



AGENDA

**AUDIT AND RISK MANAGEMENT
COMMITTEE**

to be held on

Thursday, 19 November 2020

at 4.15pm



WESTERN AUSTRALIA'S
WILDFLOWER COUNTRY

'This meeting is being recorded on audio tape and to assist with minute taking purposes. The public is reminded that in accordance with Section 6.16 of the Shire of Morawa Meeting Procedures Local Law 2012 that nobody shall use any visual or vocal recording device or instrument to record the proceedings of Council without the written permission of the presiding member.'

DISCLAIMER

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DISCLOSURE OF FINANCIAL/ IMPARTIALITY/ PROXIMITY INTERESTS

Local Government Act 1995 – Section 5.65, 5.70 and 5.71 Local Government (Administration) Regulation 34C

<i>This form is provided to enable members and officers to disclose an Interest in a matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act and Local Government (Administration) Regulation 34C</i>			
Name of person declaring the interest			
Position			
Date of Meeting			
Type of Meeting (Please circle one)	Council Meeting/ Committee Meeting/ Special Council Meeting Workshop/ Public Agenda Briefing/ Confidential Briefing		
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality

Signature: _____

Date: _____

Important Note: Should you declare a **Financial** or **Proximity** Interest, in accordance with the Act and Regulations noted above, you are required to leave the room while the item is being considered. For an **Impartiality** Interest, you must state the following prior to the consideration of the item:

“With regard to agenda item (read item number and title), I disclose that I have an impartiality interest because (read your reason for interest). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

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Item 1 Opening of Meeting

The Presiding Member to declare the meeting open.

Item 2 Acknowledgement of Traditional Owners and Dignitaries

The Presiding Member acknowledges the traditional custodians, the Yamatji people, and recognises the contribution of Yamatji elders past, present and future, in working together for the future of Morawa.

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Item 3 Recording of Attendance

3.1 Attendance

Committee Members

- President Councillor Karen Chappel (Presiding Member)
- Deputy President Councillor Dean Carslake
- Councillor Jane Coaker
- Councillor Debbie Collins
- Councillor Yvette Harris
- Councillor Shirley Katona
- Councillor Ken Stokes

Staff

- | | |
|--------------------------------------------------|-----------------------------------|
| Acting Chief Executive Officer | Robert Paull |
| Executive Manager Corporate & Community Services | John van der Meer |
| Executive Manager Works and Assets | Paul Buist |
| Economic Development Manager | Ellie Cuthbert |
| Executive Assistant | Rondah Toms |
| WA Auditor General | Caroline Spencer (Teleconference) |
| RSM Australia representative | |

3.2 Attendance by Telephone / Instantaneous Communications

In accordance with section 14 of the *Local Government (Administration) Regulations 1996* "Meetings held by electronic means in public health emergency or state of emergency (Act s. 5.25(1)(ba))", the President to declare that this Meeting may take place via instantaneous communication. All Councillors and staff are to be available either via telephone (teleconference) or in person.

3.3 Apologies

3.4 Approved Leave of Absence

3.5 Disclosure of Interests

Item 4 Applications for Leave of Absence

Item 5 Response to Previous Questions

Item 6 Questions from Members without Notice

Item 7 Announcements by Presiding Member without Discussion

Item 8 Declarations of All Members to have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting

The Elected Members to declare that they had given due consideration to all matters contained in the agenda.

Item 9 Confirmation of Minutes of Previous Meeting

OFFICER'S RECOMMENDATION

That the Audit Committee Meeting Minutes held on Thursday, 15 October 2020 are confirmed to be a true and correct record.

SIMPLE MAJORITY VOTE REQUIRED

Disclaimer

Members of the public are cautioned against taking any action on Council decisions, on items in this agenda in which they may have an interest, until formal notification in writing from the Shire has been received. Decisions made at this meeting can be revoked pursuant to the Local Government Act 1995.

