

SHIRE OF KELLERBERRIN

MINUTES

Minutes of the Ordinary Council Meeting held at the Shire of Kellerberrin Council Chamber, 110 Massingham Street Kellerberrin on Tuesday, 18th December 2018, commencing at 2.08pm.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISTORS:

2.08pm – Cr. Rodney Forsyth, Shire President declared the meeting open.

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE:

Present:

Cr. Forsyth	President
Cr. O'Neill	Deputy President
Cr. Leake	Member
Cr. Reid	Member
Cr. Steber	Member
Cr. McNeil	Member
Mr Raymond Griffiths	Chief Executive Officer
Mr Sean Sibly	Deputy Chief Executive Officer
Mr Mick Jones	Manager of Works and Services
Mr Brett Taylor	Senior Finance Officer (Exited 2.25pm)

Apologies:

Mr Lewis York	Town Planner
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Leave of Absence:

3. RESPONSE TO PREVIOUS PUBLIC QUESTION TAKEN ON NOTICE: Nil

4. PUBLIC QUESTION TIME: Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE: Nil

6. DECLARATION OF INTEREST:

In accordance with Section 5.65 of the *Local Government Act 1995* the following disclosures of **Financial** interest were made at the Council meeting held on **18th December 2018**.

Date	Name	Item No.	Reason

In accordance with Section 5.65 of the *Local Government Act 1995* the following disclosures of **Closely Association Person and Impartiality** interest were made at the Council meeting held on **18th December 2018**.

Date	Name	Item No.	Reason

In accordance with Section 5.60B and 5.65 of the *Local Government Act 1995* the following disclosures of **Proximity** interest were made at the Council meeting held on **18th December 2018**.

Date	Name	Item No.	Reason

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

7.1 Shire of Kellerberrin Ordinary Council Meeting Minutes, 20th November, 2018

COUNCIL RECOMMENDATION

MIN 217/18 MOTION: Moved Cr. O'Neil 2nd Cr. Leake

That the minutes of the Shire of Kellerberrin Ordinary Council Meeting held on Tuesday 20th November 2018, be confirmed as a true and accurate record

CARRIED 6/0

8. ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION: Nil

9. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS: Nil

10. REPORTS OF COMMITTEES/COUNCILLORS

10.1 Reports of Committees/Councillors

MIN 218/18 MOTION: Moved Cr. Steber 2nd Cr. Leake

That the Presidents Reports for November 2018 be received.

CARRIED 6/0

11.1 CORPORATE SERVICES – AGENDA ITEM

Agenda Reference:	11.1.1
Subject:	Community Requests and Discussion Items
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin - Council
File Ref:	Various
Disclosure of Interest:	N/A
Date:	3 rd December, 2018
Author:	Mr Raymond Griffiths, Chief Executive Officer

BACKGROUND

Council during the Performance Appraisal process for the Chief Executive Officer requested time during the meeting to bring forward ideas, thoughts and points raised by the community.

November 2018 Council Meeting

MIN 196/18 MOTION - Moved Cr. O'Neill 2nd Cr. Reid

That Council:

- 1. Renew the CBH access signage on the Eastern side of Steelweld Road intersection on the highway as current sign is faded.***
- 2. Notes the condition of the Dowding St culverts/crossovers and that an application has been submitted to correct these defaults through Commodity Route Funding.***
- 3. Investigate closing the pool on Mondays during school terms pending finding suitable relief.***
- 4. Communicate with the Doodlakine Community Committee regarding Maintenance request around budget timings and processes for local government funding.***
- 5. Provide consideration of alarm activation regime to provide for isolation of gym.***

CARRIED 5/0

October 2018 Council Meeting

MIN 176/18 MOTION - Moved Cr. Leake 2nd Cr. Reid

That Council:

- 1. Acknowledges no footpath from Connelly Street heading North to the Recreation Centre Gates.***
- 2. Obtain Quotes to renew fence at Recreation Centre from Generator to end of Car Park and tidy IVO ticketing booth***
- 3. Acknowledge the verbal thanks from the Agricultural Society for contributions to Kellerberrin Show***
- 4. Advocate support for exemption for working dogs from proposed new dog breeding regulations.***

CARRIED 6/0

September 2018 Council Meeting

MIN 155/18 MOTION - Moved Cr. Steber 2nd Cr. McNeil

That Council:

- 1. Investigate requirements for mulch on garden beds in townsite***
- 2. Write a letter to Mr Ian McNeil acknowledging and thanking him for his contribution as Chief Bush Fire Control Officer.***

CARRIED 6/0

COMMENT

November MIN 196/18

1. New sign has been ordered to replace faded sign.
2. Noted.
3. Council has found a suitable relief Pool Manager for the pool.
4. Communicate with the Doodlakine Community Committee regarding Maintenance request around budget timings and processes for local government funding.
5. Alarm can be automatically activated and de-activated, so Council is arranging this. The alarm will only be automatically de-activated as auto activation will cause issues.

October 2018 - MIN 176/18

1. Item noted
2. Quotes currently being obtained to renew fence at Recreation Centre from Generator to end of Car Park and tidy IVO ticketing booth (Phil Graham has contacted Buttsy & Buttsy is providing a quote)
3. Item Noted
4. Emailed WALGA & they have provided the support letter/agenda and Councillor Forsyth was happy with that.

September 2018 - MIN 155/18

1. Mulch requirements have been investigated
2. Letter has been sent to Ian McNeil acknowledging and thanking him for his contribution as Chief Bush Fire Control Officer.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

Financial Implications will be applicable depending on requests and decision of Council.

POLICY IMPLICATIONS

Policy Implications will depend on items brought forward by Council. During discussions the Policy Manual will be referred to prior to decision being finalised.

STATUTORY IMPLICATIONS

Local Government Act 1995 (as amended)

Section 2.7. The role of the council

- (1) The council —
 - (a) Directs and controls 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.

Section 2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;

- (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.
- (2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

Section 2.9. The role of the deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

Section 2.10. The role of councillors

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

5.60. When person has an interest

For the purposes of this Subdivision, a relevant person has an interest in a matter if either —

- (a) the relevant person; or
- (b) a person with whom the relevant person is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

[Section 5.60 inserted by No. 64 of 1998 s. 30.]

5.60A. Financial interest

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

[Section 5.60A inserted by No. 64 of 1998 s. 30; amended by No. 49 of 2004 s. 50.]

5.60B. Proximity interest

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
- (a) a proposed change to a planning scheme affecting land that adjoins the person's land;
 - (b) a proposed change to the zoning or use of land that adjoins the person's land; or
 - (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
- (2) In this section, land (**the proposal land**) adjoins a person's land if —

- (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land;
 - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

[Section 5.60B inserted by No. 64 of 1998 s. 30.]

5.61. Indirect financial interests

A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.

5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
- (a) the person is in partnership with the relevant person; or
 - (b) the person is an employer of the relevant person; or
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
 - (ca) the person belongs to a class of persons that is prescribed; or
 - (d) the person is a body corporate —
 - (i) of which the relevant person is a director, secretary or executive officer; or
 - (ii) in which the relevant person holds shares having a total value exceeding —
 - (I) the prescribed amount; or
 - (II) the prescribed percentage of the total value of the issued share capital of the company,
 whichever is less;
- or
- (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
 - (ea) the relevant person is a council member and the person —
 - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;
- or
- (eb) the relevant person is a council member and since the relevant person was last elected the person —
 - (i) gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or
 - (ii) made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;
- or
- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

(2) In subsection (1) —

notifiable gift means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election;

value, in relation to shares, means the value of the shares calculated in the prescribed manner or using the prescribed method.

[Section 5.62 amended by No. 64 of 1998 s. 31; No. 28 of 2003 s. 110; No. 49 of 2004 s. 51; No. 17 of 2009 s. 26.]

5.63. Some interests need not be disclosed

(1) Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —

- (a) an interest common to a significant number of electors or ratepayers;
- (b) an interest in the imposition of any rate, charge or fee by the local government;
- (c) an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers;
- (d) an interest relating to the pay, terms or conditions of an employee unless —
 - (i) the relevant person is the employee; or
 - (ii) either the relevant person's spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;

[(e) deleted]

- (f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects;
- (g) an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under this Act or any other written law; or
- (h) a prescribed interest.

(2) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —

- (a) any proposed change to a planning scheme for any area in the district;
- (b) any proposed change to the zoning or use of land in the district; or
- (c) the proposed development of land in the district,

then, subject to subsection (3) and (4), the person is not to be treated as having an interest in a matter for the purposes of sections 5.65, 5.70 and 5.71.

(3) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —

- (a) any proposed change to a planning scheme for that land or any land adjacent to that land;
- (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
- (c) the proposed development of that land or any land adjacent to that land,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

(4) If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —

- (a) any proposed change to a planning scheme for any area in the district;
- (b) any proposed change to the zoning or use of land in the district; or
- (c) the proposed development of land in the district,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (5) A reference in subsection (2), (3) or (4) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.

[Section 5.63 amended by No. 1 of 1998 s. 15; No. 64 of 1998 s. 32; No. 28 of 2003 s. 111; No. 49 of 2004 s. 52; No. 17 of 2009 s. 27.]

[5.64.] Deleted by No. 28 of 2003 s. 112.]

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an 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 CEO before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

Penalty: \$10 000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —

- (a) that he or she had an interest in the matter; or
- (b) that the matter in which he or she had an interest would be discussed at the meeting.

- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

[Section 5.66 amended by No. 1 of 1998 s. 16; No. 64 of 1998 s. 33.]

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 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 relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.

Penalty: \$10 000 or imprisonment for 2 years.

5.68. Councils and committees may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —

- (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and
- (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —
 - (i) the disclosing member also discloses the extent of the interest; and

- (ii) those members decide that the interest —
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or
 - (II) is common to a significant number of electors or ratepayers.
- (2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.
- (3) This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.

5.69. Minister may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.
- (2) An application made under subsection (1) is to include —
 - (a) details of the nature of the interest disclosed and the extent of the interest; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —
 - (a) there would not otherwise be a sufficient number of members to deal with the matter; or
 - (b) the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69 amended by No. 49 of 2004 s. 53.]

5.69A. Minister may exempt committee members from disclosure requirements

- (1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.
- (2) An application under subsection (1) is to include —
 - (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

- (1) In this section —
employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.

- (2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.
- (3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.

Penalty: \$10 000 or imprisonment for 2 years.

5.71. Employees to disclose interests relating to delegated functions

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10 000 or imprisonment for 2 years.

STRATEGIC PLAN IMPLICATIONS:

The Strategic Plan will be the driver and provide Guidance for Council in their decision making process for the community requests.

**CORPORATE BUSINESS PLAN IMPLICATIONS
(Including Workforce Plan and Asset Management Plan Implications)**

LONG TERM PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

Council
Community Members

STAFF RECOMMENDATION

That Council note any requests or ideas to be actioned.

COUNCIL RECOMMENDATION

MIN 219/18 MOTION - Moved Cr. O’Neill 2nd Cr. Reid

That Council::

- 1. Request information from the community for removal of hazardous roadside trees and branches which interfere with the movement of road traffic.***
- 2. Write to main roads advising them of sightline issues at highway intersections.***

CARRIED 6/0

Agenda Reference:	11.1.2
Subject:	Status Report of Action Sheet
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin - Council
File Ref:	Various
Disclosure of Interest:	N/A
Date:	3 rd December, 2018
Author:	Raymond Griffiths, Chief Executive Officer

BACKGROUND

Council at its February 2017 Ordinary Meeting of Council discussed the use of Council’s status report and its reporting mechanisms.

Council therefore after discussing this matter agreed to have a monthly item presented to Council regarding the Status Report which provides Council with monthly updates on officers’ actions regarding decisions made at Council.

It can also be utilised as a tool to track progress on Capital projects.

COMMENT

This report has been presented to provide an additional measure for Council to be kept up to date with progress on items presented to Council or that affect Council.

Council can add extra items to this report as they wish.

The concept of the report will be that every action from Council’s Ordinary and Special Council Meetings will be placed into the Status Report and only when the action is fully complete can the item be removed from the register. However the item is to be presented to the next Council Meeting shading the item prior to its removal.

This provides Council with an explanation on what has occurred to complete the item and ensure they are happy prior to this being removed from the report.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

Financial Implications will be applicable depending on the decision of Council. However this will be duly noted in the Agenda Item prepared for this specific action.

POLICY IMPLICATIONS

Policy Implications will be applicable depending on the decision of Council. However this will be duly noted in the Agenda Item prepared for this specific action.

STATUTORY IMPLICATIONS

Local Government Act 1995 (as amended)

Section 2.7. The role of the council

- (1) The council —
 - (a) Directs and controls 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.

Section 2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;
 - (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.
- (2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

Section 2.9. The role of the deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

Section 2.10. The role of councillors

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

5.60. When person has an interest

For the purposes of this Subdivision, a relevant person has an interest in a matter if either —

- (a) the relevant person; or
- (b) a person with whom the relevant person is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

[Section 5.60 inserted by No. 64 of 1998 s. 30.]

5.60A. Financial interest

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

[Section 5.60A inserted by No. 64 of 1998 s. 30; amended by No. 49 of 2004 s. 50.]

5.60B. Proximity interest

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
 - (a) a proposed change to a planning scheme affecting land that adjoins the person's land;
 - (b) a proposed change to the zoning or use of land that adjoins the person's land; or
 - (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.

- (2) In this section, land (**the proposal land**) adjoins a person's land if —
- (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land;
 - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

[Section 5.60B inserted by No. 64 of 1998 s. 30.]

5.61. Indirect financial interests

A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.

5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
- (a) the person is in partnership with the relevant person; or
 - (b) the person is an employer of the relevant person; or
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
 - (ca) the person belongs to a class of persons that is prescribed; or
 - (d) the person is a body corporate —
 - (i) of which the relevant person is a director, secretary or executive officer; or
 - (ii) in which the relevant person holds shares having a total value exceeding —
 - (I) the prescribed amount; or
 - (II) the prescribed percentage of the total value of the issued share capital of the company,
 whichever is less;
 - or
 - (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
 - (ea) the relevant person is a council member and the person —
 - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;
 - or
 - (eb) the relevant person is a council member and since the relevant person was last elected the person —
 - (i) gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or
 - (ii) made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;
 - or

- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

(2) In subsection (1) —

notifiable gift means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election;

value, in relation to shares, means the value of the shares calculated in the prescribed manner or using the prescribed method.

[Section 5.62 amended by No. 64 of 1998 s. 31; No. 28 of 2003 s. 110; No. 49 of 2004 s. 51; No. 17 of 2009 s. 26.]

5.63. Some interests need not be disclosed

(1) Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —

- (a) an interest common to a significant number of electors or ratepayers;
- (b) an interest in the imposition of any rate, charge or fee by the local government;
- (c) an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers;
- (d) an interest relating to the pay, terms or conditions of an employee unless —
 - (i) the relevant person is the employee; or
 - (ii) either the relevant person's spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;

[(e) deleted]

- (f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects;
- (g) an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under this Act or any other written law; or
- (h) a prescribed interest.

(2) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —

- (a) any proposed change to a planning scheme for any area in the district;
- (b) any proposed change to the zoning or use of land in the district; or
- (c) the proposed development of land in the district,

then, subject to subsection (3) and (4), the person is not to be treated as having an interest in a matter for the purposes of sections 5.65, 5.70 and 5.71.

(3) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —

- (a) any proposed change to a planning scheme for that land or any land adjacent to that land;
- (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
- (c) the proposed development of that land or any land adjacent to that land,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

(4) If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —

- (a) any proposed change to a planning scheme for any area in the district;

- (b) any proposed change to the zoning or use of land in the district; or
- (c) the proposed development of land in the district,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (5) A reference in subsection (2), (3) or (4) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.

[Section 5.63 amended by No. 1 of 1998 s. 15; No. 64 of 1998 s. 32; No. 28 of 2003 s. 111; No. 49 of 2004 s. 52; No. 17 of 2009 s. 27.]

