



**SHIRE OF ASHBURTON
PILBARA REGIONAL WASTE MANAGEMENT
FACILITY (PRWMF) COMMITTEE**

**AGENDA & ATTACHMENTS
(Public Document)**

**Council Chambers
Onslow Shire Complex
Second Avenue, Onslow
12 March 2019
9.45 am**

**AGENDA - PILBARA REGIONAL WASTE MANAGEMENT FACILITY COMMITTEE
12 MARCH 2019**

SHIRE OF ASHBURTON

PILBARA REGIONAL WASTE MANAGEMENT FACILITY (PRWMF) COMMITTEE MEETING

Notice is hereby given that a Pilbara Regional Waste Management Facility (PRWMF) of the Shire of Ashburton will be held on 12 March 2019 at the Council Chambers, Onslow Shire Complex, Second Avenue, Onslow commencing at 9.45 am.

The business to be transacted is shown in the Agenda.



Rob Paull
CHIEF EXECUTIVE OFFICER

DISCLAIMER

The recommendations contained in the Agenda are subject to confirmation by the Committee and/or endorsement by the Council. The Shire of Ashburton 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 Ashburton 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 opened at _____ am.

1.1 ACKNOWLEDGEMENT OF COUNTRY

As representatives of the Shire of Ashburton Council, we respectfully acknowledge the local Indigenous people, the traditional custodians of this land where we are meeting upon today and pay our respects to them and all their elders both past, present and future.

2. ATTENDANCE

2.1 PRESENT

Members:	Cr K White Cr D Diver	Onslow Ward (Presiding Member) Tom Price Ward
Staff:	Mr. R Paull Mr. I Hamilton Mr. B Cameron Mr. J Bingham Mrs. S Johnston Ms. J Smith Mrs. M Lewis	Chief Executive Officer Director Infrastructure Services Director Property and Development Services Director Corporate Services Acting Director Community Services Executive Coordinator Council Support Officer
Guests:		
Members of Public:	There were _____ members of the public in attendance at the commencement of the meeting.	
Members of Media:	There were _____ members of the media in attendance at the commencement of the meeting.	

2.2 APOLOGIES

Cr M Lynch Tom Price Ward

2.3 APPROVED LEAVE OF ABSENCE

3. ANNOUNCEMENT OF VISITORS

4. DECLARATION BY MEMBERS

4.1 DUE CONSIDERATION BY COUNCILLORS TO THE AGENDA

Councillors White and Diver are requested to acknowledge during the meeting that they have given due consideration to all matters contained in the Agenda.

4.2 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:

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- (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 s5.69 (3) of the Local Government Act, with or without conditions.

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Declarations of Interest provided:

Item Number/ Name	Type of Interest	Nature/Extent of Interest

5. PILBARA REGIONAL WASTE MANAGEMENT FACILITY COMMITTEE MEETING HELD ON 19 JUNE 2018

Officers Recommendation

That the Unconfirmed Minutes of the Pilbara Regional Waste Management Facility Committee (PRWMF) Meeting (**ATTACHMENT 5.1**) held on 19 June 2018, be confirmed as a true and accurate record.

6. TERMS OF REFERENCE

Members: Crs Diver, Lynch and White.
Deputies: All other Councillors.
Secretariat: Acting Director Infrastructure Services or nominee.
Membership: 3 Councillors.
Quorum: 2 Councillors.
Purpose: The Committee is to undertake the task of overseeing the PRWMF construction project and to make recommendations to Council as per the following Roles and Responsibilities:

- Progress against the project timeline;
- Income / Expenditure, Actual versus Budget;
- Milestone reports to funding bodies;
- Any designs and reports regarding estimated cost, risk, and deliverables;
- Major variations (over \$150,000 in cost, or exceed total budget, or change in scope that affects functionality or purpose of the facility) for recommendation to Council;
- Performance requirements as required under funding agreements;
- Proposed variations to the terms of the funding agreements;
- Final documented designs before presentation to Council for endorsement; and
- Project progress reports and major variation requests during construction.

Meeting cycle: As required.