Item 10 Reports of Officers**10.1 Acceptance of Annual Financial Statements and Audit Report**

Author:	Executive Manager Corporate and Community Services
Authorising Officer:	Acting Chief Executive Officer
Disclosure of Interest:	The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

OFFICER'S RECOMMENDATION

That the Audit Committee:

1. **Adopts the Shire of Morawa 2019/20 Annual Financial Statements.**
2. **Receives the Auditor's Closing Report for the year ended 30 June 2020.**
3. **Endorses the actions and strategies as determined by Shire staff in response to the Management Letter.**

ABSOLUTE MAJORITY VOTE REQUIRED

PURPOSE

The Audit and Risk Management Committee ('Committee') is to report to Council and provide appropriate advice and recommendations regarding audit reporting.

Committee will be provided with the audited Annual Financial Report, Closing Report, Audit Opinion and Management Letter for the Shire of Morawa for the year ended 30 June 2020.

DETAIL

It is a statutory requirement that all Local Governments conduct an independent audit of the accounts and financial statements of the entity at the completion of each financial year.

The Audit and Risk Management Committee must then consider this report and provide endorsement to the actions and strategies as determined by Staff in response to the report and/or management letter. In discussions with RSM Australia representatives, the Shire was assured that the audit report and management letter would be available well within time for consideration by Committee/Council.

At the time of preparing this Report, the Shire's auditor RSM Australia was still to provide the audit report and management letter. Once received, it will be provided to Committee/Council under separate cover.

LEVEL OF SIGNIFICANCE

High – a representation of the financial position of the Shire of Morawa at 30 June 2020. Risks associated with the audit findings will be identified and addressed.

CONSULTATION

Internal

Shire President
Senior Management Team
Manager, Finance.

External

RSM Australia
Office of Auditor General

LEGISLATION AND POLICY CONSIDERATIONS

Local Government Act 1995

Local Government (Audit) Regulations 1996

Local Government (Financial Management) Regulations 2011

Local Government (COVID-19 Response) Order 2020

FINANCIAL AND RESOURCES IMPLICATIONS

The costs associated with conducting the annual audit are included in the 2020/2021 Budget.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Shire of Morawa Community Strategic Plan 2018-2028 (Desktop Review June 2020)

Outcome 4.3 A local government that is respected, professional and accountable.

RISK MANAGEMENT CONSIDERATIONS

The findings will be identified by RSM Australia in its the audit of the Annual Financial Report. The Management Letter is to be presented by RSM Australia and any identified items will be responded to by the Shire in an updated Report. The Audit Report is to be accepted by Council no later than 31 December (s5.54 *Local Government Act 1995*).

CONCLUSION

The Annual Financial Report, Audit Closing Report, draft Audit Opinion and Management Letter are to be provided to Committee/Council under separate cover. Once received, the Shire will provide a response and update Report.

ATTACHMENTS

Attachment 1 – 10.1 Annual Financial Report (when available from RSM Australia, to be provided under separate cover)

Attachment 2 – 10.1 Closing Report (when available from RSM Australia, to be provided under separate cover)

Attachment 3 – 10.1 Draft Audit Opinion (when available from RSM Australia, to be provided under separate cover)

Attachment 4 – 10.1 Management Letter (*confidential* – (when available from RSM Australia, to be provided under separate cover)

10.2 Addition to the Shire of Morawa Asbestos Register – Morawa Old Hospital

Author: Acting Chief Executive Officer

Authorising Officer: Acting Chief Executive Officer

Disclosure of Interest: The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

OFFICER'S RECOMMENDATION

That with respect to the Morawa Old Hospital (Reserve 52057, Caulfield Street, Morawa), the Audit and Risk Management Committee recommends to Council as follows:

1. Note the Local Government Insurance Service (LGIS) Asbestos Assessment of the Morawa Old Hospital (and associated buildings) as presented in Attachment 1;
2. Adopt the Shire of Morawa Public Asbestos Register, modified to include the LGIS Asbestos Assessment of the Morawa Old Hospital (and associated buildings);
3. Advise the Deputy Premier; Minister for Health; Mental Health along with the Treasurer; Minister for Finance; Aboriginal Affairs; Lands that:
 - a) due to the level of asbestos independently identified in the Morawa Old Hospital (and associated buildings); and
 - b) the failure of the Western Australian Government at the time of the Deed of Early Occupancy (2009) and vesting of the land with the Shire (2015) to comply with its *“Asbestos Management – Guide For Agencies”* by either removing the asbestos or disclosing the asbestos, the Shire advises that it:
 - i. does not have the financial resources to rectify the asbestos within the buildings on the land; and
 - ii. formally returns to the Western Australian Government, vesting of Reserve 52057 along with the asbestos liability and management responsibility for the buildings and site.