[5.64. Deleted by No. 28 of 2003 s. 112.]

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an 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 CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.

Penalty: \$10 000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
 - (a) that he or she had an interest in the matter; or
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.

- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

[Section 5.66 amended by No. 1 of 1998 s. 16; No. 64 of 1998 s. 33.]

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 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 relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.

Penalty: \$10 000 or imprisonment for 2 years.

5.68. Councils and committees may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —
 - (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and

- (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —
 - (i) the disclosing member also discloses the extent of the interest; and
 - (ii) those members decide that the interest —
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or
 - (II) is common to a significant number of electors or ratepayers.
- (2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.
- (3) This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.

5.69. Minister may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.
- (2) An application made under subsection (1) is to include —
 - (a) details of the nature of the interest disclosed and the extent of the interest; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —
 - (a) there would not otherwise be a sufficient number of members to deal with the matter; or
 - (b) the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69 amended by No. 49 of 2004 s. 53.]

5.69A. Minister may exempt committee members from disclosure requirements

- (1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.
- (2) An application under subsection (1) is to include —
 - (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

- (1) In this section —
employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.
- (2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.
- (3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.
Penalty: \$10 000 or imprisonment for 2 years.

5.71. Employees to disclose interests relating to delegated functions

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10 000 or imprisonment for 2 years.

STRATEGIC PLAN IMPLICATIONS:

The Strategic Plan will be the driver and provide Guidance for Council in their decision making process for the community requests.

**CORPORATE BUSINESS PLAN IMPLICATIONS
(Including Workforce Plan and Asset Management Plan Implications)**

LONG TERM PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

Chief Executive Officer
Deputy Chief Executive Officer
Manager Works and Services
Manager Development Services
Council Staff
Council
Community Members.

STAFF RECOMMENDATION

That Council receives the Status Report.

COUNCIL RECOMMENDATION

MIN 220/18 MOTION - Moved Cr. McNeil 2nd Cr. Leake

That Council receives the Status Report.

CARRIED 6/0

2.25 pm - Mr. Brett Taylor Senior Finance Officer exited Council Chambers.

RESOLUTION

Moved: Cr Tony Sachse

Seconded: Cr Kellie Mortimore

That the Great Eastern Country Zone Councils contact agencies within their area that should have input into the draft, and encourage them to respond. Additionally, Local Governments publish the advertised link for public comment in communications with their residents, and encourage residents to submit their own comments.

CARRIED

RESOLUTION

Moved: Cr Kellie Mortimore

Seconded: President Eileen O’Connell

That the Great Eastern Country Zone requests that:

1. All Local Governments be guaranteed, as a minimum, one flexible refund point in their area.
2. A flexible access point should be defined as a refund point which, as a minimum, is open 16 hours each two week period, including at least 8 hours at weekends
3. The State Government provide appropriate funding for the refund points.

CARRIED

RESOLUTION

Moved: Cr Karin Day

Seconded: President Stephen Strange

That the Great Eastern Country Zone request WALGA to advocate opposing the WA Water Corporation proposed fee structure in remote parts of the eastern Wheatbelt and;

1. Request the Water Corporation look to possible subsidised billing to remote user standpipes for users without any other possible means of potable water;
2. Write to the Department of Water suggesting that as a result of the increased Standpipe water costs that they re-introduce the Farm Water Grants to allow effected landholders the ability to create on-farm water storage and water connections;

CARRIED

RECOMMENDATION

Moved: President Stephen Strange

Seconded: President Ken Hooper

That the Report be received

CARRIED

RESOLUTION

Moved: Cr Tony Sachse

Seconded: President Eileen O’Connell

That the Report be received

CARRIED

RESOLUTION

Moved: Cr Ken Hooper

Seconded: Cr Kellie Mortimore

That the Report be received

CARRIED

RESOLUTION

Moved: Cr Alison Harris

Seconded: President Onida Truran

That the Great Eastern Country Zone notes the WALGA Status Report.

CARRIED

FINANCIAL IMPLICATIONS (ANNUAL BUDGET) : Nil (not known at this time)

POLICY IMPLICATIONS: Nil (not known at this time)

As per Great Eastern Country Zone WALGA resolutions adopted at Zone Meetings

STATUTORY IMPLICATIONS: Nil (not directly in regards to Zone Meeting procedures and resultant actions forwarded onto the Western Australian Local Government Association).

STRATEGIC PLAN IMPLICATIONS

Participation in Great Eastern Country Zone of WALGA provides the Council the opportunity to develop and strengthen partnerships with neighbouring local governments to deliver identified local government services in a more cost effective and substantial manner for the benefit of each Council Member of Great Eastern Country Zone. The additional advantage to membership of the Zone is to monitor and actively provide input to Governance, Compliance and Statutory issues that affect the member Local Government, to deliver the required services to its respective community and to operate effectively and efficiently as a local government.

CORPORATE BUSINESS PLAN IMPLCATIONS: Nil (not know at this time)
(Including Workforce Plan and Asset Management Plan Implications)

TEN YEAR FINANCIAL PLAN IMPLCATIONS: Nil (not known at this time)

COMMUNITY CONSULTATION

- Council and Councillors of the Shire of Kellerberrin
- Great Eastern Country Zone Member Councils
- Great Eastern Country Zone of WALGA
- Western Australian Local Government Association

ABSOLUTE MAJORITY REQUIRED - NO

STAFF RECOMMENDATION

That Council receive the Minutes of the Great Eastern Country Zone of WALGA meeting, held on Thursday 29th November, 2018.

COUNCIL RECOMMENATION

MIN 221/18 MOTION - Moved Cr Reid 2nd Cr Steber

That Council receives the Minutes of the Great Eastern Country Zone of WALGA meeting, held on Thursday 29th November, 2018.

CARRIED 6/0

Agenda Reference:	11.1.4
Subject:	CEACA Council Meeting Minutes and Resolutions
Location:	Merredin, Regional Community and Leisure Centre
Applicant:	CEACA Council
File Ref:	AGE - 03
Disclosure of Interest:	Nil
Date:	6 th December, 2018
Author:	Raymond Griffiths, Chief Executive Officer

BACKGROUND

The Minutes of the recent Council Meeting of the Central East Aged Care Alliance of Councils (CEACA) held on Wednesday 14th November, 2018 held at the Merredin Community and Leisure Centre, are provided to Council formally, with the aim of providing a stronger link and partnership development between member Councils and CEACA to keep this Council abreast of forward/strategic planning initiatives of the Council Group and to consider outcomes from the CEACA Council Meetings.

COMMENT

Attached to this agenda item is a copy of the last CEACA Council Meeting Minutes held on Wednesday 14th November, 2018 held at the Merredin Community and Leisure Centre.

The intent is to list minutes of each Council Meeting formally as compared to listing these minutes in the Information Bulletin section of Council’s monthly Agenda, ensures that Council is;

- a) aware of decision making and proposals submitted
- b) opportunity to prepare agenda items
- c) forward planning to commitments made by the full Council Group and;
- d) return the formality by Member Councils involved in the organization and provision of Executive Support Services of CEACA.

Resolutions arising out of the 14th November, 2018 CEACA Council Meeting summarised hereunder,

RESOLUTION: Moved: Freda Tarr Seconded: Jamie Criddle

That Onida Truran be elected to Chair the meeting.

CARRIED

RESOLUTION: Moved: Ken Hooper Seconded: Freda Tarr

That the Minutes of the Committee Meeting of the Central East Aged Care Alliance Inc held Wednesday 5 September 2018 be confirmed as a true and accurate record of the proceedings.

CARRIED

RESOLUTION: Moved: Rod Forsyth Seconded: Rachel Kirby

That the Minutes from a Special Meeting of the Executive Committee Central East Aged Care Alliance Inc held Wednesday 10 October 2018 be confirmed as a true and accurate record of the proceedings.

CARRIED

RESOLUTION: Moved: Jamie Criddle Seconded: Dirk Sellenger

That the Minutes from a Meeting of the Executive Committee of the Central East Aged Care Alliance Inc held Monday 15 October 2018 be received.

CARRIED

RESOLUTION: Moved: Darren Mollenoyux Seconded: Quentin Davies

That the Action Sheet for November 2018 be received.

CARRIED

RESOLUTION: Moved: Darren Mollenoyux Seconded: Rod Forsyth

That the Executive Officer's report as presented be received.

CARRIED

RESOLUTION: Moved: Quentin Davies Seconded: Freda Tarr

That the Project Update (Financial) as at 31 October 2018 provided by the Shire of Merredin be received.

CARRIED

RESOLUTION: Moved: Rachel Kirby Seconded: Jamie Criddle

That the Project Manager's Report be received.

CARRIED

RESOLUTION: Moved: Quentin Davies Seconded: Rachel Kirby

That the public launch for the CEACA Seniors Housing Project be delayed until after the appointment of an independent Chair to CEACA.

CARRIED

RESOLUTION: Moved: Freda Tarr Seconded: Ken Hooper

1. That a working group be established to finalise the rewriting of the CEACA Constitution, with the working group to be chaired by Gary Shadbolt, the Acting CEACA Chair, and having the following membership:
 - Mr Darren Mollenoyux, CEO Shire of Bruce Rock;
 - Mr John Nuttall, CEO Shire of Mt Marshall; and
 - The CEACA Executive Officer to provide research and administrative support.
2. That the Working Group be authorised to finalise, with assistance from lawyers Kott Gunning, the new CEACA Constitution.
3. That in finalising a new CEACA Constitution the working group include the following:
 - Insertion of a clause that will allow CEACA to operate as a registered charity; and
 - Insertion of a clause that will protect CEACA's "foundation members".
4. Arrangements be made for a Special General Meeting of CEACA be to be held ahead of the first CEACA Committee Meeting for 2019, at which time adoption of the new CEACA Constitution will be considered.

CARRIED

RESOLUTION: Moved: Rachel Kirby Seconded: Quentin Davies

That the matter lay on the table.

CARRIED

RESOLUTION: Moved: Rod Forsyth Seconded: Rachel Kirby

That:

1. The Working Group to oversee the appointment of an Independent Chair for CEACA be reconvened, with its terms of reference being to call for applications, conduct interviews and make a recommendation to the CEACA Committee for the appointment of an independent Chair of CEACA; and
2. The Working Group's membership, being Gary Shadbolt as CEACA's Acting Chair, Quentin Davies, Stephen Strange and the CEACA Executive Officer to provide research and administrative support.

CARRIED

RESOLUTION: Moved: Quentin Davies Seconded: Freda Tarr

That the Central East Aged Care Alliance Inc (CEACA) Committee adopt the following meeting schedule for 2019:

Tuesday 26 February 2019	Ordinary Committee Meeting;
Wednesday 5 June 2019	Ordinary Committee Meeting;
Wednesday 4 September 2019	Ordinary Committee Meeting; and
Wednesday 6 November 2019	AGM and an Ordinary Committee Meeting.

CARRIED

RESOLUTION: **Moved: Rod Forsyth** **Seconded: Ken Hooper**

1. That the Central East Aged Care Association Inc (CEACA) Committee:
 - a) Authorise the CEACA Secretary and Treasurer to use the Central East Aged Care Alliance Inc common seal for the purpose of executing the transfer of the following Crown Land to the ownership of the Central East Aged Care Alliance Inc:
 - Shire of Mt Marshall – Reserve 23238, Lot 40 on Deposited Plan 154962 for the purchase price of \$1.10 (including GST);
 - Shire of Mt Marshall – Reserve 22783. Lot 152 on Deposited Plan 162922 for the purchase price of \$1.10 (including GST);
 - Shire of Trayning – Portion of Reserve 47088, Lots 164 and 165 on Deposited Plan 88163, redescribed as compiled Lot 300 on Deposited Plan 410913 for the purchase price of \$1.10 (including GST); and
 - Shire of Merredin – Portion of Reserve 13876, Part Lot 165 on Deposited Plan 229842 now depicted as Lot 500 on Deposited Plan 412953 for the purchase price of \$1.10 (including GST).
 - b) Authorise the Secretary and Treasurer to seek an exemption under the *Duties Act 2008* from the stamp duty on the transfer of the above properties.
2. That the Shires of Mt Marshall, Trayning and Merredin be requested to meet the purchase price of \$1.10 (including GST), document preparation fee of \$536.00 and Landgate document lodgement fee of \$171.20 a total fee of \$708.30, together with any stamp duty that may be incurred in the transfers.
3. That the CEACA Committee authorise the Executive Officer to be responsible for the safekeeping of its common seal.

CARRIED 10/1
Freda Tarr voted against the motion.

RESOLUTION: **Moved: Rachel Kirby** **Seconded: Darren Mollenoyux**

1. That the CEACA Committee:
 - a) Authorise the CEACA Secretary and Treasurer to use of the Central East Aged Care Alliance Inc common seal for the purpose of executing, the transfer of Lot 31 Rowlands Street, Beacon, Plan 154962, Volume 1258, Folio 306 and to the ownership of the Central East Aged Care Alliance Inc; and
 - b) Authorise the Secretary and Treasurer to seek an exemption under the *Duties Act 2008* from the stamp duty on the transfer of the above property.
2. That the Shire of Mt Marshall be requested to meet the purchase price and Landgate document lodgement fee, together with any stamp duty that may be incurred in the transfers.

CARRIED

RESOLUTION: **Moved: Rachel Kirby** **Seconded: Jamie Criddle**

That the development of policies to cover houses within the CEACA Seniors Housing Project be deferred until an agreement between Access Housing Australia and CEACA to cover the management of CEACA's aged housing is finalised.

CARRIED

RESOLUTION: **Moved: Rachel Kirby** **Seconded: Rod Forsyth**

That:

1. The Executive Officer's report be noted; and
2. Ms Natalie Sangalli from Access Housing Australia be invited to the CEACA Committee Meeting to be held Tuesday 26 February 2018.

CARRIED

RESOLUTION: **Moved: Rod Forsyth** **Seconded: Ken Hooper**

1. That the Central East Aged Care Alliance Inc (CEACA) engage Deloitte Tax services Pty Ltd to:
 - a) Prepare a '153-B' agreement between the Shire of Merredin and CEACA, thereby enabling the Shire of Merredin to act as an agent for CEACA for GST purposes and validate its historical claim of input tax credits for third party costs; and
 - b) Prepare an application on CEACA's behalf to obtain charitable status.
2. That, prior to the implementation of Parts 1a and 1b of the resolution, Deloitte Tax Services Pty Ltd be requested to provide CEACA with a costing for undertaking the work detailed in Parts 1a and 1b.

CARRIED

RESOLUTION: **Moved: Rod Forsyth** **Seconded: Jamie Criddle**

That CEACA:

1. Accept the quotation provided by the Bresland Insurance Group for the amount of \$4,820.00 excluding GST; and
2. Seek a quotation from the Bresland Insurance Group for CEACA's houses once construction is completed.

CARRIED

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

POLICY IMPLICATIONS

STATUTORY IMPLICATIONS:

Nil (not directly in regards to formalisation of the Group other following good administration practices in terms of researching and conducting the business requirements of the Group benchmarked against Minutes, Agenda and Meeting procedure standards- voluntary membership).

STRATEGIC COMMUNITY PLAN IMPLICATIONS

Participation in CEACA provides the Council the opportunity to develop and strengthen partnerships with neighbouring local governments to deliver identified local government services in a more cost effective and substantial manner for the benefit of each Council Member of CEACA.

CORPORATE BUSINESS PLAN IMPLICATIONS

(Including Workforce Plan and Asset Management Plan Implications)

LONG TERM FINANCIAL PLAN IMPLCATIONS

COMMUNITY CONSULTATION

Council and Councillors of the Shire of Kellerberrin
CEACA Member Councils
Staff Information re Minutes and Agendas of CEACA

ABSOLUTE MAJOURITY REQUIRED - NO

STAFF RECOMMENDATION

That Council receive the Minutes of the Great Eastern Country Zone of WALGA meeting, held on Thursday 29th November, 2018.

