 2018
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.

Summary

Ngaanyatjarra Council Administration have requested, on behalf of the Department of Communities, that the Shire approve the use of ten (10) year battery life, tamperproof smoke detectors in place of hard-wired detectors, in houses throughout the communities of the Shire.

Background

When the Building Act 2011 and Building Regulations 2012 were introduced, they reinforced the requirements for hardwired smoke detectors in all new housing, whenever property ownership is transferred and for all dwellings that are let or hired. These provisions are extremely important and were applied retrospectively, Australia wide, after a tragedy in Queensland in 2000 which killed 15 people. As all community dwellings are effectively let and the vast majority of these are community housing, the current smoke detector requirements apply to all housing within the Shire.

In 2016, following an approach from Housing WA requesting that, under existing provisions within the Regulations, that the Shire approve the broad scale use of ten (10) year battery life, tamperproof smoke detectors. The Shire advised that, at that time, it was not prepared to approve the use of ten (10) year battery life, tamperproof smoke detectors within the Shire of Ngaanyatjarraku. The reasons for this were as follows;

- The exemption from hardwired smoke detectors exists for structural reasons (e.g. requiring extensive conduits on heritage buildings) and other reasons that are “beyond the control of the owner”;
- The predominant reason (on advice) for power outages in housing on the lands is the Housing Authority's requirement for pre-payment of power;
- The Housing Authority has indicated that it wishes to install the ten (10) Year Battery Life Tamperproof Smoke Detectors on all properties across the Shire of Ngaanyatjarraku. The legislation is intended for this to be considered on a case by case basis and a blanket approval is not in keeping with, or necessarily compliant with the Regulations; and
- By issuing an approval on any property the Shire, is in part, assuming some liability that in the circumstances, the detector will be adequate. Without knowing the layout of the dwelling or the circumstances in which each unit was fitted the Shire cannot satisfy itself that it has acted in accordance with the Regulations.

At that time, the Shire also advised that whilst there could be reasonable justification in some circumstances, (e.g. regular shutdown of an individual community's power supply, beyond the Housing Authority's control, or for structural reasons), that the Housing Authority was at liberty to raise the matter with the Building Commissioner to consider the Authority's circumstances and possibly for the State to approve the proposal, (e.g. Ministerial exemption).

There are some 354 public housing properties across the Ngaanyatjarra region, although not all of these are within the Shire of Ngaanyatjaraku.

Comment

The Ngaanyatjarra Council has requested, on behalf of the Department of Communities, that the Shire reassess this matter with a view to approving applications for houses in communities throughout the Shire of Ngaanyatjaraku.

Advice from the Building Commission and other local governments confirms that the correct application of Regulation 61 requires that the Shire assess individual dwelling applications on a case by case basis. This is essentially because internal floor plans vary and smoke detectors need to be placed adjacent to all dormitory areas, and in some cases, (e.g. traditional “donga” accommodation), in each unit and for the detectors to be interconnected. Where more than one smoke detector is required in a typical dwelling the detectors must be interconnected. This can be achieved with the proposed detectors, with products on the market that link wirelessly to each other.

To support this request Ngaanyatjarra Council have provided documentation, from the Department of Communities, demonstrating that dwelling inspections require staff to test safety devices, including smoke detectors, when property inspections are undertaken. This includes, that the ongoing effectiveness of the smoke detectors will be checked, as a matter of procedure, at all dwelling inspections.

Any application of this type must be in accordance with Regulation 61 of the Building Regulations 2012, be on an individual basis, and must include a floor plan showing the proposed location of the smoke detector/s in accordance with the National Construction Code and be accompanied by the current fee adopted by the Shire. The Shire currently has no fee established within its fees and charges for an approval of this type. The maximum fee under the Regulations is \$179.40 and this is proposed for adoption via amendment of the adopted 2018-19 Fees and Charges.

Statutory Environment

Regulation 61 of the Building Regulations 2012

(1) The local government of the district in which a dwelling is located may approve of the use, in the dwelling or a part of the dwelling, of a battery powered smoke alarm (rather than one that is connected to the mains power supply) if satisfied that, at the time of giving the approval, installing a smoke alarm connected to the mains power supply would involve —

- (a) a sufficient problem of a structural nature; or*
- (b) a sufficient problem of any other nature, the cause of which is not within the control of the owner.*

An approval can be retrospective and the Shire must decide on an application within 35 days of receipt of the same or the application is deemed refused. The Regulation also states;

(3) An application for approval must be made in the manner and form approved by the local government, and must include or be accompanied by —

- (a) the plans and information required by the local government; and*
- (b) the fee set by the local government, which cannot exceed \$179.40.*

Regulation 60 of the Building Regulations 2012 compels that where a smoke alarm is approved to be battery powered it must have a ten (10) year battery life and it must be constructed such that the battery can't be removed from the unit.