ABSOLUTE MAJORITY VOTE REQUIRED

PURPOSE

- To:
- inform Committee/Council about the outcome of the Local Government Insurance Service (LGIS) asbestos assessment for the Morawa ‘Old Hospital’;
 - include the Shire of Morawa Asbestos Register (2020); and
 - seek direction as to Committee/Council’s long term intent for the Morawa ‘Old Hospital’.

DETAIL

The former Morawa hospital, Morgue, residence and accompanying outbuildings ('Old Hospital') is located on Reserve 52057, Location 440 (No.1) Caulfield Road in Morawa. The site is 3.2ha and the Old Hospital is located on a portion of the site as referred to in the aerial photo below.



The following seeks to define in chronological order, relevant actions undertaken in relation to the Old Hospital.

2005 The Commonwealth’s national “Code of Practice for the Management and Control of Asbestos in Workplaces” is published with the aim to “... assist persons with control of premises and/or plant to control the risks of asbestos-containing materials (ACM) in workplaces”.

Whilst not obligatory on State governments, after being published in 2005, the ‘Code of Practice was WA State Government policy and referred to in a document named: “Asbestos Management - Guide For Agencies”(updated’ in January 2010).

<https://www.wa.gov.au/sites/default/files/201910/Asbestos%20Management%20Guide%20for%20Agencies.pdf>

Of particular interest from “Asbestos Management -Guide For Agencies” is the following passage (page 12):

“Disposal

When an agency disposes of an asset, it should either undertake to make the asset asbestos free prior to sale, or disclose registers and AMPs to the purchaser.”

2006 A fire risk analysis was conducted of the building in 2006 by a consultant who identified that, while the systems in place were well managed, a significant list of works required to bring the buildings up to compliance with the Building Code of Australia.

2008 At the request of the Shire, the Department of Health, in conjunction with the (then) Department of Lands (DoL) agreed to transfer care and control of the Morawa ‘Old Hospital’ to the Shire for community and educational purposes.

It is understood that at the time, the Shire had genuine concern that the Morawa ‘Old Hospital’ was at risk of vandalism/deterioration if left vacant. The Shire’s desire for the avoidance of such risk resulted in agreement with the State to transfer all responsibility for the buildings to the Shire which from correspondence, appeared keen to take occupancy.

A Deed of Early Occupancy (‘Deed’) to facilitate early possession of the site in favour of the Shire was prepared by the State Solicitor’s Office and provided to the Shire in August 2008. The site has been unoccupied since prior to the granting of the Deed.

No reference to asbestos at the Old Hospital was identified in the Deed.

2009 The Deed was executed by the Shire on 30 November 2009 resulting in the Shire accepting all responsibility for the land (including the building on the land) as if it were the owner from the date of execution. In fact, the Deed provided greater responsibility than an owner because it:

- instituted contractual obligations to the State to ‘keep and maintain all Improvements including maintenance of a structural nature’;
- required the Shire to maintain a public liability insurance policy for not less than \$10M in respect of any one claim;
- established indemnity obligations to the Minister;
- recorded that ‘*the Minister has agreed to arrange for the transfer of the land to the Shire free of cost for use by the Shire for community and educational purposes*’; and
- precluded the Shire from dealing with its interests in the land without the prior written consent of the Minister.

2013 In June 2013, a basic structural inspection was conducted and the report from the engineer indicated that:

- the building appeared to be structurally sound;
- a large portion of the building required significant remedial works and ongoing maintenance;
- a significant cost would be to repair the rising damp and associated brickwork fretting;
- roof sheeting, fascia boards and gutters needed replacing;
- damaged asbestos walls would require removal and replacement; and
- timber window frames required significant repairs or replacement.