COUNCIL RECOMMENDATION

MIN 222/18 MOTION - Moved Cr. Steber 2nd Cr. O'Neill

That Council receives the Minutes of the Great Eastern Country Zone of WALGA meeting, held on Thursday 29th November, 2018.

CARRIED 6/0

Agenda Reference:	11.1.5
Subject:	Policy Manual Review Amended Policy: Risk Management
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin - Council
File Ref:	Policy Manual
Disclosure of Interest:	N/A
Date:	6 ^h December, 2018
Author:	Sean Sibly, Deputy Chief Executive Officer

BACKGROUND

Council reviews its policies to ensure proper diligence as to the functioning of the Shire in respect of strategic direction and legislative requirements.

COMMENT

A Risk Management policy is the basis for the Shire’s systems and procedures in relation to Risk Management. Further to the review of such systems and procedures this year in line with regulation 17 of the Local Government (Audit) Regulations 1996, a new policy was developed.

Laying out the Shire’s Risk Management framework, this policy commits the Shire of Kellerberrin to best practice in Risk Management in accordance with the Australian Standard AS/NZS ISO 31000:2009 with the aim of successful implementation of the Strategic Community Plan, improved legislative compliance and minimised loss.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

This policy requires Council to incorporate, in respect of Risk Management, estimated expenditure and detailed information including amounts to be set aside in, or used from, reserve accounts in each annual budget;

POLICY IMPLICATIONS

2.23 Risk Management

Policy Name: Risk Management	To be read in conjunction with Policy Numbers:
Date Adopted: June 2014	Review Date: October 2016

Purpose

To outline the Shire’s commitment and approach to managing risks that may impact on its day-to-day operations and threaten the achievement of its objectives.

Policy

The Risk Management Policy and any associated frameworks, guidelines and protocols will apply across all operations of the Shire. All employees within the Shire are encouraged to develop an understanding and awareness of risk and contribute to the risk management process.

Definitions:

“**risk**” means the effect of uncertainty on objectives, as defined within *AS/NZS ISO 31000:2009*. An effect is a deviation from the expected; positive and/or negative. Risk is often expressed in terms of a combination of the consequences of an event and the associated likelihood.

“**risk management**” means the coordination of activities that direct and control an organisation with regard to risk, as defined within *AS/NZS ISO 31000:2009*.

“**risk management framework**” means a set of components that provide the foundations and organisational arrangements for designing, implementing, monitoring, reviewing and continually improving risk management throughout the organisation; as defined within *AS/NZS ISO 31000:2009*.

Statement:

The Shire is committed to ensuring that effective risk management remains central to all its operations while delivering a wide and diverse range of services to its residents and visitors. The management of risk is the responsibility of everyone and should be an integral part of organisational culture and be reflected in the various policies, protocols, systems and processes used to ensure efficient and effective service delivery. The *Risk Management Framework* will reflect good practice and sound corporate governance and be consistent with *AS/NZS ISO 31000:2009 Risk management - Principles and guidelines*.

Details:

Risk Management Outcomes:

Effective implementation of the Risk Management Framework will ensure that:

- a. Risks that threaten the delivery of services will be identified, recognised and described;
- b. Risks will be analysed to establish an understanding of their sources and causes and their likelihood and impact should they eventuate;
- c. Risks will be evaluated to assist in making decisions about risk priorities and treatment plans;
- d. Risk management processes will be regularly reviewed to ensure that controls are effective, new information is gathered, latest changes and trends are identified, successes and failures are recorded, lessons are learned, changes in internal and external context are detected and emerging risks are captured; and
- e. Benefits are realised including;
 - Greater likelihood of achieving objectives;
 - Compliance with legislative and regulatory requirements;
 - Improved stakeholder trust and confidence;
 - Encouragement of decisive leadership rather than crisis management;
 - Better information for improved decision making;
 - Reduced unexpected and costly surprises;
 - Better results from projects and programs; and
 - More effective and efficient allocation of resources.

Responsibilities:

- All Senior Staff have the responsibility and accountability for ensuring that all staff are managing the risks within their own work areas. In each of these areas, risks should be anticipated and reasonable protective measures taken and staff encouraged with openness and honesty in the reporting and escalation of risks.
- All staff will, after appropriate training, adopt the principles of risk management and comply with all policies, procedures and practices relating to risk management.
- All staff and employees will, as required, conduct risk assessments during the performance of their daily duties. The level of sophistication of the risk assessment will be commensurate with the scope of the task and the associated level of risk identified.
- Failure by staff to observe lawful directions from supervisors regarding the management of risks and/or failure of staff to take reasonable care in identifying and treating risks in the workplace may result in disciplinary action.
- Council is committed morally and financially to the concept and resourcing of risk management.

Monitor and Review:

- The organisation will implement a reporting and recording system that will be regularly monitored to ensure closeout of risks and identification of ongoing issues and trends.
- Risk management key performance indicators, relating to both organisational and personal performance will be developed, implemented and monitored, by the Shire's CEO and Council as appropriate

STATUTORY IMPLICATIONS

Local Government Act 1995 (as amended)

Section 2.7. The role of the council

- (1) The council —
 - (a) directs and controls 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.

Section 2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;
 - (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.
- (2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

Section 2.9. The role of the deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

Section 2.10. The role of councillors

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

5.60. When person has an interest

For the purposes of this Subdivision, a relevant person has an interest in a matter if either —

- (a) the relevant person; or
- (b) a person with whom the relevant person is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

[Section 5.60 inserted by No. 64 of 1998 s. 30.]

5.60A. Financial interest

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

[Section 5.60A inserted by No. 64 of 1998 s. 30; amended by No. 49 of 2004 s. 50.]

5.60B. Proximity interest

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
 - (a) a proposed change to a planning scheme affecting land that adjoins the person's land;
 - (b) a proposed change to the zoning or use of land that adjoins the person's land; or
 - (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
- (2) In this section, land (**the proposal land**) adjoins a person's land if —
 - (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land;
 - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

[Section 5.60B inserted by No. 64 of 1998 s. 30.]

5.61. Indirect financial interests

A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.

5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
 - (a) the person is in partnership with the relevant person; or
 - (b) the person is an employer of the relevant person; or
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
 - (ca) the person belongs to a class of persons that is prescribed; or
 - (d) the person is a body corporate —
 - (i) of which the relevant person is a director, secretary or executive officer; or
 - (ii) in which the relevant person holds shares having a total value exceeding —
 - (I) the prescribed amount; or
 - (II) the prescribed percentage of the total value of the issued share capital of the company,
 whichever is less;

or

- (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
- (ea) the relevant person is a council member and the person —
 - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;
 or
- (eb) the relevant person is a council member and since the relevant person was last elected the person —
 - (i) gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or
 - (ii) made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;
 or
- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

(2) In subsection (1) —

notifiable gift means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election;

value, in relation to shares, means the value of the shares calculated in the prescribed manner or using the prescribed method.

[Section 5.62 amended by No. 64 of 1998 s. 31; No. 28 of 2003 s. 110; No. 49 of 2004 s. 51; No. 17 of 2009 s. 26.]

5.63. Some interests need not be disclosed

(1) Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —

- (a) an interest common to a significant number of electors or ratepayers;
- (b) an interest in the imposition of any rate, charge or fee by the local government;
- (c) an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers;
- (d) an interest relating to the pay, terms or conditions of an employee unless —
 - (i) the relevant person is the employee; or
 - (ii) either the relevant person's spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;

[(e) deleted]

- (f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects;
- (g) an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under this Act or any other written law; or
- (h) a prescribed interest.

(2) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —

- (a) any proposed change to a planning scheme for any area in the district;
- (b) any proposed change to the zoning or use of land in the district; or

(c) the proposed development of land in the district,

then, subject to subsection (3) and (4), the person is not to be treated as having an interest in a matter for the purposes of sections 5.65, 5.70 and 5.71.

- (3) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —
- (a) any proposed change to a planning scheme for that land or any land adjacent to that land;
 - (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
 - (c) the proposed development of that land or any land adjacent to that land,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (4) If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —
- (a) any proposed change to a planning scheme for any area in the district;
 - (b) any proposed change to the zoning or use of land in the district; or
 - (c) the proposed development of land in the district,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (5) A reference in subsection (2), (3) or (4) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.

[Section 5.63 amended by No. 1 of 1998 s. 15; No. 64 of 1998 s. 32; No. 28 of 2003 s. 111; No. 49 of 2004 s. 52; No. 17 of 2009 s. 27.]

[5.64.] Deleted by No. 28 of 2003 s. 112.]

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an 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 CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- Penalty: \$10 000 or imprisonment for 2 years.
- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
- (a) that he or she had an interest in the matter; or
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.

- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

[Section 5.66 amended by No. 1 of 1998 s. 16; No. 64 of 1998 s. 33.]

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 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 relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.

Penalty: \$10 000 or imprisonment for 2 years.

5.68. Councils and committees may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —
 - (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and
 - (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —
 - (i) the disclosing member also discloses the extent of the interest; and
 - (ii) those members decide that the interest —
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member’s conduct in relation to the matter; or
 - (II) is common to a significant number of electors or ratepayers.
- (2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.
- (3) This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.

5.69. Minister may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.
- (2) An application made under subsection (1) is to include —
 - (a) details of the nature of the interest disclosed and the extent of the interest; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —
 - (a) there would not otherwise be a sufficient number of members to deal with the matter; or
 - (b) the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.

Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69 amended by No. 49 of 2004 s. 53.]

5.69A. Minister may exempt committee members from disclosure requirements

- (1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.
- (2) An application under subsection (1) is to include —
 - (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

- (1) In this section —
employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.
- (2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.
- (3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.
Penalty: \$10 000 or imprisonment for 2 years.

5.71. Employees to disclose interests relating to delegated functions

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10 000 or imprisonment for 2 years.

STRATEGIC PLAN IMPLICATIONS:

This policy requires Council to incorporate Risk Management in any plan for the future.

**CORPORATE BUSINESS PLAN IMPLICATIONS
(Including Workforce Plan and Asset Management Plan Implications)**

This policy requires Council to incorporate Risk Management in any plan for the future.

LONG TERM PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

Chief Executive Officer
Deputy Chief Executive Officer

Council has a legislative requirement to consider and determine its Policies.

STAFF RECOMMENDATION

That Council

- 1. *Replaces the Risk Management policy 2.23 with the new Risk Management Policy as presented and incorporates this into the Policy Manual.*
- 2. *Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.*

COUNCIL RECOMMENDATION

MIN 223/18 MOTION - Moved Cr. O'Neill 2nd Cr. Reid

That Council

- 1. ***Replaces the Risk Management policy 2.23 with the new Risk Management Policy as presented and incorporates this into the Policy Manual.***
- 2. ***Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.***

CARRIED 6/0

Agenda Reference:	11.1.6
Subject:	Policy Manual Review Amended Policy: Uniforms
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin - Council
File Ref:	Policy Manual
Disclosure of Interest:	N/A
Date:	6 th December, 2018
Author:	Sean Sibly, Deputy Chief Executive Officer

BACKGROUND

Council reviews its policies to ensure proper diligence as to the functioning of the Shire in respect of strategic direction and legislative requirements.

COMMENT

A Uniforms policy is sought to minimise human and reputation Risk in Service Delivery and increase the likelihood of the Shire achieving its goals.

This policy aims to ensure staff is appropriately attired for Service Delivery.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

New policies or amendments to existing policies may have financial implications for Council’s Budget depending upon which policies are added/deleted/amended.

POLICY IMPLICATIONS

4.4 Inside Staff Uniforms

Policy Name: Inside Staff Uniforms	To be read in conjunction with Policy Numbers:
Date Adopted: January 2003	Review Date: October 2016

Purpose

To ensure staff are adequately and uniformly attired for working within an office environment.

Policy

Council allocates within its Annual Budget the following;

- Administration Staff - \$400.00
- Trainee's \$200.00
- The Chief Executive Officer and Seniors Employees uniform allowances are as per their respective Contracts of Employment

4.5 Provision of Outside Staff Uniforms

Policy Name: Provision of Outside Staff Uniforms	To be read in conjunction with Policy Numbers:
Date Adopted: November 2006	Review Date: October 2016

Purpose

DATED: PRESIDENT SIGNATURE:

To ensure staff are adequately attired for working within an outside environment obliging with Occupational Safety and Health Act (1984) and all other standards and awards

Policy

Where Council issues protective clothing, all such clothing shall be in accordance with Occupational Safety and Health guidelines. Cloth sunhats, where worn, shall be equipped with neck protection.

Sunscreen lotion rated a minimum 30+ shall be made available to all Shire staff required to work outdoors.

All permanent employees shall be issued with protective clothing and equipment as required by the relevant Act and Awards.

Safety boots will be replaced when worn out (cease to be protective) and will not exceed \$150.00 with excess costs to be paid by the employee if a more expensive choice is made. Council prefers boots are purchased from local businesses, although will allow a choice from Council's preferred Workwear Catalogue. New employees will be issued with safety boots on commencement.

New employees shall be issued with Council's wet weather jacket (Manager Works & Services to order this).

Employees annually shall be issued with the following:

- Four shirts
- Four pants or shorts or combination

Where overalls are worn by employees engaged in spraying insecticides and/or poisons, such overalls shall be cleaned by the employer. Employees shall be responsible for the safekeeping, care and maintenance of all protective clothing and equipment, including laundering of clothing. Where protective clothing or equipment is lost or damaged due to negligence by an employee, it shall be replaced by that employee.

All employees including temporary and casual staff, shall have the following items available for their use on an "as needs" basis:

Helmet, Goggles, Gloves, Earmuffs or earplugs, Sunscreen, Insect repellent, Wet weather protection, Rubber boots, Respirators, Safety hats, Safety vests. These items are for all employees use and are to be returned to the Depot when not required. Disposable items to be binned

If staff require additional protective clothing over and above that listed, the employee is to present the worn out clothing to the Manager Works and Services, and request replacement.

All contractors commissioned by the Shire of Kellerberrin shall comply with all Occupational Safety and Health guidelines and staff employed by them must be provided with the required protective clothing and equipment.

STATUTORY IMPLICATIONS

Local Government Act 1995 (as amended)

Section 2.7. The role of the council

- (1) The council —
 - (a) directs and controls 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.

Section 2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;
 - (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.
- (2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

Section 2.9. The role of the deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

Section 2.10. The role of councillors

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

5.60. When person has an interest

For the purposes of this Subdivision, a relevant person has an interest in a matter if either —

- (a) the relevant person; or
- (b) a person with whom the relevant person is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

[Section 5.60 inserted by No. 64 of 1998 s. 30.]

5.60A. Financial interest

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

[Section 5.60A inserted by No. 64 of 1998 s. 30; amended by No. 49 of 2004 s. 50.]

5.60B. Proximity interest

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
 - (a) a proposed change to a planning scheme affecting land that adjoins the person's land;
 - (b) a proposed change to the zoning or use of land that adjoins the person's land; or

- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
- (2) In this section, land (**the proposal land**) adjoins a person's land if —
- (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land;
 - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

[Section 5.60B inserted by No. 64 of 1998 s. 30.]

5.61. Indirect financial interests

A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.

5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
- (a) the person is in partnership with the relevant person; or
 - (b) the person is an employer of the relevant person; or
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
 - (ca) the person belongs to a class of persons that is prescribed; or
 - (d) the person is a body corporate —
 - (i) of which the relevant person is a director, secretary or executive officer; or
 - (ii) in which the relevant person holds shares having a total value exceeding —
 - (I) the prescribed amount; or
 - (II) the prescribed percentage of the total value of the issued share capital of the company,
 whichever is less;
- or
- (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
 - (ea) the relevant person is a council member and the person —
 - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;
- or
- (eb) the relevant person is a council member and since the relevant person was last elected the person —
 - (i) gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or
 - (ii) made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;
- or

- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

(2) In subsection (1) —

notifiable gift means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election;

value, in relation to shares, means the value of the shares calculated in the prescribed manner or using the prescribed method.

[Section 5.62 amended by No. 64 of 1998 s. 31; No. 28 of 2003 s. 110; No. 49 of 2004 s. 51; No. 17 of 2009 s. 26.]