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7. AGENDA ITEMS

**7.1 PILBARA REGIONAL CLASS IV WASTE MANAGEMENT FACILITY,
ONslow – INCOME & EXPENDITURE REPORT**

FILE REFERENCE:	WM07
AUTHOR'S NAME AND POSITION:	Andy Grant Financial Support Officer
AUTHORISING OFFICER AND POSITION:	Ian Hamilton Director Infrastructure Services
NAME OF APPLICANT/ RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	19 February 2019
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

This report provides an update on Income and Expenditure against Budget for the Pilbara Regional Class IV Waste Management Facility (PRWMF) at Onslow. The report also lists all payments made until 31 January 2019.

Background

The Shire of Ashburton is required to provide the 'up-front' matching funding to undertake all 'pre-construction' costs. Funding under PIP3 (Chevron State Agreement) or Building Better Region Funds (BBRF (Federal Government Aus. Industry) cannot be accessed until construction contracts are entered into, early to mid-2019.

In addition, the Shire is to provide \$80,000 p.a. in-kind support, this includes officer time, travel costs etc.

Comment

The Budget and Actual results as at 31 January 2019 are as follows:

Job	Budget \$	Actual \$	Variance \$ (- = under budget)
18058 – Waste Supply Agreements	75,000	16,585	-58,415
18059 – Site Investigations	495,000	497,599	2,599
18060 – Project Management (SoA in-kind)	170,000	81,881	-88,119
18061 – Detail Design	175,000	7,710	-167,290

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Job	Budget \$	Actual \$	Variance \$ (- = under budget)
18062 – Approvals	290,000	214,304	-75,696
18063 – Project Management (Talis)	100,000	173,368	73,368
18066 - Unallocated	80,000	0	-80,000
Totals	1,385,000	991,446	-393,554

Attached is a copy of the BBRF Progress Report - Assessment & Review of Expenditure and Payments to 31 January 2019. This is to be provided to BBRF with each Milestone Report.

ATTACHMENT 7.1

Consultation

Extensive consultation has been undertaken with Approval Authorities and to date the Shire has been represented by the Shire President, Chief Executive Officer, Director of Infrastructure and Talis Consultants.

Statutory Environment

Local Government Act 1995

Part 5, Division 2 Council meetings, committees and their meetings and electors' meetings;

Subdivision 2 – Committees and their meetings;

Subdivision 3 – Matters affecting council and committee meetings.

Financial Implications

As per the Shire of Ashburton approved budget. It is noted that Appeals related to a mining lease Application over the site of the PRWMF and separate Appeal lodged by a landfill operator against the EPA Decision not to assess the proposal against the EPA decision is likely to lead to unforeseen legal costs. In this regard, it is anticipated that 'Unallocated' actuals of up to \$80,000 may be directed to 'PRWMF Legal Costs' in the future.

Strategic Implications

Shire of Ashburton 10 Year Community Strategic Plan 2017-2027

Goal 4 – Quality Services and Infrastructure

Objective 1 – Quality Public Infrastructure

Risk Management

Adoption of this item has been evaluated against the Shire of Ashburton's Risk Management Framework. The perceived level of risk from the Risk Matrix is considered to be "Moderate (6)" in light of the potential impacts to external contractual arrangements. As the Risk Acceptance is considered to be "Medium", the Director Infrastructure Services will monitor progress of this item.

Policy Implications

ELM10 Financial Sustainability Policy

ENG09 Asset Management Policy

Voting Requirement

Simple Majority required

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Committee Recommendation

That with respect to the Pilbara Regional Class IV Waste Management Facility, Onslow – Income & Expenditure Report, the Pilbara Regional Waste Management Committee recommend, that Council:

- 1 Receive the Income and Expenditure Report to 31 January 2019 (**ATTACHMENT 7.1**) for the Pilbara Regional Class IV Waste Management Facility Project in Onslow.

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**7.2 PILBARA REGIONAL CLASS IV WASTE MANAGEMENT FACILITY,
ONSLow – BUILDING BETTER REGIONS FUND (BBRF) MILESTONE 4
REPORT**

FILE REFERENCE:	WM07
AUTHOR'S NAME AND POSITION:	Andy Grant Financial Support Officer
AUTHORISING OFFICER AND POSITION:	Ian Hamilton Director Infrastructure Services
NAME OF APPLICANT/ RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	19 February 2019
DISCLOSURE OF FINANCIAL INTEREST:	The author and authorising officer have no financial, proximity or impartiality interests in the proposal.
PREVIOUS MEETING REFERENCE:	Not Applicable

Summary

As part of the Building Better Regions Fund (BBRF) funding conditions, the Shire of Ashburton is to provide Milestone Reports for the Pilbara Regional Class IV Waste Management Facility (PRWMF) project at Onslow. This report provides information on compliance with that condition.