2015 On the basis of the Deed, the Shire was legally obliged to proceed with the transfer of land. The Shire was subsequently granted a *Management Order* over Reserve 52057 on 22 April 2015.

The *Management Order* is referenced as having conditions to be observed (which generally pertain to the allowed uses) and in this case, the condition (which reads “*To be utilised for the designated purpose of “Shire Requirements” only*”).

No reference to asbestos at the Old Hospital was identified in the *Management Order*.

In addition, the Shire cannot find record that any Agency undertaking to disclose to the Shire, the obligations under “*Asbestos Management -Guide For Agencies*” of either “...making the asset asbestos free prior to sale, or disclose registers and AMPs to the purchaser.”

2016 In an item to the June 2016 Ordinary Meeting, the reporting officer (CEO) was observed:

“As evidenced by the correspondence from DoL dated 3 February 2016 (see Attachment1) it appears the transfer of the land to the Shire of Morawa has already been given effect with the creation of Reserve 52057 and its vesting in the Shire of Morawa for the purpose of ‘Shire Requirements.’

If the Shire of Morawa is to lease the land, then it is required to provide ...written evidence of the following:

- a. *The length of the term that the Shire requires for the management Order to have the power to lease – 10 or 21 years;*
- b. *Advice on how a Management order with the power to lease will confer an economic or social benefit on the State, region or locality of Morawa...*
- c. *A letter that indemnifies the Minister for lands against any costs that may arise from the taking of Native title rights and interests as a result of granting the Shire a Management Order with the power to lease.*

The report advised that: “*Enquiries (were) being made of Department of Lands to ascertain whether the deed of agreement (had) indeed expired with the issue of Management Order M979138 to the Shire for Reserve 52057.*”

2017 On 27 October 2017, the Old Hospital Site was rezoned under the Shire of Morawa Local Planning Scheme No. 2 from ‘Public Purposes’ to ‘Special Use’ with a range of permissible uses to support alternative development outcomes for the site. This occurred and the range of uses available to the Shire including:

- Aged or Dependent Persons Dwelling
- Caretakers Dwelling
- Residential Building
- Transient Workforce Accommodation
- Tourist Accommodation
- Grouped Dwelling
- Multiple Dwelling

2018 An inspection of the building was undertaken in February 2018 and revealed that the main buildings on the site (the hospital and residence were generally in reasonable structural condition, however since the previous report (2016), a significant amount of termite damage was evident in the floors at the rear of the western hospital wing and ceilings have collapsed in at least four rooms.

The exterior fretting had also continued at the eastern end of the hospital building and while no collapse appeared imminent at the time, the walls required significant attention to prevent that inevitable outcome.

Even though the building has been secured, vandals had managed to access the building several times and have broken several panes of glass within the building and a large number of the external windows are also broken. Vandals had also pulled some of the fittings from the ceiling (smoke alarms, lights etc).

2019 Council's current position on the Morawa Old Hospital building was resolved in June 2019 as follows:

“That, in respect of the Old Morawa Hospital, Council:

- 1. Directs the CEO to halt the allocation of any further limited Shire resources towards maintaining, repairing or finding potential uses for the buildings and land.*
- 2. Directs the Shire President and the CEO to vigorously pursue a course of representation to relevant agency heads, State Government Ministers and the Premier in order to secure acknowledgement by the State of its continued responsibility for, and ownership of, the facility.”*

Attempts to establish interest from Government Agencies or Ministers in the Old Hospital has been essentially fruitless.

2020 The Acting CEO undertook enquiries of Department of Lands to ascertain government knowledge of asbestos in the Old Hospital prior to the Shire entering into the Deed and ultimately, accepting the *Management Order*. The Department advised that it did not have any records associated with the Old Hospital and referred the Shire to the Department of Health. The Director General of the Department of Health was personally contacted, and he referred the matter of asbestos in the building to his staff. The response provided stated in part:

“Upon receipt of your request, the Land and Property team initiated a search of past departmental records to determine if there was any form of reporting undertaken at time of transfer that articulated site remediation requirements and asbestos that would be useful to you.