5.63. Some interests need not be disclosed

(1) Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —

- (a) an interest common to a significant number of electors or ratepayers;
- (b) an interest in the imposition of any rate, charge or fee by the local government;
- (c) an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers;
- (d) an interest relating to the pay, terms or conditions of an employee unless —
 - (i) the relevant person is the employee; or
 - (ii) either the relevant person's spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;

[(e) deleted]

- (f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects;
- (g) an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under this Act or any other written law; or
- (h) a prescribed interest.

(2) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —

- (a) any proposed change to a planning scheme for any area in the district;
- (b) any proposed change to the zoning or use of land in the district; or
- (c) the proposed development of land in the district,

then, subject to subsection (3) and (4), the person is not to be treated as having an interest in a matter for the purposes of sections 5.65, 5.70 and 5.71.

(3) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —

- (a) any proposed change to a planning scheme for that land or any land adjacent to that land;
- (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
- (c) the proposed development of that land or any land adjacent to that land,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

(4) If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —

- (a) any proposed change to a planning scheme for any area in the district;

- (b) any proposed change to the zoning or use of land in the district; or
- (c) the proposed development of land in the district,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (5) A reference in subsection (2), (3) or (4) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.

[Section 5.63 amended by No. 1 of 1998 s. 15; No. 64 of 1998 s. 32; No. 28 of 2003 s. 111; No. 49 of 2004 s. 52; No. 17 of 2009 s. 27.]

[5.64. Deleted by No. 28 of 2003 s. 112.]

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an 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 CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.

Penalty: \$10 000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
 - (a) that he or she had an interest in the matter; or
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.

- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

[Section 5.66 amended by No. 1 of 1998 s. 16; No. 64 of 1998 s. 33.]

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 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 relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.

Penalty: \$10 000 or imprisonment for 2 years.

5.68. Councils and committees may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —
 - (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and

- (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —
 - (i) the disclosing member also discloses the extent of the interest; and
 - (ii) those members decide that the interest —
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or
 - (II) is common to a significant number of electors or ratepayers.
- (2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.
- (3) This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.

5.69. Minister may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.
- (2) An application made under subsection (1) is to include —
 - (a) details of the nature of the interest disclosed and the extent of the interest; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —
 - (a) there would not otherwise be a sufficient number of members to deal with the matter; or
 - (b) the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69 amended by No. 49 of 2004 s. 53.]

5.69A. Minister may exempt committee members from disclosure requirements

- (1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.
- (2) An application under subsection (1) is to include —
 - (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

- (1) In this section —

employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.

- (2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.
- (3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.

Penalty: \$10 000 or imprisonment for 2 years.

5.71. Employees to disclose interests relating to delegated functions

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10 000 or imprisonment for 2 years.

STRATEGIC PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

CORPORATE BUSINESS PLAN IMPLICATIONS

(Including Workforce Plan and Asset Management Plan Implications) Nil (not applicable at this date and therefore unknown)

LONG TERM PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

Chief Executive Officer
Deputy Chief Executive Officer
Manager Works and Services
Senior Finance Officer

Council has a legislative requirement to consider and determine its Policies.

STAFF RECOMMENDATION

That Council

- 1. *Deletes Policy 4.4 (Inside Uniforms) & 4.5 (Outside Uniforms) and*
- 2. *Adopts the Uniforms policy as presented as the new policy 4.4 and incorporates this into the Policy Manual.*
- 3. *Renumbers future Corporate Services - Staff Policies to ensure the policy manual runs consecutively*
- 4. *Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.*

COUNCIL RECOMMENDATION

MIN 224/18 MOTION - Moved Cr. O'Neill 2nd Cr. Steber

That Council:

- 1. Deletes Policy 4.4 (Inside Uniforms) & 4.5 (Outside Uniforms) and***
- 2. Adopts the Uniforms policy as presented as the new policy 4.4 and incorporates this into the Policy Manual.***
- 3. Renumbers future Corporate Services - Staff Policies to ensure the policy manual runs consecutively***
- 4. Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.***

CARRIED 6/0

Agenda Reference:	11.1.7
Subject:	Policy Manual Review Amended Policy: Work, Health and Safety
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin - Council
File Ref:	Policy Manual
Disclosure of Interest:	N/A
Date:	6 th December, 2018
Author:	Sean Sibly, Deputy Chief Executive Officer

BACKGROUND

Council reviews its policies to ensure proper diligence as to the functioning of the Shire in respect of strategic direction and legislative requirements.

COMMENT

This policy commits the Shire of Kellerberrin to Continual Improvement of its Occupational Health and Safety Management System (OHSMS), with the aim of reducing Hazard and Incident frequency and severity in Service Delivery.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

New policies or amendments to existing policies may have financial implications for Council’s Budget depending upon which policies are added/deleted/amended.

POLICY IMPLICATIONS

12.3 Occupational Health and Safety

Policy Name: Occupational Health and Safety	To be read in conjunction with Policy Numbers:
Date Adopted: August 2012	Review Date: October 2016

Purpose

The Policy of the Shire of Kellerberrin is to ensure that every employee works in an environment where every effort is made to prevent accidents, injury and disruption to employees’ health from foreseeable work hazards.

Policy

The Shire of Kellerberrin regards the development and implementation of best practice Occupational Safety and Health systems as a common objective for the CEO, Managers, Supervisors, Team Leaders, Employees, Contractors and Volunteers.

The employer acknowledges a duty of care to:

- Provide and maintaining a safe working environment.
- Providing adequate training, instruction and supervision to enable employees to perform their work safely and effectively.
- Investigating all actual and potentially injurious occurrences in order to identify and control the cause to reduce the level of risk in the workplace
- Comply with AS/NZS 4801-2001 Occupational Health and Safety Management Systems audit requirements.
- Compliance with current Occupational Safety and Health Act 1984, and Regulations 1996, relevant Australian Standards including AS/NZS ISO 31000, 2009, Codes of Practice and Guidance Notes.

Employees have a duty of care to

- Working with care for their own safety and that of other employees, contractors, volunteers and public who may be affected by their acts or omissions.
- Reporting hazards, accidents, incidents and near misses to their supervisor.
- Co-operating positively in the fulfilment of the obligations placed on their employer.
- Assisting in the reporting and investigation of any accidents with the objective of introducing and reviewing controls to prevent re-occurrence.

A safe and efficient place of work is our goal, and we must all be committed to reach this outcome.

Raymond Griffiths
Chief Executive Officer

Ian Kent
Employee Representative

Rodney Forsyth
Shire President

STATUTORY IMPLICATIONS

Local Government Act 1995 (as amended)

Section 2.7. The role of the council

- (1) The council —
 - (a) directs and controls 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.

Section 2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;
 - (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government’s affairs and the performance of its functions.
- (2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

Section 2.9. The role of the deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

Section 2.10. The role of councillors

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) participates in the local government’s decision-making processes at council and committee meetings; and

- (e) performs such other functions as are given to a councillor by this Act or any other written law.

5.60. When person has an interest

For the purposes of this Subdivision, a relevant person has an interest in a matter if either —

- (a) the relevant person; or
- (b) a person with whom the relevant person is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

[Section 5.60 inserted by No. 64 of 1998 s. 30.]

5.60A. Financial interest

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

[Section 5.60A inserted by No. 64 of 1998 s. 30; amended by No. 49 of 2004 s. 50.]

5.60B. Proximity interest

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
 - (a) a proposed change to a planning scheme affecting land that adjoins the person's land;
 - (b) a proposed change to the zoning or use of land that adjoins the person's land; or
 - (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
- (2) In this section, land (**the proposal land**) adjoins a person's land if —
 - (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land;
 - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

[Section 5.60B inserted by No. 64 of 1998 s. 30.]

5.61. Indirect financial interests

A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.

5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
 - (a) the person is in partnership with the relevant person; or
 - (b) the person is an employer of the relevant person; or
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
 - (ca) the person belongs to a class of persons that is prescribed; or

- (d) the person is a body corporate —
 - (i) of which the relevant person is a director, secretary or executive officer; or
 - (ii) in which the relevant person holds shares having a total value exceeding —
 - (I) the prescribed amount; or
 - (II) the prescribed percentage of the total value of the issued share capital of the company,
 whichever is less;
 or
- (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
- (ea) the relevant person is a council member and the person —
 - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;
 or
- (eb) the relevant person is a council member and since the relevant person was last elected the person —
 - (i) gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or
 - (ii) made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;
 or
- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

(2) In subsection (1) —

notifiable gift means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election;

value, in relation to shares, means the value of the shares calculated in the prescribed manner or using the prescribed method.

[Section 5.62 amended by No. 64 of 1998 s. 31; No. 28 of 2003 s. 110; No. 49 of 2004 s. 51; No. 17 of 2009 s. 26.]

5.63. Some interests need not be disclosed

(1) Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —

- (a) an interest common to a significant number of electors or ratepayers;
- (b) an interest in the imposition of any rate, charge or fee by the local government;
- (c) an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers;
- (d) an interest relating to the pay, terms or conditions of an employee unless —
 - (i) the relevant person is the employee; or
 - (ii) either the relevant person's spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;

[(e) deleted]

- (f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects;

- (g) an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under this Act or any other written law; or
- (h) a prescribed interest.

- (2) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —
- (a) any proposed change to a planning scheme for any area in the district;
 - (b) any proposed change to the zoning or use of land in the district; or
 - (c) the proposed development of land in the district,

then, subject to subsection (3) and (4), the person is not to be treated as having an interest in a matter for the purposes of sections 5.65, 5.70 and 5.71.

- (3) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —
- (a) any proposed change to a planning scheme for that land or any land adjacent to that land;
 - (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
 - (c) the proposed development of that land or any land adjacent to that land,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (4) If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —
- (a) any proposed change to a planning scheme for any area in the district;
 - (b) any proposed change to the zoning or use of land in the district; or
 - (c) the proposed development of land in the district,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (5) A reference in subsection (2), (3) or (4) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.

[Section 5.63 amended by No. 1 of 1998 s. 15; No. 64 of 1998 s. 32; No. 28 of 2003 s. 111; No. 49 of 2004 s. 52; No. 17 of 2009 s. 27.]

[5.64. Deleted by No. 28 of 2003 s. 112.]

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an 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 CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.

Penalty: \$10 000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
- (a) that he or she had an interest in the matter; or
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.
- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

[Section 5.66 amended by No. 1 of 1998 s. 16; No. 64 of 1998 s. 33.]

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 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 relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.

Penalty: \$10 000 or imprisonment for 2 years.

5.68. Councils and committees may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —
 - (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and
 - (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —
 - (i) the disclosing member also discloses the extent of the interest; and
 - (ii) those members decide that the interest —
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or
 - (II) is common to a significant number of electors or ratepayers.
- (2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.
- (3) This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.

5.69. Minister may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.
- (2) An application made under subsection (1) is to include —
 - (a) details of the nature of the interest disclosed and the extent of the interest; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if

otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —

- (a) there would not otherwise be a sufficient number of members to deal with the matter; or
- (b) the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.

(4) A person must not contravene a condition imposed by the Minister under this section.

Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69 amended by No. 49 of 2004 s. 53.]

5.69A. Minister may exempt committee members from disclosure requirements

(1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.

(2) An application under subsection (1) is to include —

- (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
- (b) any other information required by the Minister for the purposes of the application.

(3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.

(4) A person must not contravene a condition imposed by the Minister under this section.

Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

(1) In this section —

employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.

(2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.

(3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.

Penalty: \$10 000 or imprisonment for 2 years.

5.71. Employees to disclose interests relating to delegated functions

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10 000 or imprisonment for 2 years.

STRATEGIC PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

CORPORATE BUSINESS PLAN IMPLICATIONS

(Including Workforce Plan and Asset Management Plan Implications) Nil (not applicable at this date and therefore unknown)

LONG TERM PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

- Chief Executive Officer
- Deputy Chief Executive Officer
- Manager Works and Services
- Team Leader Roads
- Team Leader Parks and Gardens
- Grounds Manager

Council has a legislative requirement to consider and determine its Policies.

STAFF RECOMMENDATION

That Council

1. *Replaces Policy 12.3 with the new Work, Health and Safety policy as presented and incorporates this into the Policy Manual*
2. *Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.*

COUNCIL RECOMMENDATION

MIN 225/18 MOTION - Moved Cr. Leake 2nd Cr. Steber

That Council

1. *Replaces Policy 12.3 with the new Work, Health and Safety policy as presented and incorporates this into the Policy Manual*
2. *Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.*

CARRIED 6/0

Agenda Reference:	11.1.8
Subject:	Policy Manual Review Amended Policy: Procurement
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin - Council
File Ref:	Policy Manual
Disclosure of Interest:	N/A
Date:	6 ^h December, 2018
Author:	Sean Sibly, Deputy Chief Executive Officer

BACKGROUND

Council reviews its policies to ensure proper diligence as to the functioning of the Shire in respect of strategic direction and legislative requirements.

COMMENT

A Procurement policy is the foundation for the Shire’s systems and procedures in relation to Procurement. As part of the policy manual review this policy has incorporated findings of audits conducted this year and elements of best practice from within and without the sector.

This policy aims to ensure procurement transactions produce and deliver necessary and appropriate value whilst being compliant with relevant legislation.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

New policies or amendments to existing policies may have financial implications for Council’s Budget depending upon which policies are added/deleted/amended.

POLICY IMPLICATIONS

2.4 Purchasing Policy

Policy Name: Purchasing Policy	To be read in conjunction with Policy Numbers:
Date Adopted: February 2007	Review Date: October 2016

Purpose

To provide compliance with the Local Government Act 1995 (as amended) and the Local Government Act (Functions and General) Regulation 1996 (as amended in March 2007).

To ensure consistency for all purchasing activities that integrates within all the Local Government operational areas.

Policy

Why Do We Need A Purchasing Policy?

The Local Government is committed to setting up efficient, effective, economical and sustainable procedures in all purchasing activities. This policy;

1. Provides the Local Government with a more effective way of purchasing goods and services.
2. Ensure that purchasing transactions are carried out in a fair and equitable manner
3. Strengthens integrity and confidence in the purchasing system
4. Ensure that the Local Government receives value for money in its purchasing
5. Ensures the Local Government is compliant with all regulatory obligations

6. Uphold respect from the public and industry for the Local Governments purchasing practices that withstand probity

2. ETHICS & INTEGRITY

All officers and employees of the Local Government shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the Local Government.

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Local Government policies and code of conduct;
- purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;
- all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements;
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- any information provided to the Local Government by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

3. VALUE FOR MONEY

Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Local Government. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing, and service benchmarks. An assessment of the best value for money outcome for any purchasing should consider:

1. All relevant whole-of-life costs and benefits whole-of-life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal.
2. The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality.
3. Financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history).
4. A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever particable.

Where a higher priced conforming offer is recommended, there should be clear and demonstrable benefits over and above the lowest total priced, conforming offer.

4. SUSTAINABLE PROCUREMENT

Sustainable Procurement is defined as the procurement of goods and services that have less environmental and social impacts than competing products and services.

Local Government is committed to sustainable procurement and where appropriate shall endeavour to design quotations and tenders to provide an advantage to goods, services and/or processes that minimise environmental and negative social impacts. Sustainable considerations must be balanced against value for money outcomes in accordance with the Local Government's sustainability objectives.

Practically, sustainable procurement means the Local Government shall endeavour at all times to identify and procure products and services that:

- Have been determined as necessary;
- Demonstrate environmental best practice in energy efficiency / and or consumption which can be demonstrated through suitable rating systems and eco-labelling.
- Demonstrate environmental best practice in water efficiency.
- Are environmentally sound in manufacture, use, and disposal with a specific preference for products made using the minimum amount of raw materials from a sustainable resource, that are free of toxic or polluting materials and that consume minimal energy during the production stage;

Products that can be refurbished, reused, recycled, or reclaimed may be given priority, and those that are designed for ease of recycling, re-manufacture or otherwise to minimise waste.