Local Government Act 1995

Section 5.42, Delegation of some powers and duties to CEO

(1) A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under —*

- (a) this Act other than those referred to in section 5.43; or
 - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).
- * Absolute majority required.

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

Local Government Act 1995

Section 6.16. Imposition of fees and charges

- (3) Fees and charges are to be imposed when adopting the annual budget but may be —
- (a) imposed* during a financial year; and
 - (b) amended* from time to time during a financial year.

* Absolute majority required.

Section 6.19. Local government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —

- (a) its intention to do so; and
- (b) the date from which it is proposed the fees or charges will be imposed.

Section 1.7. Local public notice

- (1) Where under this Act local public notice of a matter is required to be given, a notice of the matter is to be —
- (a) published in a newspaper circulating generally throughout the district; and
 - (b) exhibited to the public on a notice board at the local government's offices; and
 - (c) exhibited to the public on a notice board at every local government library in the district.

Financial Implications

Financial implications of this decision will be limited to staff time and resources to issue approvals and provide advice relating to the type and location of smoke detectors. Application fees are set by the local government and a maximum fee is currently regulated at \$179.40. Due to the administrative work involved in issuing individual approvals, it is proposed that the Shire set the fee at the currently permissible maximum.

Strategic Implications

Strategic Community Plan 2016 - 2026

Goal 4, Our Leadership – A strong voice representing the interest of the community

Outcome 4.2 - A capable and compliant local government

Risk Management

This item has been evaluated against the Shire of Ngaanyatjaraku, Risk Management Framework, Risk Assessment Matrix. The perceived level of risk is "High" and can only be managed with excellent controls, managed by senior management / executive and subject to monthly monitoring. Proposals for approval will be processed individually and the regular monitoring of approved alarms is currently undertaken by the Department of Communities with operational checks at each inspection of a dwelling. It is recommended that the Shire's policy position on this matter include an undertaking by the Department of Communities to provide records of inspection and repair and replacement of smoke detectors if requested by the Shire.

Policy Implications

To provide Administrative direction on this matter it is proposed that the Council resolution be adopted as a policy. The draft policy is included in **Attachment A** and is recommended for approval.

Attachments

Attachment 12.2 – Development Services Policy 3.5 – Dwelling Smoke Detectors

Voting Requirement
Simple Majority Required.

Officers Recommendation 1 and Council Resolution

Moved: Cr A Jones

Seconded: Cr A Bates

That Council:

1. approve the use of ten (10) year battery life, tamperproof smoke detectors in dwellings within the communities of the Shire of Ngaanyatjaraku, in accordance with Regulations 60 and 61 of the Building Regulations 2012, subject to the following conditions;
 - a. All applications for approval are to be on an individual dwelling basis with submission of an application form, a floor plan of the dwelling showing the location of the smoke detector/s and be accompanied by the approved fee;
 - b. All installations of ten (10) year battery life, tamperproof smoke detectors are to comply with the requirements of the Building Act 2011, the Building Regulations 2012 and the National Construction Code and relevant standards, as to the extent that they apply;
 - c. Where more than one smoke detector is required within a dwelling the units are to be interconnected; and
 - d. The Housing Authority maintaining processes and procedures to ensure that the smoke detectors in every dwelling are regularly tested and that records of inspection, testing, repairs and/or replacement of smoke detectors are to be made available to the Shire upon request; and
2. Adopts Policy DS3.5 - Dwelling Smoke Detectors (Attachment A) for the approval of ten (10) year battery life, tamperproof smoke detector/s in a dwelling

Carried: 5/0

Voting Requirement

Officers Recommendation 2 and Council Resolution

Moved: Cr A Bates

Seconded: Cr A Jones

That Council:

- 1. amends its' Delegation Register 2017 to include a new delegation to delegate authority to the Chief Executive Officer, or person Acting in that capacity from time to time, to approve or refuse applications made pursuant to Section 61 of the Building Regulations 2012; and**
- 2. gives local public notice to of its intention to amend its' 2018-19 Schedule of Fees and Charges to include under Building & Regulatory Fees – Application for Approval - ten (10) year battery life, tamperproof smoke detector/s in a dwelling - \$179.40 (GST Free), effective 1 October 2018.**

Carried: 5/0

13. EYP REPORTS

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

15. CONFIDENTIAL MATTERS

16. NEXT MEETING

Scheduled for Wednesday, 24 October 2018 at the Tjulyuru Cultural and Civic Centre, Warburton Community commencing at 1:00 pm.

17. CLOSURE OF MEETING

There being no further business to discuss the Presiding Member closed the meeting at 1.52 pm.