Background

As part of the Building Better Regions Fund (BBRF) funding conditions, the Shire of Ashburton is to provide Milestone Reports for the Pilbara Regional Class IV Waste Management Facility (PRWMF) project at Onslow.

Milestone Report 1

The Shire of Ashburton was not required to provide a Milestone 1 Report as this milestone was the start of the project date of 27 September 2017.

Milestone Report 2

This report was to cover the period from 27 September 2017 to 31 January 2018 and was due on 1 March 2018. The report was submitted by the due date and approved by AusIndustry – Business Services.

Milestone Report 3

This report was to cover the period from 1 February 2018 to 30 June 2018 and was due on 27 July 2018. However, as the Shire of Ashburton was not due to complete its financials related to the end of financial year at 30 June 2018 for some time, an extension to 29 August 2018 was requested and granted. The report and all required supporting documents was submitted to AusIndustry – Business Services on 17 September 2018 and approval of this submission was given on 2 November 2018.

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Comment

Milestone Report 4

This report was to cover the period from 1 July 2018 to 31 January 2019 and was due on 15 February 2019. The report was submitted and approved by AusIndustry – Business Services on 13 February 2019.

ATTACHMENT 7.2A

Special Note: Milestone 4 consists of two key areas:

- Key Area 1: Land Tenure – This was completed and supporting documents have been submitted to AusIndustry – Business Services.
- Key Area 2: Agreements with waste generators – A variation request has been submitted AusIndustry – Business Services to defer this to Milestone 11. The preferred model for operating the PRWMF will not require this key area to be place at this early stage. A letter was sent to AusIndustry – Business Services on 13 February 2019 to request a change to this activities at Milestone 4 to Milestone 11. No reply has been received to date.

ATTACHMENT 7.2B

On 4 February 2019 the Environment Protection Authority (EPA) issued a Notice of Decision – Not to assess the PRWMF proposal. This is excellent news, if the EPA had decided to formally assess the proposal, this could of have been a major time delay to the approval stage of the project.

However, through the EPA appeal process one appeal submission has been received from Tellus Holdings Pty Ltd who has approval to establish a Class VI/V waste disposal site in the Shire of Yilgarn ('Sandy Ridge'), some 240 kilometres by road west north-west of Kalgoorlie. This matter is now with the Appeals Convener to be assessed accordingly. The Appeal lodged by Tellus Holdings Pty Ltd is further discussed in Confidential Item *8.1 Confidential Legal Matters Associated with the Pilbara Regional Waste Management Facility* of this Agenda.

Irrespective of the Appeal, the project is progressing in line with the project timeline.

ATTACHMENT 7.2C

Consultation

Consultation is currently underway with the Department of Water and Environment (DWER) Regulation and the date the Shire has been represented by the Shire President, Chief Executive Officer, Director of Infrastructure and Talis Consultants. A decision is expected from DWER by late April 2019 subject to the EPA appeal process as detailed above an in Confidential Item 8.1.

Statutory Environment

Local Government Act 1995

Part 5, Division 2 Council meetings, committees and their meetings and electors' meetings;
Subdivision 2 – Committees and their meetings;
Subdivision 3 – Matters affecting council and committee meetings.

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Financial Implications

As per the Shire of Ashburton approved budget.

Strategic Implications

Shire of Ashburton 10 Year Community Strategic Plan 2017-2027

Goal 4 – Quality Services and Infrastructure

Objective 1 – Quality Public Infrastructure

Risk Management

Adoption of this item has been evaluated against the Shire of Ashburton's Risk Management Framework. The perceived level of risk from the Risk Matrix is considered to be "Moderate (6)" in light of the potential impacts to external contractual arrangements. As the Risk Acceptance is considered to be "Medium", the Director Infrastructure Services will monitor progress of this item.