5. PURCHASING THRESHOLDS

Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

Amount of Purchase	Model Policy
Up to \$2,000	Direct purchase from supplier requiring one or two verbal quotations.
\$2,001 - \$19,999	Obtain at least two verbal or written quotations.
\$20,000 - \$99,999	Obtain at least three written quotations
\$100,000 and above	Conduct a public tender process or WALGA preferred supplier listings

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the \$100,000 threshold (excluding GST). If a decision is made to seek public tenders for Contracts of less than \$100,000, a Request for Tender process that entails all the procedures for tendering outlined in the Local Government Act 1995 (as amended) must be followed in full. Council may elect to utilise the preferred suppliers list through WALGA which doesn't require the tender process as WALGA has performed this duty of behalf of Local Government.

5.1 Up to \$2,000

Where the value of procurement of goods or services does not exceed \$2,000, purchase on the basis of at least one or two verbal quotations is permitted. However it is recommended to use professional discretion and occasionally undertake market testing with a greater number or more formal forms of quotation to ensure best value is maintained.

This purchasing method is suitable where the purchase is relatively small and low risk. Record keeping requirements must be maintained in accordance with record keeping policies.

5.2 \$2,001 to \$19,999

This category is for the procurement of goods or services where the value of such procurement ranges between \$2,001 and \$19,999.

At least two verbal or written quotations (or a combination of both) are required. Where this is not practical, e.g. due to limited suppliers, it must be noted through records relating to the process.

The general principles for obtaining verbal quotations are:

- Ensure that the requirement / specification is clearly understood by the Local Government employee seeking the verbal quotations.
- Ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote.
- Written notes detailing each verbal quotation must be recorded on Form 2 of the Local Government Purchasing and Tender Guide and attached to the cheque, invoice and order
- Record keeping requirements must be maintained in accordance with record keeping policies. The Local Government Purchasing and Tender Guide contains sample forms for recording verbal and written quotations.

5.3 \$20,000 to \$99,999

For the procurement of goods or services where the value exceeds \$20,000 but is less than \$99,999, it is required to obtain at least three written quotes (commonly a sufficient number of quotes would be sought according to the type and nature of purchase).

The responsible officer is expected to demonstrate due diligence seeking quotes and to comply with any record keeping and audit requirements. Record keeping requirements must be maintained in accordance with record keeping policies.

NOTES: The general principles relating to written quotations are;

- An appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion.
- Invitations to quote should be issued simultaneously (if possible) to ensure that all parties receive an equal opportunity to respond.
- Offer to all prospective suppliers at the same time any new information that is likely to change the requirements.
- Respondents should be advised in writing as soon as possible after the final determination is made and approved.

The Local Government Purchasing and Tender Guide produced by the Western Australian Local Government Association (WALGA) should be consulted for further details and guidance.

6. REGULATORY COMPLIANCE

6.1 Tender Exemption

In the following instances public tenders or quotation procedures are not required (regardless of the value of expenditure):

- An emergency situation as defined by the Local Government Act 1995;
- The purchase is under a contract of WALGA (Preferred Supplier Arrangements), Department of Treasury and Finance (permitted Common Use Arrangements), Regional Council, or another Local Government;
- The purchase is under auction which has been authorised by Council;
- The contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
- Any of the other exclusions under Regulation 11 of the Functions and General Regulations apply.

6.2 Sole Source of Supply (Monopoly Suppliers)

The procurement of goods and/or services available from only one private sector source of supply, (i.e. manufacturer, supplier or agency) is permitted without the need to call competitive quotations provided that there must genuinely be only one source of supply. Every endeavour to find alternative sources must be made. Written confirmation of this must be kept on file for later audit.

Note: The application of provision "sole source of supply" should only occur in limited cases and procurement experience indicates that generally more than one supplier is able to provide the requirements.

6.3 Anti-Avoidance

The Local Government shall not enter two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$100,000, thereby avoiding the need to publicly tender.

The Chief Executive Officer is responsible for implementing this policy.

STATUTORY IMPLICATIONS

Local Government Act 1995 (as amended)

Section 2.7. The role of the council

- (1) The council —
 - (a) directs and controls 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.

Section 2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;
 - (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.
- (2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

Section 2.9. The role of the deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

Section 2.10. The role of councillors

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

5.60. When person has an interest

For the purposes of this Subdivision, a relevant person has an interest in a matter if either —

- (a) the relevant person; or
- (b) a person with whom the relevant person is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

[Section 5.60 inserted by No. 64 of 1998 s. 30.]

5.60A. Financial interest

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

[Section 5.60A inserted by No. 64 of 1998 s. 30; amended by No. 49 of 2004 s. 50.]

5.60B. Proximity interest

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
 - (a) a proposed change to a planning scheme affecting land that adjoins the person's land;
 - (b) a proposed change to the zoning or use of land that adjoins the person's land; or
 - (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
- (2) In this section, land (**the proposal land**) adjoins a person's land if —
 - (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land;
 - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

[Section 5.60B inserted by No. 64 of 1998 s. 30.]

5.61. Indirect financial interests

A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.

5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
 - (a) the person is in partnership with the relevant person; or
 - (b) the person is an employer of the relevant person; or
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
 - (ca) the person belongs to a class of persons that is prescribed; or
 - (d) the person is a body corporate —
 - (i) of which the relevant person is a director, secretary or executive officer; or
 - (ii) in which the relevant person holds shares having a total value exceeding —
 - (I) the prescribed amount; or
 - (II) the prescribed percentage of the total value of the issued share capital of the company,whichever is less;or
 - (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
 - (ea) the relevant person is a council member and the person —

- (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;
- or
- (eb) the relevant person is a council member and since the relevant person was last elected the person —
- (i) gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or
 - (ii) made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;
- or
- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

(2) In subsection (1) —

notifiable gift means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election;

value, in relation to shares, means the value of the shares calculated in the prescribed manner or using the prescribed method.

[Section 5.62 amended by No. 64 of 1998 s. 31; No. 28 of 2003 s. 110; No. 49 of 2004 s. 51; No. 17 of 2009 s. 26.]

5.63. Some interests need not be disclosed

(1) Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —

- (a) an interest common to a significant number of electors or ratepayers;
- (b) an interest in the imposition of any rate, charge or fee by the local government;
- (c) an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers;
- (d) an interest relating to the pay, terms or conditions of an employee unless —
 - (i) the relevant person is the employee; or
 - (ii) either the relevant person's spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;

[(e) deleted]

- (f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects;
- (g) an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under this Act or any other written law; or
- (h) a prescribed interest.

(2) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —

- (a) any proposed change to a planning scheme for any area in the district;
- (b) any proposed change to the zoning or use of land in the district; or
- (c) the proposed development of land in the district,

then, subject to subsection (3) and (4), the person is not to be treated as having an interest in a matter for the purposes of sections 5.65, 5.70 and 5.71.

- (3) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —
- (a) any proposed change to a planning scheme for that land or any land adjacent to that land;
 - (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
 - (c) the proposed development of that land or any land adjacent to that land,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (4) If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —
- (a) any proposed change to a planning scheme for any area in the district;
 - (b) any proposed change to the zoning or use of land in the district; or
 - (c) the proposed development of land in the district,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (5) A reference in subsection (2), (3) or (4) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.

[Section 5.63 amended by No. 1 of 1998 s. 15; No. 64 of 1998 s. 32; No. 28 of 2003 s. 111; No. 49 of 2004 s. 52; No. 17 of 2009 s. 27.]

[5.64. Deleted by No. 28 of 2003 s. 112.]

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an 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 CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.

Penalty: \$10 000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
- (a) that he or she had an interest in the matter; or
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.

- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

[Section 5.66 amended by No. 1 of 1998 s. 16; No. 64 of 1998 s. 33.]

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 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 relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.

Penalty: \$10 000 or imprisonment for 2 years.

5.68. Councils and committees may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —
 - (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and
 - (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —
 - (i) the disclosing member also discloses the extent of the interest; and
 - (ii) those members decide that the interest —
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or
 - (II) is common to a significant number of electors or ratepayers.
- (2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.
- (3) This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.

5.69. Minister may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.
 - (2) An application made under subsection (1) is to include —
 - (a) details of the nature of the interest disclosed and the extent of the interest; and
 - (b) any other information required by the Minister for the purposes of the application.
 - (3) On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —
 - (a) there would not otherwise be a sufficient number of members to deal with the matter; or
 - (b) the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
 - (4) A person must not contravene a condition imposed by the Minister under this section.
- Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69 amended by No. 49 of 2004 s. 53.]

5.69A. Minister may exempt committee members from disclosure requirements

- (1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.
- (2) An application under subsection (1) is to include —

- (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

- (1) In this section —
employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.
- (2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.
- (3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.
Penalty: \$10 000 or imprisonment for 2 years.

5.71. Employees to disclose interests relating to delegated functions

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10 000 or imprisonment for 2 years.

STRATEGIC PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

CORPORATE BUSINESS PLAN IMPLICATIONS

(Including Workforce Plan and Asset Management Plan Implications) Nil (not applicable at this date and therefore unknown)

LONG TERM PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

Chief Executive Officer
Deputy Chief Executive Officer
Finance Officer

Council has a legislative requirement to consider and determine its Policies.

STAFF RECOMMENDATION

That Council

- 1. *Replaces Policy 2.4 – Purchasing Policy with the Procurement policy as presented and incorporates this into the Policy Manual.*
- 2. *Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.*

COUNCIL RECOMMENDATION

MIN 226/18 MOTION - Moved Cr. Reid 2nd Cr. O'Neill

That Council

- 1. *Replaces Policy 2.4 – Purchasing Policy with the Procurement policy as presented and incorporates this into the Policy Manual.*
- 2. *Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.*

CARRIED 6/0

Agenda Reference:	11.1.9
Subject:	Policy Manual Review New Policy: Surveillance
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin - Council
File Ref:	Policy Manual
Disclosure of Interest:	N/A
Date:	6 ^h December, 2018
Author:	Sean Sibly, Deputy Chief Executive Officer

BACKGROUND

Council reviews its policies to ensure proper diligence as to the functioning of the Shire in respect of strategic direction and legislative requirements.

COMMENT

A Surveillance policy is required to control implementation of and access to surveillance systems and information recorded.

This policy aims to ensure appropriate governance of video surveillance and recording operations.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

New policies or amendments to existing policies may have financial implications for Council’s Budget depending upon which policies are added/deleted/amended.

POLICY IMPLICATIONS

In faithfully executing its strategic and legislated functions, Council seeks to examine and endorse new policies and/or revisions to existing policies.

STATUTORY IMPLICATIONS

Local Government Act 1995 (as amended)

Section 2.7. The role of the council

- (1) The council —
 - (a) directs and controls 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.

Section 2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;
 - (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government’s affairs and the performance of its functions.

- (2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

Section 2.9. The role of the deputy mayor or deputy president

The deputy mayor or deputy president performs the functions of the mayor or president when authorised to do so under section 5.34.

Section 2.10. The role of councillors

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district;
- (b) provides leadership and guidance to the community in the district;
- (c) facilitates communication between the community and the council;
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

5.60. When person has an interest

For the purposes of this Subdivision, a relevant person has an interest in a matter if either —

- (a) the relevant person; or
- (b) a person with whom the relevant person is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

[Section 5.60 inserted by No. 64 of 1998 s. 30.]

5.60A. Financial interest

For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

[Section 5.60A inserted by No. 64 of 1998 s. 30; amended by No. 49 of 2004 s. 50.]

5.60B. Proximity interest

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
 - (a) a proposed change to a planning scheme affecting land that adjoins the person's land;
 - (b) a proposed change to the zoning or use of land that adjoins the person's land; or
 - (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
- (2) In this section, land (**the proposal land**) adjoins a person's land if —
 - (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land;
 - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

[Section 5.60B inserted by No. 64 of 1998 s. 30.]

5.61. Indirect financial interests

A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.

5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
- (a) the person is in partnership with the relevant person; or
 - (b) the person is an employer of the relevant person; or
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
 - (ca) the person belongs to a class of persons that is prescribed; or
 - (d) the person is a body corporate —
 - (i) of which the relevant person is a director, secretary or executive officer; or
 - (ii) in which the relevant person holds shares having a total value exceeding —
 - (I) the prescribed amount; or
 - (II) the prescribed percentage of the total value of the issued share capital of the company,whichever is less;
- or
- (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
 - (ea) the relevant person is a council member and the person —
 - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;
- or
- (eb) the relevant person is a council member and since the relevant person was last elected the person —
 - (i) gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or
 - (ii) made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;
- or
- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

- (2) In subsection (1) —

notifiable gift means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election;

value, in relation to shares, means the value of the shares calculated in the prescribed manner or using the prescribed method.

[Section 5.62 amended by No. 64 of 1998 s. 31; No. 28 of 2003 s. 110; No. 49 of 2004 s. 51; No. 17 of 2009 s. 26.]

5.63. Some interests need not be disclosed

- (1) Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —
- (a) an interest common to a significant number of electors or ratepayers;
 - (b) an interest in the imposition of any rate, charge or fee by the local government;
 - (c) an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers;
 - (d) an interest relating to the pay, terms or conditions of an employee unless —
 - (i) the relevant person is the employee; or
 - (ii) either the relevant person’s spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;
 - [(e) deleted]*
 - (f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects;
 - (g) an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under this Act or any other written law; or
 - (h) a prescribed interest.

- (2) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —
- (a) any proposed change to a planning scheme for any area in the district;
 - (b) any proposed change to the zoning or use of land in the district; or
 - (c) the proposed development of land in the district,

then, subject to subsection (3) and (4), the person is not to be treated as having an interest in a matter for the purposes of sections 5.65, 5.70 and 5.71.

- (3) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —
- (a) any proposed change to a planning scheme for that land or any land adjacent to that land;
 - (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
 - (c) the proposed development of that land or any land adjacent to that land,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (4) If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —
- (a) any proposed change to a planning scheme for any area in the district;
 - (b) any proposed change to the zoning or use of land in the district; or
 - (c) the proposed development of land in the district,

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (5) A reference in subsection (2), (3) or (4) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.

[Section 5.63 amended by No. 1 of 1998 s. 15; No. 64 of 1998 s. 32; No. 28 of 2003 s. 111; No. 49 of 2004 s. 52; No. 17 of 2009 s. 27.]

[5.64. Deleted by No. 28 of 2003 s. 112.]

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an 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 CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.Penalty: \$10 000 or imprisonment for 2 years.
- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
 - (a) that he or she had an interest in the matter; or
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.
- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

[Section 5.66 amended by No. 1 of 1998 s. 16; No. 64 of 1998 s. 33.]

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 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 relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.

Penalty: \$10 000 or imprisonment for 2 years.

5.68. Councils and committees may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —
 - (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and
 - (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —
 - (i) the disclosing member also discloses the extent of the interest; and
 - (ii) those members decide that the interest —
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or
 - (II) is common to a significant number of electors or ratepayers.
- (2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.

- (3) This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.

5.69. Minister may allow members disclosing interests to participate etc. in meetings

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.
- (2) An application made under subsection (1) is to include —
 - (a) details of the nature of the interest disclosed and the extent of the interest; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —
 - (a) there would not otherwise be a sufficient number of members to deal with the matter; or
 - (b) the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69 amended by No. 49 of 2004 s. 53.]

5.69A. Minister may exempt committee members from disclosure requirements

- (1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.
- (2) An application under subsection (1) is to include —
 - (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

- (1) In this section —
employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.
- (2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.
- (3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.
Penalty: \$10 000 or imprisonment for 2 years.

5.71. Employees to disclose interests relating to delegated functions

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10 000 or imprisonment for 2 years.

STRATEGIC PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

CORPORATE BUSINESS PLAN IMPLICATIONS

(Including Workforce Plan and Asset Management Plan Implications) Nil (not applicable at this date and therefore unknown)

LONG TERM PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

Chief Executive Officer
Deputy Chief Executive Officer
Manager Works and Services
Senior Finance Officer

Council has a legislative requirement to consider and determine its Policies.