Unfortunately little information has been located. Enquiries were also made to the Department of Finance (Building Management and Works) records office with similar results. Further to the above, I have asked the team to liaise with the Department of Planning Lands and Heritage to determine if it holds alternate records that may be of benefit to the Shire”.

Whilst the efforts of Staff from the Department of Health are respected, it is incongruous that the Department does not have any reports or information to share on the level of asbestos in the Old Hospital. Indeed, it is simply not believable that the Department or any other agency was not aware of asbestos in the Old Hospital.

2020 The Shire of Morawa Asbestos Register (2020) was addressed by the Audit and Risk Management Committee on 17 September 2020. At that time, the assessment of asbestos at the Morawa Old Hospital had yet to be concluded. The outcome of the assessment undertaken by LGIS has now been finalised and provided in **Attachment 1**.

The Shire's obligation is to ensure public safety and in some cases the Shire gains ownership of a property and then becomes responsible for the management and costs of asbestos that resides on the land.

LEVEL OF SIGNIFICANCE

High – It is mandatory to have an Asbestos Register readily available to be consulted by external stakeholders in case of utilising or altering, repairing or conducting maintenance to any Shire facility containing asbestos.

CONSULTATION

Shire President Cr Chappel
Senior Management Team
LGIS

LEGISLATION AND POLICY CONSIDERATIONS

Given the high levels of perceived risk that come with asbestos, many different Acts, Regulations, Guidelines and Rules apply. The lists below are non-exhaustive and should be considered a guide only.

On a State Government level, we have identified the following Acts and Regulations.

- *Local Government (Miscellaneous Provisions) Act 1960*
- *Health (Asbestos) Regulations 1992*
- *Occupational Safety and Health Act 1984*
- *Occupational Safety and Health Regulations 1996*
- *Environmental Protection Act 1986*

It is noted that the Department of Health provides advice to the public on environmental/public health aspects of handling, removal and disposal of asbestos. The Department has a key role in administering the *Health (Asbestos) Regulations 1992*.

From a Commonwealth perspective, the following:

- *Work Health and Safety (How to Manage and Control Asbestos in the Workplace) Code of Practice 2015*
- *Work Health and Safety (How to Safely Remove Asbestos) Code of Practice 2015*
- *Asbestos Safety and Eradication Agency Act 2013*

On a local government perspective, Council policy *CORP02 Asbestos Policy*

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Shire of Morawa Community Strategic Plan 2018-2028 (Desktop Review June 2020)

Outcome 3.3 Retain a safe environment.

Outcome 4.3 A local government that is respected, professional and accountable.

FINANCIAL AND RESOURCES IMPLICATIONS

In its 2020/2021 budget, Council allocated \$5,000 in its 2020/2021 budget for LGIS to conduct the asbestos assessment for the old hospital site.

In relation to removal of the asbestos identified in the LGIS report, the Shire has not had the opportunity to seek a formal estimate of the cost of removal. However, an estimate for the demolition of the building/s was undertaken about 2 years ago and which established an approximate cost of \$450k – largely due to the anticipated level of asbestos.

RISK MANAGEMENT CONSIDERATIONS

High – working with asbestos or in asbestos rich environments may cause health related issues which may only materialise years into the future. Anyone working with asbestos should be certified to do so and disposing of asbestos is a process subject to strict protocols.

CONCLUSION

It is clear that the Old Hospital has significant issues with respect to asbestos contamination. This has been confirmed in the assessment undertaken by LGIS assessment undertaken at the Shire's behest and cost.

It is not unreasonable to surmise that at that time of the Deed and the transfer of the land under the *Management Order* that the Department of Health would have known the level of asbestos in the Old Hospital. Under the State Government's "*Asbestos Management – Guide For Agencies*", the Department had (and still does) an obligation to rectify the asbestos prior to transfer of the Old Hospital. At the very least, the State should have provided information on the level of asbestos at the time of the Deed of Early Occupancy (2009) and vesting of the land with the Shire (2015).