Policy Implications

ELM10 Financial Sustainability Policy

ENG09 Asset Management Policy

Voting Requirement

Simple Majority required

Committee Recommendation

That with respect to Pilbara Regional Class IV Waste Management Facility, Onslow – Building Better Regions Fund (BBRF) Milestone 4 Report, the Pilbara Regional Waste Management Committee recommend that Council:

1. Receive the BBRF Milestone 4 Report for the Pilbara Regional Class IV Waste Management Facility project in Onslow.

8. CONFIDENTIAL MATTERS

Under the Local Government Act 1995, Part 5, and Section 5.23, states in part:

1. *If a meeting is being held by a Council or by a committee referred to in subsection (1)(b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:*

(a) a matter affecting an employee or employees;

(b) the personal affairs of any person;

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

(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;

(e) a matter that if disclosed, would reveal:

(I) a trade secret;

(II) information that has a commercial value to a person; or

(III) information about the business, professional, commercial or financial affairs of a person,

Where the trade secret or information is held by, or is about, a person other than the local government.

(f) a matter that if disclosed, could be reasonably expected to:

(I) Impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;

(II) Endanger the security of the local government's property; or

(III) Prejudice the maintenance or enforcement of any lawful measure for protecting public safety;

(g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1981; and

(h) such other matters as may be prescribed.

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8.1 CONFIDENTIAL – LEGAL MATTERS ASSOCIATED WITH THE PILBARA REGIONAL WASTE MANAGEMENT FACILITY

FILE REFERENCE:	WM09
AUTHOR'S NAME AND POSITION:	Ian Hamilton Director Infrastructure Services
AUTHORISING OFFICER AND POSITION:	Rob Paull Chief Executive Officer
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	19 February 2019
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.
PREVIOUS MEETING REFERENCE:	Not Applicable

REASON FOR CONFIDENTIALITY

The Chief Executive Officer's Report is confidential in accordance with s5.23 (2) *the Local Government Act 1995* because it deals with matters affecting s5.23 (2):

- (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.*

Officers Recommendation

That with respect to the Confidential Legal Matters associated with the Pilbara Regional Waste Management Facility, the Committee recommend Council:

1. Receive and note the appeal lodged by Tellus Holdings Pty Ltd against EPA Decision Not Assessed: Pilbara Waste Management Facility and request the Chief Executive Officer to undertake all reasonable steps to either encourage Tellus Holdings Pty Ltd to withdraw the appeal or to have the appeal assessed in the shortest possible period.
2. Receive and note the Objection 542702 lodged by the Chief Executive Officer on behalf of the Shire of Ashburton to MLA 08/521 by North Rossa Pty Ltd;
 - a) Support all necessary actions to ensure that mining activity does not impact the establishment and the long term operations of the Pilbara Regional Waste Management Facility; and
 - b) Authorise the Chief Executive Officer in consultation with the President, to ratify any appropriate agreement as a result of the mediation.

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8.2 CONFIDENTIAL – BUSINESS PLAN FOR THE PILBARA REGIONAL WASTE MANAGEMENT FACILITY

FILE REFERENCE:	WM09
AUTHOR'S NAME AND POSITION:	Janelle Fell Manager Land & Asset Compliance
AUTHORISING OFFICER AND POSITION:	Brian Cameron Director Property and Development Services Ian Hamilton Director Infrastructure Services
NAME OF APPLICANT/RESPONDENT:	Not Applicable
DATE REPORT WRITTEN:	22 February 2019
DISCLOSURE OF FINANCIAL INTEREST:	The author and the authorising officer have no financial, proximity or impartiality interests in the proposal.
PREVIOUS MEETING REFERENCE:	Not Applicable

REASON FOR CONFIDENTIALITY

The Chief Executive Officer's Report is confidential in accordance with s5.23 (2) *the Local Government Act 1995* because it deals with matters affecting s5.23 (2):

- (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.*
- (e) *a matter that if disclosed, would reveal:*
 - (II) *information that has a commercial value to a person; or*
 - (III) *information about the business, professional, commercial or financial affairs of a person,*

Officers Recommendation

That with respect to the Business Plan for the Pilbara Regional Waste Management Facility ('Business Plan'), the Pilbara Regional Waste Management Committee recommend, that Council:

1. Endorse advertising of the draft Business Plan (**CONFIDENTIAL ATTACHMENT 8.2**) as generally outlined in this Report for public comment for a period of no less than six weeks with any submissions to be referred to Council for consideration; and
2. Should no submissions be received, authorise the Chief Executive Officer in consultation with the President to approve the draft Business Plan as generally advertised.

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9. NEXT MEETING

The next Pilbara Regional Waste Management Facility (PRWMF) Committee meeting will be held at a date and time to be advised.

10. CLOSURE OF MEETING

The Presiding Member closed the meeting at ____am.