STAFF RECOMMENDATION

That Council

- 1. *Adopts the Surveillance policy 2.26 as an addition to the Policy Manual as presented and is incorporated in the Policy Manual.*
- 2. *Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.*

COUNCIL RECOMMENDATION

MIN 227/18 MOTION - Moved Cr. Leake 2nd Cr. McNeil

That Council

- 1. ***Adopts the Surveillance policy 2.26 as an addition to the Policy Manual as presented and is incorporated in the Policy Manual.***
- 2. ***Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.***

CARRIED 6/0

Agenda Reference:	11.1.10
Subject:	Dual Fire Control Officers
Location:	Shire of Kellerberrin
Applicant:	Shire of Trayning
File Ref:	BUSH 00
Record Ref:	ICR181944
Disclosure of Interest:	N/A
Date:	29 th November 2018
Author:	Mr Raymond Griffiths, Chief Executive Officer

BACKGROUND

Council has received correspondence from the Shire of Trayning nominating the following Fire Control Officer’s for Dual Appointment as Fire Control Officer with the Shire of Kellerberrin and Shire of Trayning.

- o Mr Marlon Hudson
- o Mr Peter Barns

COMMENT

Council has been working with surrounding Local Governments to have Dual Registration of Fire Control Officers.

FINANCIAL IMPLICATIONS - NIL

POLICY IMPLICATIONS

- POLICY NUMBER** - 3.1
- POLICY SUBJECT** - Bush Fire Control Officers
- DATE OF ADOPTION** - January 2003
- REVIEWED** - October 2014

Purpose

To have guidelines to follow for the appointment and actions of Fire Brigade Officers & Bush Fire Advisory Committee.

Policy

Appointment:

1. In accordance with relevant provisions of the Bush Fires Act 1954 (as amended), Council shall appoint required Fire Control Officers, including the positions of Chief Bushfire Control Officer and Deputy Chief Bush Fire Control Officer. The adopted procedure for these appointments will be as follows;

- a) The Shire appointed Bushfire Advisory Committee shall at their March Annual Advisory Meeting consider and recommend to Council, the appointment of required Fire Control Officers including the Chief Bushfire Control Officer and the Deputy Chief Bushfire Control Officer.
- b) The Shire Bush Fire Advisory Committee shall undertake the following tasks at their two (2) annual Advisory Meetings in March and September of each year as follows;
 - (i) Fire Control Officer Appointments and recommendation - March
 - (ii) Firebreak Order Review and recommendation - March
 - (iii) Capital Equipment/Vehicle Replacement Budget (ESL) Planning and recommendation - March
 - (iv) Prohibited and Restricted Burning periods review and recommendation - March
 - (v) Communications Strategies including radios and repeater network review and recommendation – March or September

- (vi) Bushfire Policy Review and recommend to the Council for consideration – March or September
- (vii) Other Business – not included above and of a substantive nature – March or September

It should be noted that all business considered at a Bushfire Advisory Meeting is presented to the Council with recommendations for Council consideration and/or adoption. The Shire agrees to provide Administrative support to the Shire of Kellerberrin Bushfire Advisory Meetings only.

2. Fire Control Officers are not permitted to issue permits to burn, for their own purposes. Fire Control Officers wishing to burn must obtain a permit from another authorised Fire Control Officer.

- a) Authority to Act at a Bushfire Emergency – that the Chief Executive Officer be authorised to release/allocate Council operated vehicles, plant and machinery to a Bushfire Emergency, in consultation with or upon request from the Fire Control Officer in charge at the Bushfire Scene.
- b) Recovery of Costs from a Bushfire Emergency - costs incurred by Council vehicle/s, plant and machinery attending to an extreme/out of control Bushfire Emergency, is to be recouped from the ESL Scheme (DFES).

Bush Fire Courses - It be Council’s policy that every encouragement be given to the Bush Fire Brigade Members and Fire Control Officers to attend Bush Fire and Fire Control Officer Courses run by DFES.

That Fire Control Officers be authorised to expend up to \$200 without authorisation. Expenditure above \$200 is to be authorised by the Chief Executive Officer in the course of management of control of a bushfire and that DFES be notified of the expense required to assist with controlling a fire.

STATUTORY IMPLICATIONS

Bush Fires Act 1954

38. Local government may appoint bush fire control officer

- (1) A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.
- (2)(a) The local government shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district.
- [(b) deleted]*
- (c) The local government shall fill any vacancy occurring in the office of Chief Bush Fire Control Officer or Deputy Chief Bush Fire Control Officer within one month after the vacancy occurs and if the local government fails or neglects to do so within that time, the Authority may by notice in writing require the local government to appoint a person to the vacant office within one month after service on it of such notice.
- (d) Where a local government that has been served with a notice pursuant to paragraph (c) fails or neglects to comply with the requirements of that notice, the Authority may appoint a person to the vacant office.
- (e) A bush fire control officer appointed under the provisions of this section shall be issued with a certificate of appointment by the local government or, if he is appointed by the Authority, by the Authority.
- (3) The local government may, in respect to bush fire control officers appointed under the provisions of this section, exercise so far as they can be made applicable the same powers as it may exercise in respect to its other officers, under the provisions of the Acts under which those other officers are appointed.

- (4) A bush fire control officer appointed under the provisions of this section shall, subject to such directions as may be given by the local government, and subject to this Act take such measures as appear to him to be necessary or expedient and practicable for —
- (a) carrying out normal brigade activities;
- [(b) and (c) deleted]*
- (d) exercising an authority or carrying out a duty conferred or imposed upon him by any of the provisions of Part III;
 - (e) procuring the due observance by all persons of the provision of Part III.
- (5)(a) A local government may issue directions to a bush fire control officer appointed by the local government, or to an officer of a bush fire brigade registered by the local government to burn, subject to the provisions of this Act, bush on, or at the margins of, streets, roads, and ways, under the care, control and management of the local government.
- (b) The bush fire control officer, or officer of the bush fire brigade, may by authority of any directions so issued carry out the directions but subject to the provisions of this Act.
 - (c) The provisions of this subsection are not in derogation of those of subsection (4).
- (6)(a) In this section —
- “approved local government”** means a local government approved under paragraph (b) by the Authority.
- (b) If it appears to the Authority that the standard of efficiency of a local government in fire prevention and control justifies the Authority doing so, the Authority, by notice published in the *Government Gazette* —
 - (i) may approve the local government as one to which this subsection applies; and
 - (ii) may from time to time cancel or vary any previous approval given under this paragraph.
 - (c) An approved local government may appoint to the office of fire weather officer such number of senior bush fire control officers as it thinks necessary.
- (ca) Where more than one fire weather officer is appointed by a local government the local government shall define a part of its district in which each fire weather officer shall have the exclusive right to exercise the power conferred by paragraph (h).
- (cb) An approved local government may appoint one or more persons, as it thinks necessary, to be the deputy or deputies, as the case may be, of a fire weather officer appointed by the local government and where 2 or more deputies are so appointed they shall have seniority in the order determined by the local government.
- (cc) Where the office of a fire weather officer is vacant or whilst the occupant is absent or unable to act in the discharge of the duties of the office, any deputy appointed in respect of that office under paragraph (cb) is, subject to paragraph (cd), entitled to act in the discharge of the duties of that office.
- (cd) A deputy who is one of 2 or more deputies of a fire weather officer is not entitled to act in the discharge of the duties of the office of that fire weather officer if a deputy who has precedence over him in the order of seniority determined under paragraph (cb) is available and able to discharge those duties.
- (d) The local government shall give notice of an appointment made under paragraph (c) or (cb) to the Authority and cause notice of the appointment to be published at least once in a newspaper circulating in its district and the Authority shall cause notice of the appointment to be published once in the *Government Gazette*.
- (e) An approved local government may appoint a committee for the purpose of advising and assisting a fire weather officer or any deputy of a fire weather officer acting in the place of that officer under this subsection.

- (f) Where a committee is appointed, a fire weather officer, or, as the case may be, a deputy of a fire weather officer while acting in the place of that officer, may exercise the authority conferred on him by paragraph (h), notwithstanding the advice and assistance tendered to him by the committee.
- (g) The provisions of this subsection are not in derogation of those of any other subsection of this section.
- (h) A fire weather officer of an approved local government, or a deputy of that fire weather officer while acting in the place of that officer, may authorise a person who has received a permit under section 18(6)(a), to burn the bush in the district of the local government notwithstanding that for any day, or any period of a day, specified in the notice the fire danger forecast issued by the Bureau of Meteorology in Perth, in respect to the locality where the bush proposed to be burnt is situated, is "extreme" or "very high", and upon the authority being given the person, if he has otherwise complied with the conditions prescribed for the purposes of section 18, may burn the bush.
- (i) This subsection does not authorise the burning of bush during the prohibited burning times or within the defined area during a bush fire emergency period.

[Section 38 amended by No. 35 of 1957 s. 7; No. 20 of 1958 s. 2; No. 11 of 1963 s. 18; No. 67 of 1970 s. 4; No. 65 of 1977 s. 36; No. 51 of 1979 s. 4; No. 60 of 1992 s. 21; No. 14 of 1996 s. 4; No. 10 of 1998 s. 20(2); No. 42 of 1998 s. 16; No. 38 of 2002 s. 29.]

38A. Authority may appoint Chief Bush Fire Control Officer

- (1) At the request of a local government the Authority may appoint a member of staff (as defined in the FESA Act) to be the Chief Bush Fire Control Officer for the district of that local government.
- (2) Where a Chief Bush Fire Control Officer has been appointed under subsection (1) for a district the local government is not to appoint a Chief Bush Fire Control Officer under section 38(1).
- (3) The provisions of this Act, other than section 38(3), (4) and (5) apply to and in relation to the Chief Bush Fire Control Officer appointed under this section as if he or she were a Chief Bush Fire Control Officer appointed under section 38 by the local government.
- (4) Section 38(3), (4) and (5) apply to and in relation to the Chief Bush Fire Control Officer appointed under this section as if —
 - (a) he or she were a Chief Bush Fire Control Officer appointed under section 38 by the local government; and
 - (b) the references in those subsections to the local government were references to the Authority.

[Section 38A inserted by No. 38 of 2002 s. 30.]

39. Special powers of bush fire control officers

- (1) Subject to the provisions of this Act a bush fire control officer appointed under this Act by a local government may, in the exercise of his functions and the performance of his duties under this Act, do all or any of the following things —
 - (a) exercise any of the appropriate powers of the Director of Operations under the *Fire Brigades Act 1942*, in so far as the same may be necessary or expedient, for extinguishing a bush fire or for preventing the spread or extension of the fire;
 - (b) enter any land or building, whether private property or not;
 - (c) pull down, cut, and remove fences on land, whether private property or not, if in his opinion it is necessary or expedient so to do for the purpose of taking effective measures for extinguishing a bush fire, or for preventing the spread or extension of the fire;
 - (d) cause fire-breaks to be ploughed or cleared on land, whether private land or not, and take such other appropriate measures on the land as he may deem necessary for the purpose of controlling or extinguishing a bush fire or for preventing the spread or extension of the fire;

- (e) take and use water, other than that for use at a school or the domestic supply of an occupier contained in a tank at his dwelling-house, and other fire extinguishing material from any source whatever on land, whether private property or not;
- (f) take charge of and give directions to any bush fire brigade present at a bush fire with respect to its operations or activities in connection with the extinguishment or control of the bush fire, or the prevention of the spread or extension of the fire;
- (g) any other thing which in his opinion is incidental to the exercise of any of the foregoing powers;
- (h) employ a person or use the voluntary services of a person to assist him, subject to his directions in the exercise of any of the foregoing powers; and
- (i) either alone or with others under his command or direction enter a building which he believes to be on fire and take such steps as he considers necessary to extinguish the fire or prevent it from spreading, but except as arranged with or requested by an officer in charge of a fire brigade under the *Fire Brigades Act 1942*, this power shall not be exercised in a townsite in an area which has been declared a fire district under that Act or in a townsite in which there is a fire brigade or volunteer fire brigade formed under the provisions of that Act.

(2)(a) Where a bush fire is burning in or on forest land, or in or on Crown lands, if an authorised CALM Act officer is present at the fire, the powers and authorities conferred by this Act upon a bush fire control officer appointed under this Act by a local government are vested in and are exercisable by the authorised CALM Act officer.

[(b) deleted]

[Section 39 amended by No. 11 of 1963 s. 19; No. 51 of 1979 s. 5; No. 8 of 1987 s. 4; No. 14 of 1996 s. 4; No. 38 of 2002 s. 31 and 40.]

39A. Duties of bush fire authorities on outbreak of fire

- (1) On the outbreak of a bush fire at a place within or adjacent to the district of a local government, the bush fire control officers, bush fire brigade officers, or bush fire brigade members, of the local government, or as many of them as may be available may, subject to this Act, take charge of the operations for controlling and extinguishing the bush fire or for preventing the spread or extension of the fire.
- (2) Where a bush fire to which this section applies occurs, if a bush fire control officer, bush fire brigade officer, or member of a bush fire brigade, of the local government in whose district the bush fire is burning is not present at the fire, a bush fire control officer, a bush fire brigade officer, or member of a bush fire brigade, of a local government whose district is adjoining or adjacent, may exercise in respect of the bush fire, all powers and authorities of a bush fire control officer of the local government in whose district the fire is burning.
- (3) This section applies only to bush fires which —
 - (a) have been lit or are maintained unlawfully;
 - (b) have occurred accidentally;
 - (c) have ceased to be under control or are not adequately controlled; or
 - (d) are declared in the regulations to be bush fires to which this section applies.

[Section 39A inserted by No. 35 of 1957 s. 8; amended by No. 51 of 1979 s. 5; No. 14 of 1996 s. 4.]

40. Local governments may join in appointing and employing bush fire control officers

- (1) Two or more local governments may by agreement join in appointing, employing and remunerating bush fire control officers for the purposes of this Act.
- (2) Bush fire control officers so appointed may exercise their powers and authorities and shall perform their duties under this Act in each and every one of the districts of the local governments which have joined in appointing them.

STRATEGIC PLAN IMPLICATIONS - Nil

FUTURE PLAN IMPLICATIONS - Nil

COMMUNITY CONSULTATION

Chief Executive Officer
Deputy Chief Executive Officer
Chief Bush Fire Control Officer
Shire of Trayning

STAFF RECOMMENDATION

1. *That Council appoints the following Shire of Trayning Fire Control Officer's as a Dual Fire Control Officer for the Shire of Kellerberrin and Shire of Trayning.*
 - i. Mr Marlon Hudson
 - ii. Mr Peter Barnes
2. *That the appointment of the above officers excludes the ability of issuing permits to landholders without prior consent from the Shire of Kellerberrin in writing.*

COUNCIL RECOMMENDATION

MIN 228/18 MOTION - Moved Cr.Leake 2nd Cr. Steber

1. ***That Council appoints the following Shire of Trayning Fire Control Officer's as a Dual Fire Control Officer for the Shire of Kellerberrin and Shire of Trayning.***
 - i. Mr Marlon Hudson***
 - ii. Mr Peter Barnes***
2. ***That the appointment of the above officers excludes the ability of issuing permits to landholders without prior consent from the Shire of Kellerberrin in writing.***

CARRIED 6/0

Agenda Reference:	11.1.11
Subject:	Common Seal Register and Reporting
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	ADM-52
Disclosure of Interest:	N/A
Date:	7 th December, 2018
Author:	Raymond Griffiths, Chief Executive Officer

BACKGROUND

To seek Council's endorsement for the application of the Shire of Kellerberrin Common Seal in accordance with the Common Seal Register.

COMMENT

The Shire of Kellerberrin's Common Seal is applied in circumstances where the Shire enters into a legal agreement, lease or undertakes the disposal or acquisition of land.

Application of the Seal is accompanied by the signatures of the President and Chief Executive Officer.