In a management sense, the Audit and Risk Management Committee is requested to recommend Council adopts the Shire of Morawa Public Asbestos Register, modified to include the Morawa Old Hospital.

However, in a broader sense Council should be recommended to formally bring the issue of proven asbestos in the Old Hospital to the attention of the Deputy Premier; Minister for Health; Mental Health along with the Treasurer; Minister for Finance; Aboriginal Affairs; Lands for direct intervention.

Whilst the Shire has not formally sought to determine the cost of removal of the asbestos, it is estimated to be in the hundreds of thousands of dollars. Clearly, the Shire and the community of Morawa does not have the financial resources to rectify the asbestos within the buildings on the land.

In this regard, it would be appropriate for Council to be recommended that it seeks to commence the process of returning to the Western Australian Government, vesting of Reserve 52057 along with the asbestos liability and management responsibility for the buildings and site.

ATTACHMENTS

Attachment 1 – 10.2 LGIS Old Hospital Asbestos Report (October 2020)

10.3 WorkSafe Improvement Notices – Actions Completed

Author: Executive Manager Works and Assets

Authorising Officer: Acting Chief Executive Officer

Disclosure of Interest: The Author and Authorising Officer declare that they do not have any conflicts of interest in relation to this item.

OFFICER'S RECOMMENDATION

That with respect to WorkSafe Improvement Notices – Actions Completed, the Audit and Risk Management Committee recommends to Council to:

1. Note the Report and completed actions.

SIMPLE MAJORITY VOTE REQUIRED

PURPOSE

The Audit and Risk Management Committee is requested to recommend that Council note the Improvement Notices served on the Shire by WorkSafe along with the actions undertaken to address the Notices.

DETAIL

On 1 September 2020, WorkSafe visited the Shire Depot to assess compliance of the operations and the work safety of the premises and the Shire. In undertaking the inspection, the WorkSafe inspector observed some areas of operation and works that required rectification. Three (3) Improvement Notices were served, and the Shire was instructed to have compliance by 31 October 2020. It is understood that several other local governments in the Mid-West were similarly inspected by WorkSafe in August/September 2020 and also issued with Improvement Notices.

The Improvement Notices identified the need for the following:

1. Manual Handling Hazard and Risk Assessment training;
2. Risk Assessments on Hazardous Substances;
3. Safe Work Load Limit of Storage Racking and Shelving.

All requirements for training, risk assessment documentation and replacement of shelving has been completed.

LEVEL OF SIGNIFICANCE

High – the Shire takes its obligations under the *Occupational Safety and Health Act 1986* and Regulations very seriously.

CONSULTATION

WorkSafe
Senior Management Team
Local Government Insurance Service

LEGISLATION AND POLICY CONSIDERATIONS

Occupational Safety and Health Act 1986
Occupational Safety and Health Regulations 1996

FINANCIAL AND RESOURCES IMPLICATIONS

The matters identified in the Improvement Notices were addressed using funds identified in the 2020/21 Budget.

STRATEGIC AND SUSTAINABILITY IMPLICATIONS

Shire of Morawa Community Strategic Plan 2018-2028

Outcome 4.3 A local government that is respected, professional and accountable.

Outcome 4.5 Long term financial viability.

RISK MANAGEMENT CONSIDERATIONS

Shire of Morawa Risk Management Governance Framework

It is a legal requirement to comply with the *Occupational Safety and Health Act 1986* and *Regulations*.

CONCLUSION

The inspection undertaken by WorkSafe served an education and reminder of the need to address and comply with the *Occupational Safety and Health Act 1986* and *Regulations*. With the highly anticipated changes to Western Australia’s workplace safety laws through the *Workplace Health and Safety Bill 2019* that will become law in early 2021, it is imperative that all staff learn from the WorkSafe inspections.

ATTACHMENTS

N/A

Item 11 Motions of Which Previous Notice Has Been Given

Item 12 New Business of an Urgent Nature

Item 13 Closure

There being no further business, the Presiding Member to declare the meeting closed.