A register is maintained to record all occasions on which the Seal is applied. The register is maintained, updated and should be presented to Council on a quarterly basis. A process will be put in place to ensure that this occurs. It is recommended that Council formalises the receipt of the affixation of the Common Seal Report for endorsement.

Generally, the Common Seal is only applied in circumstances where the Council has specifically resolved to enter into an agreement, lease or dispose of or acquire land. There are however, occasions where the Seal is required to be applied urgently and Council's endorsement is sought retrospectively.

Attached to this report is a short list of agreements that require Council endorsement for use of the Common Seal.

FINANCIAL IMPLICATIONS: Nil (not known at this time)

POLICY IMPLICATIONS: Nil (not known at this time)

STATUTORY IMPLICATIONS

Shire of Kellerberrin Standing Orders Local Law 2006

Clause 19.1 The Council's Common Seal

- (1) The CEO is to have charge of the common seal of the Local Government, and is responsible for the safe custody and proper use of it.
- (2) The common seal of the Local Government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.
- (3) The common seal of the local government is to be affixed to any local law which is made by the local government.
- (4) The CEO is to record in a register each date on which the common seal of the Local Government was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed.
- (5) Any person who uses the common seal of the Local Government or a replica thereof without authority commits an offence.
Penalty \$1,000

STRATEGIC PLAN IMPLICATIONS: Nil (not known at this time)

FUTURE PLAN IMPLICATIONS: Nil (not known at this time)

COMMUNITY CONSULTATION: Nil (not required statutory function of the Council)

ABSOLUTE MAJORITY REQUIRED – NO

STAFF RECOMMENDATION

That Council endorse the affixing of the Shire of Kellerberrin’s Common Seal as per the attached Common Seal Register document.

COUNCIL RECOMMENDATION

MIN 229/18 MOTION - Moved Cr. Leake 2nd Cr. Steber

That Council endorse the affixing of the Shire of Kellerberrin’s Common Seal as per the attached Common Seal Register document.

CARRIED 6 /0

Agenda Reference:	11.1.12
Subject:	Shire of Kellerberrin – Private and Confidential Items
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	Various
Disclosure of Interest:	N/A
Date:	7 th December, 2018
Author:	Mr Raymond Griffiths, Chief Executive Officer

BACKGROUND

Council wish to move behind closed doors to discuss the Australia Day Nominations.

STATUTORY IMPLICATIONS

Local Government Act 1995 (as amended)

5.23. Meetings generally open to public

- (1) Subject to subsection (2), the following are to be open to members of the public —
 - (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.

- (2) 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 a 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 1971*; and
 - (h) such other matters as may be prescribed.

DATED: **PRESIDENT SIGNATURE:**

- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

STAFF RECOMMENDATION

That Council, in accordance with Section 5.23 (2) (a) of the Local Government Act 1995, moves behind closed doors to discuss the Australia Day Nominations.

COUNCIL RECOMMENDATION

MIN 230/18 MOTION - Moved Cr. Leake 2nd Cr. Reid

That Council, in accordance with Section 5.23 (2) (a) of the Local Government Act 1995, moves behind closed doors to discuss the Australia Day Nominations.

CARRIED 6/0

Agenda Reference:	11.1.13
Subject:	Shire of Kellerberrin/Australia Day Awards Nominations Private and Confidential
Location:	Australia Day Awards
Applicant:	Shire of Kellerberrin
File Ref:	ORG:00 & PUB:08
Disclosure of Interest:	N/A
Date:	7 th December 2018
Author:	Natasha Giles, Community Development Officer

COUNCIL RECOMMENDATION

MIN 231/18 MOTION - Moved Cr. McNeil 2nd Cr. Leake

CARRIED 5/1

COUNCIL RECOMMENDATION

MIN 232/18 MOTION - Moved Cr. McNeil 2nd Cr. Leake

That Council return from behind closed doors.

CARRIED 6/0

Agenda Reference:	11.1.14
Subject:	Local Government Act 1995 – Review – Phase 2
Location:	Shire of Kellerberrin
Applicant:	Department of Local Government, Sport and Cultural Industries
File Ref:	
Record Ref:	
Disclosure of Interest:	N/A
Date:	7 th December 2018
Author:	Mr Raymond Griffiths, Chief Executive Officer

BACKGROUND

The Shire of Kellerberrin on the 16th November 2018 received an Infopage from WALGA with the following information:

The Minister for Local Government commenced a review of the Local Government Act with both a community and a Local Government consultation process in 2017. WALGA conducted a comprehensive consultation process with member Local Governments, resulting in the adoption of policy positions on Phase 1 of the Local Government Act by State Council in December 2017 and March 2018.

The Minister for Local Government announced Phase 1 policy positions at the WALGA Annual General Meeting on 1 August 2018 and intends to introduce legislation prior to the end of the year. WALGA and Local Government Professionals have been consulted on the draft legislation. It is anticipated an Amendment Bill dealing with matters raised under Phase 1 – gifts, training for Council members, behaviours, administrative efficiencies etc - will soon be presented to Parliament.

State-wide Forums

The Minister for Local Government announced the consultation process for Phase 2 of the Act review in August 2018, with 11 themes arranged under the ‘Smart, Agile, Inclusive’ headings:

- *Agile*
 - *Beneficial Enterprises*
 - *Financial Management*
 - *Rates*
- *Smart*
 - *Administrative Efficiencies*
 - *Local Laws*
 - *Council Meetings*
 - *Interventions*
- *Inclusive*
 - *Community Engagement*
 - *Integrated Planning and Reporting*
 - *Complaints Management*
 - *Elections*

To inform the development of a new Local Government Act for Western Australia, WALGA and the Department of Local Government Sport and Cultural Industries hosted a series of Local Government Act Review Forums. These facilitated forums were held generally in WALGA Zone groupings between 10 October and 15 November 2018.

The Department developed detailed Discussion Papers for each of the 11 themes with accompanying questionnaires and they are accepting responses from Local Governments, individual Elected Members, Officers and the general community.

WALGA Feedback Opportunity

WALGA is offering an opportunity for member Local Governments submissions to consider, review, amend and add to the advocacy positions endorsed by State Council in March 2018 following the Phase 1 review process, which are attached.

Our intention is to provide a means for Local Governments to offer submissions on any aspect of the 11 themes discussed under the 'Smart, Agile, Inclusive' headings or any other matter of interest that can feed into the Act review process.

Your response would be appreciated by Friday, 1 February 2019 so that an Agenda Item can be presented to the Zone Meetings leading up to the March 2019 State Council Meeting.

In addition to this opportunity, WALGA is planning a State-wide Forum on the future of Local Government in late January/ early February 2019. The forum will include a review of the information coming through from the Local Government Act forums and submissions. In addition there will be guest speakers presenting on the future of Local Government.

In addition to Council providing a submission, a submission is being prepared by WEROC.

WEROC is requesting that individual Council's review the information and provide a consolidated report to WEROC for review and adoption.

COMMENT

WALGA is preparing and reviewing submissions for the review as well.

The WALGA process from here is as follows;

- 16 November 2018 – WALGA will distribute an InfoPage requesting Local Governments (Council decision required) to provide a submission on the Act review process. A submission to WALGA is requested by 1 February 2019. This will enable Councils to consider an item at their December meetings.
- November Zone Meetings/December 2018 State Council Meeting – Item for noting will be prepared that will cover information on the LG Act review process and a summary of the forums held in October/November and general themes coming through.
- 30 January 2019 – State-wide Forum on the future of Local Government – The forum will include a review of the information coming through from the Local Government Act forums and submissions, in addition there will be guest speakers presenting on the future of Local Government.
- February Zone Meetings/March 2019 State Council Meeting – Item for Decision on sector positions feedback following feedback from Local Government submissions...

This has a flow-on effect which will require changes to the Zone and State Council meeting dates. Zone meetings in late February would change to mid-March and the State Council meeting would move to late March.

The following is the new schedule:

- 22 February 2019 – Local Government Act submissions to WALGA close
- 15 March to 22 March 2019 – Zone Meetings
- Tuesday 26 March 2019 at 4pm – WALGA State Council meeting

WALGA, LG Professional and the Department of Local Government, Sport & Cultural Industries are holding a state-wide forum on 30 January 2019 and the deadline extension means this forum will become even more important as a focal point for input from members to the Local Government Act Review process.

Council attended the Local Government Act 1995 Consultation Forum, with the below information arriving from this forum:

1. KEY ISSUES RAISED BY TOPIC

Topic	Key Issues Raised
Financial Management	<ul style="list-style-type: none"> Alter advertising requirements for tenders and notices. State-wide advertising should not be mandatory, with local publishing options (ie: local newspapers and newsletter), online advertising and use of Shire of and associated websites preferable Banding approach to compliance needed that aligns with the budget of the Shire. Provide greater clarity re the procurement process. Especially re time over which a contract should go to tender (1 or 3 years) Greater flexibility needed with procurement (eg: threshold limits with local suppliers, pre-qualification and being able to add new suppliers in small communities)
Financial Management	<ul style="list-style-type: none"> Align procurement thresholds with State Government. Basic financial management course to be offered to Councillors
Administrative efficiencies/local laws	<ul style="list-style-type: none"> Gazettal advertising should be online and/or local focus to reduce costs Local law process needs to be simplified re models, costs and advertising requirements Suggested eight year review period for local laws
Community engagement/IPR	<ul style="list-style-type: none"> Banding model should be applied to community engagement and IPR requirements. Many shires finding it challenging to get community attendance at events or in engagement processes. Feedback from rate payers and residents is that they've elected the Councillors to make decisions on their behalf. Community engagement processes to be based on local Strategic Community Plans rather than requirements of the Local Government Act.
Local Government Elections	<ul style="list-style-type: none"> Voting should not be compulsory Electronic voting option should be considered If postal voting, Shire should be able to conduct process (without expense of use WAEC) If an Elected Member resigns, Shires should have the ability to appoint the next most successful candidate, rather than run an extra-ordinary process (cost saving) Retain 'first past the post' and 2+2'split terms for elections.
Rating	<ul style="list-style-type: none"> Remove the charitable and other exemptions and allow Council's discretion to determine whether to offer rate relief (ef: CBH, aged care, government-owned properties) Review and simplify the differential rating system

2. KEY IDEAS FOR AMENDED LEGISLATION RAISED BY TOPIC

Topic	Key Issues Raised
Financial Management	<ul style="list-style-type: none"> Alter advertising requirements for tenders and notices
Administrative efficiencies/local laws	<ul style="list-style-type: none"> Local Government Act should acknowledge and accommodate differences in size, location, demographics, etc of local governments Remove requirement for Annual Electors Meeting Councillors should be able to attend meetings remotely (eg: via Skype etc.) from any location Local Laws should be able to be advertised online rather than having to pay for print versions.
Community Engagement/IPR	<ul style="list-style-type: none"> Community engagement processes to be based on local Strategic Community Plans rather than requirements of the Local Government Act. Use the banding model to guide community engagement and IPR requirements

	<ul style="list-style-type: none"> • Five year timeframes are more realistic for IPR, especially for financial plans.
Community engagement/IPR	<ul style="list-style-type: none"> • Asset management plan needs to be relevant to size of Shire
Local Government Elections	<ul style="list-style-type: none"> • Provide option for Councils to conduct own elections for cost effectiveness
Rating	<ul style="list-style-type: none"> • Remove requirement for Ministerial approval for differential rating modes • Enable all properties (including State and Federal Government owned properties) to be rated • Clear definitions are needed re differential rating in the Act.

2. POINT OF GENERAL AGREEMENT

Topic	Key Issues Raised
Financial Management	<ul style="list-style-type: none"> • Alter advertising requirements for tenders and notices. State-wide advertising should not be mandatory. • Provide greater clarity re the procurement process
Administrative efficiencies/local laws	<ul style="list-style-type: none"> • Local Government Act should acknowledge and accommodate differences in size, location, demographics, etc of local governments.
Community Engagement/IPR	<ul style="list-style-type: none"> • Community engagement processes to be based on local Strategic Community Plans or banding framework, rather than requirements of the Local Government Act.
Community engagement/IPR	<ul style="list-style-type: none"> • Community engagement processes to be based on local Strategic Community Plans or banding framework, rather than requirements of the Local Government Act.
Local Government Elections	<ul style="list-style-type: none"> • Retain skills and experience of Councillors through staggered election scheduling, ie: 2+2' split terms for elections.
Rating	<ul style="list-style-type: none"> • Differential rating model needs to be better defined with the option for Councils to determine rating models.

WALGA have also provided positions and advocacy information as per below:

LOCAL GOVERNMENT ACT REVIEW PRINCIPLES

That State Council endorse the following general principles as being fundamental to its response to the review of the Local Government Act:

- a) Uphold the General Competence Principle currently embodied in the Local Government Act;
- b) Provide for a flexible, principles-based legislative framework; and
- c) Promote a size and scale compliance regime

BENEFICIAL ENTERPRISES

Position Statement The Local Government Act 1995 should be amended to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).

WALGA has been advocating for Local Governments to have the ability to form Beneficial Enterprises (formerly known as Council Controlled Organisations) for approximately ten (10) years.

A Beneficial Enterprises is a standalone arm's length business entity to carry out commercial enterprises and to deliver projects and services for the community. Local Governments would have the ability to create Beneficial Enterprises through the Local Government Act, however the stand alone business entity would be governed by the Corporations Act (ie normal company law).

Beneficial Enterprises provide services and facilities that are not attractive to private investors or where there is market failure. A Beneficial Enterprise cannot carry out a regulatory function of a Local Government.

Examples

- Urban regeneration; A Land Development may not be attractive to a private developer, however the ability to develop the land may be beneficial for the Local Government in respect to strategic development/connection of an area. Or may be worth a joint venture with a developer.
- Measures to address economic decline in Regional WA – A small business may not be viable for a private citizen, however maybe considered an essential service for the Local Government. ie Could be the local Pharmacy or local mechanical workshop.

Benefits of establishing a Beneficial Enterprise include:

- a) The ability to employ professional directors and management with experience specific to the commercial objectives of the entity;
- b) Removal of detailed investment decisions from day-to-day political processes while retaining political oversight of the overarching objectives and strategy;
- c) The ability to take an overall view of commercial strategy and outcomes rather than having each individual transaction within a complex chain of inter-related decisions being subject to the individual notification and approval requirements of the Local Government Act;
- d) The ability to quarantine ratepayers from legal liability and financial risk arising from commercial or investment activities;
- e) The ability to set clear financial and non-financial performance objectives for the entity to achieve; and
- f) Greater flexibility to enter into joint venture and partnering relationships with the private sector on conventional commercial terms.

FINANCIAL MANAGEMENT

Tender Threshold

Position Statement WALGA supports an increase in the tender threshold to align with the State Government tender threshold of \$250 000, with a timeframe of one financial year for individual vendors.

Procurement

WALGA seeks inclusion of the following position, to permit a procurement activity involving a disposal trade-in activity to qualify as a broad exemption under Regulation 30(3) of the Local Government (Functions and General) Regulations:

Position Statement That Regulation 30(3) be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.

Imposition of Fees and Charges: Section 6.16

Position Statement - That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.

Power to Borrow: Section 6.20

That Section 6.20(2) of the Local Government Act, requiring one month’s public notice of the intent to borrow, be deleted.

Basis of Rates: Section 6.28

That Section 6.28 be reviewed to examine the limitations of the current methods of valuation of land, Gross Rental Value or Unimproved Value, and explore other alternatives including simplifying and providing consistency in the rating of mining activities.

Differential General Rates: Section 6.33

That Section 6.33 of the Local Government Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.

Member Interests - Exemption from AASB 124

Elected Member obligations to declare interest are sufficiently inclusive that WALGA seeks an amendment to create an exemption under Regulation 4 of the Local Government (Financial Management) Regulations relating to AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS).

RATES, FEES AND CHARGES

Imposition of Fees and Charges: Section 6.16

Position Statement That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.

Rating Exemptions – Charitable Purposes: Section 6.26(2)(g)

1. Amend the Local Government Act to clarify that Independent Living Units should only be exempt from rates where they qualify under the Commonwealth Aged Care Act 1997;
2. Either:
 - a. amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or
 - b. establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates; and
3. Request that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act.

Rating Exemptions – Rate Equivalency Payments

Position Statement Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.

Rates or Service Charges Recoverable in Court: Section 6.56

Position Statement That Section 6.56 be amended to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and services charges be recoverable and not be limited by reference to the 'cost of proceedings'.

Rating Restrictions – State Agreement Acts

Position Statement Resource projects covered by State Agreement Acts should be liable for Local Government rates.

ADMINISTRATIVE EFFICIENCIES

Control of Certain Unvested Facilities: Section 3.53

WALGA seeks consideration that Section 3.53 be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.

Local Government Grants Commission and Local Government Advisory Board

WALGA seeks inclusion of a proposal to allow electors of a Local Government affected by any boundary change or amalgamation proposal entitlement to petition the Minister for a binding poll under Schedule 2.1 of the Local Government Act

Schedule 2.1 – Proposal to the Advisory Board, Number of Electors

That Schedule 2.1 Clause 2(1)(d) be amended so that the prescribed number of electors required to put forward a proposal for change increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.

Schedule 2.2 – Proposal to amend names, wards and representation, Number of Electors

That Schedule 2.2 Clause 3(1) be amended so that the prescribed number of electors required to put forward a submission increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.

Transferability of employees between State & Local Government (Questions 82-84)

A General Agreement between State and Local Government should be established to facilitate the transfer of accrued leave entitlements (annual leave, sick leave, superannuation and long service leave) for staff between the two sectors of Government. This will benefit public sector employees and employers by increasing the skills and diversity of the public sector, and lead to improved collaboration between State and Local Government.

Proof in Vehicle Offences may be shifted: Section 9.13(6)

That Section 9.13 of the Local Government Act be amended by introducing the definition of ‘responsible person’ to enable Local Governments to administer and apply effective provisions associated with vehicle related offences.

COMPLAINTS MANAGEMENT

Querulous, Vexatious and Frivolous Complainants

The Complaints Management commentary contemplates the issue up to the point of unresolved complaints and then references the Ombudsman resources with regard to unreasonable complainants. WALGA seeks inclusion of commentary and questions relating to Local Governments adopting within their proposed complaints management framework, the capacity to permit a Local Government to declare a member of the public a vexatious or frivolous complainant, subject to the declaration relating to the nature of complaint and not to the person.

Amend the Local Government Act 1995, to:

- Enable Local Government discretion to refuse to further respond to a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious or is not made in good faith, or has been determined to have been previously properly investigated and concluded, similar to the terms of section 18 of the Parliamentary Commissioner Act 1971.
- Provide for a complainant, who receives a Local Government discretion to refuse to deal with that complainant, to refer the Local Government’s decision for third party review.
- Enable Local Government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including:
 - Abuse of process;
 - Harassing or intimidating an individual or an employee of the Local Government in relation to the complaint;
 - Unreasonably interfering with the operations of the Local Government in relation to complaint.

COUNCIL MEETINGS

Electors' General Meeting: Section 5.27

Position Statement Section 5.27 of the Local Government Act 1995 should be amended so that Electors' General Meetings are not compulsory.

Special Electors' Meeting: Section 5.28

That Section 5.28(1)(a) be amended:

- a) so that the prescribed number of electors required to request a meeting increase from 100 (or 5% of electors) to 500 (or 5% of electors), whichever is fewer; and
- b) to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise.

Minutes, contents of: Regulation 11

Regulation 11 should be amended to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.

Revoking or Changing Decisions: Regulation 10

That Regulation 10 be amended to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented.

Elected Member attendance at Council meetings by technology

The current Local Government (Administration) Regulations 1996 allows for attendance by telephone, however only if approved by Council and in a suitable place. A suitable place is then defined as in a townsite as defined in the Land Administration Act 1997. This restricts an Elected Members ability to attend the meeting to a townsite in Western Australia.

This requirement does not cater for remote locations or the ability to attend via teleconference whilst in another state or overseas. The regulations require amendment to consider allowing attendance at a meeting via technology from any location suitable to a Council.

INTERVENTIONS

Remedial intervention; Powers of appointed person; Remedial action process

In respect to remedial intervention, the appointed person should be a Departmental employee with the required qualifications and experience. This provides a connection back to the Department and its requirements.

The appointed person should only have an advice and support role. Funding of the remedial action should be by the Department where the intervention is mandatory. The Local Government to pay where the assistance is requested.

This area relates to the bigger picture of differentiating between Local Governments based on their size and scale. Suitable arrangements to determine a size and scale compliance regime should be prioritized.

ELECTIONS

Conduct of Postal Elections: Sections 4.20 and 4.61

Position Statement The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections.

Voluntary Voting: Section 4.65

Position Statement Voting in Local Government elections should remain voluntary.

Method of Election of Mayor/President: Section 2.11

Position Statement Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.

On-Line Voting

That WALGA continue to investigate online voting and other opportunities to increase voter turnout.
Method of Voting - Schedule 4.1

Position Statement Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.

Leave of Absence when Contesting State or Federal Election

Amend the Act to require an Elected Member to take leave of absence when contesting a State or Federal election, applying from the issue of Writs. The options to consider include:

- i. that an Elected Member remove themselves from any decision making role and not attend Council and Committee meetings; or
- ii. that an Elected Member take leave of absence from all aspects of their role as a Councillor and not be able to perform the role as specified in Section 2.10 of the Local Government Act.

Additionally please find attached a summarized version of the survey's provided by the

FINANCIAL IMPLICATIONS – Not known at this stage.

POLICY IMPLICATIONS

STATUTORY IMPLICATIONS

Local Government Act 1995 – As the Review is reviewing the entire act.

The act review with also impact on various regulations.

STRATEGIC PLAN IMPLICATIONS - Nil

FUTURE PLAN IMPLICATIONS - Nil

COMMUNITY CONSULTATION

Chief Executive Officer
Deputy Chief Executive Officer

STAFF RECOMMENDATION

That Council:

1. *Supports WALGA's Position Statement's as presented.*
2. *Endorses the survey responses provided by the Chief Executive Officer*
3. *Provides the survey responses to:*
 - a. *Department of Local Government, Sporting and Cultural Industries*
 - b. *Wheatbelt East Regional Organisation Councils.*
 - c. *Great Eastern Country Zone*
 - d. *Western Australia Local Government Association.*

COUNCIL RECOMMENDATION

MIN 233/18 MOTION - Moved Cr. O'Neill

2nd Cr. Steber

That Council:

- 1. Supports WALGA's Position Statement's as presented.***
- 2. Endorses the survey responses provided by the Chief Executive Officer***
- 3. Provides the survey responses to:***
 - a. Department of Local Government, Sporting and Cultural Industries***
 - b. Wheatbelt East Regional Organisation Councils.***
 - c. Great Eastern Country Zone***
 - d. Western Australia Local Government Association.***

CARRIED 6/0

FINDINGS	RATING		
	Significant	Moderate	Minor
1. Review of the Payroll system revealed instances where the employees had not signed their contracts of employment with the Shire.		✓	
2. While journal entries are being reviewed by the CEO, there is no evidence that supports this review.		✓	
3. Sample testing of payment transactions noted: a. three instances where the purchase orders were raised after the supplier tax invoices were received; and b. one instance where a purchase order was not raised at all.		✓	
4. Review of the annual returns and primary returns of Councillors and Staff noted five annual returns contained sections which had been left blank.			✓
5. The annual financial report for the year ended 30 June 2017 was not submitted to the Department of Local Government, Sport and Cultural Industries within 30 days of receiving the auditor's report.			✓
6. Review of the Shire's asset management plans (AMPs) noted they did not include the yearly totals of planned capital renewal expenditure covering the next 10 years from financial year ended 30 June 2018.			✓
7. A copy of the budget review was not submitted to the Department of Local Government, Sport and Cultural Industries within 30 days of adoption by Council.		✓	
8. Whilst the local public notice of Council's intention to impose differential rates was given, Council had adopted the differential rates prior to the expiry of the 21 days' notice period without considering any submissions from electors or ratepayers.		✓	

FINDINGS AS IDENTIFIED BY OAG AFTER AUDIT

The following opinion in particular is noted in respect of the OAG's Report on the Audit of the Financial Report:

Report on Other Legal and Regulatory Requirements

In accordance with the Local Government (Audit) Regulations 1996 I report that:

- (i) The following material matters indicating non-compliance with Part 6 of the *Local Government Act 1995*, the Local Government (Financial Management) Regulations 1996 or applicable financial controls of any other written law were identified during the course of my audit:
 - a. Accounting journal entries were posted by one employee, without evidence of them being reviewed by a senior staff member independent of preparation. Accounting journals can represent significant adjustments to previously approved accounting transactions,, and should therefore be appropriately reviewed and approved.
- (ii) All required information and explanations were obtained by me.
- (iii) All audit procedures were satisfactorily completed.
- (iv) In my opinion, the asset consumption ratio and the asset renewal funding ratio included in the annual financial report were supported by verifiable information and reasonable assumptions.

COMMENT

Remedies applied and progress made as to findings of the interim audit have not been taken into consideration in preparation of the auditor's Audit Concluding Memorandum and matters listed therein have therefore been noted by Council previously.

It is further noted that the findings as identified by the OAG in their Report on the Audit of the Financial Report are relating to a topic that has never been asked of Local Government previously nor appears in legislation or regulations.

Council is provided the audited Annual Financial Report, the 2018 Audit Concluding Memorandum and the Report on the Audit of The Financial Report for the Year Ending 30 June 2018 for endorsement.

Council's Chief Executive Officer and Shire President met with the OAG and Moore Stephens on Thursday 29th November 2018 to discuss the audit and its findings.

FINANCIAL IMPLICATIONS: Nil

POLICY IMPLICATIONS: Nil

STATUTORY IMPLICATIONS

Local Government Amendment (Auditing) Act 2017

7.12AJ. Conducting a performance audit

- (1) The Auditor General Act section 18 applies in relation to a local government as if —
 - (a) the local government were an agency; and
 - (b) money collected, received or held by any person for or on behalf of the local government were public money; and
 - (c) money collected, received or held by the local government for or on behalf of a person other than the local government were other money; and
 - (d) property held for or on behalf of the local government, other than money referred to in paragraph (b), were public property; and Local Government (Audit) Regulations 1996 (as amended)
 - (e) property held by the local government for or on behalf of a person other than the local government were other property; and
 - (f) the reference in the Auditor General Act section 18(2)(d) to "legislative provisions, public sector policies or its own internal policies;" were a reference to "legislative provisions or its own internal policies;".

(2) A performance audit is taken for the purposes of the Auditor General Act to have been carried out under the Auditor General Act Part 3 Division 1.

7.12AK. Reporting on a performance audit

- (1) The Auditor General Act section 25 applies in relation to a performance audit as if —
 - (a) a local government were an agency; and
 - (b) the council of the local government were its accountable authority.
- (2) The auditor must give a report on a performance audit to the local government.

Local Government (Audit) Regulations 1996

16. Audit committee, functions of

An audit committee —

- (a) is to provide guidance and assistance to the local government —

- (i) as to the carrying out of its functions in relation to audits carried out under Part 7 of the Act; and
 - (ii) as to the development of a process to be used to select and appoint a person to be an auditor;
- and
- (b) may provide guidance and assistance to the local government as to —
 - (i) matters to be audited; and
 - (ii) the scope of audits; and
 - (iii) its functions under Part 6 of the Act; and
 - (iv) the carrying out of its functions relating to other audits and other matters related to financial management.

[Regulation 16 inserted in Gazette 31 Mar 2005 p. 1043.]

Local Government Act 1995 (as amended)

Local Government Act 1995 (As Amended)

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.

5.54. 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.*

- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.

[Section 5.54 amended by No. 49 of 2004 s. 49.]

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

Division 4 — General

7.12A. Duties of local government with respect to audits

- (1) A local government is to do everything in its power to —
 - (a) assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and
 - (b) ensure that audits are conducted successfully and expeditiously.
- (2) Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.
- (3) A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —

- (a) determine if any matters raised by the report, or reports, require action to be taken by the local government; and
 - (b) ensure that appropriate action is taken in respect of those matters.
- (4) A local government is to —
- (a) prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and
 - (b) forward a copy of that report to the Minister,
- by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.

[Section 7.12A inserted by No. 49 of 2004 s. 8.]

Local Government (Financial Management) Regulations 1996

51. Completion of financial report

- (1) After the annual financial report has been audited in accordance with the Act the CEO is to sign and append to the report a declaration in the form of Form 1.
- (2) A copy of the annual financial report of a local government is to be submitted to the Departmental CEO within 30 days of the receipt by the local government’s CEO of the auditor’s report on that financial report.

[Regulation 51 amended in Gazette 18 Jun 1999 p. 2639; 20 Jun 2008 p. 2726.]

- section 3.57 relates to the tendering of goods and services
- section 3.59 relates to preparation of business plan for a commercial or trading enterprise
- sections 5.16, 5.18, 5.42, 5.43, 5.44, 5.45, 5.46 relates to the delegation of power/duty
- sections 5.67, 5.68, 5.73, 5.75, 5.76, 5.77, 5.88, 5.103 relates to the Disclosure of Interest by Councillors and/or Staff
- sections 7.3 to 7.9 relates to the appointment of auditors
- section 9.4 to 9.29 relates to appeal provisions
- sections 3.58 to relates to disposal of property

Subsidiary Statutory Acts and Regulations to achieve compliance

- Local Government (Uniform Local Provisions) Regulations 1996 – regulation 9
- Local Government (Functions and General) Regulations 1997 (as amended) – tenders for the supply of goods and services
- Local Government (Administration) Regulations 1996 (as amended)
- Local Government (Financial Management) Regulations 1996 (as amended)
- Local Government (Audit) Regulations 1996
- Local Government Grants Act 1978 – section 12
- Local Government (Elections) Regulations 1997

STRATEGIC PLAN IMPLICATIONS: Nil

FUTURE PLAN IMPLICATIONS: Nil

COMMUNITY CONSULTATION: Nil

STAFF RECOMMENDATION

The Council:

- 1. *Adopts the Annual Financial Report for the Financial Year 2017/18;*
- 2. *Adopts the Audit Concluding Memorandum for 2017/18 Financial Year;*
- 3. *Adopts the Management Report for the 2017/18 Financial Year;*
- 4. *Adopts the Annual Report for the 2017/18 Financial Year inclusive of the above as presented; and*
- 5. *Advertises Annual Elector’s Meeting be held on 12 February commencing at 7pm in the Cuolahan/Cottle Room at the Kellerberrin Recreation and Leisure Centre.*

COUNCIL RECOMMENDATION

MIN 234/18 MOTION - Moved Cr. Reid

2nd Cr. O’Neill

That Council:

- 1. *Adopts the Annual Financial Report for the Financial Year 2017/18;*
- 2. *Adopts the Audit Concluding Memorandum for 2017/18 Financial Year;*
- 3. *Adopts the Management Report for the 2017/18 Financial Year;*
- 4. *Adopts the Annual Report for the 2017/18 Financial Year inclusive of the above as presented; and*
- 5. *Advertises Annual Elector’s Meeting be held on 12th February commencing at 7pm in the Cuolahan/Cottle Room at the Kellerberrin Recreation and Leisure Centre.*

CARRIED 6/0

Agenda Reference:	11.1.16
Subject:	Australian Local Government Association - Federal Election Initiatives
Location:	Federal Government
Applicant:	Australian Local Government Association
File Ref:	
Record Ref:	
Disclosure of Interest:	N/A
Date:	11 th December 2018
Author:	Mr Raymond Griffiths, Chief Executive Officer

BACKGROUND

During the Australian Local Government Association (ALGA) President’s address to the WALGA Annual General Meeting, Mayor David O’Loughlin made reference to the ALGA Federal Election Initiatives titled “All Politics is Local – 12 ways to deliver for Australian communities”.

The document outlines the policy initiatives to “provide every council and federal member with the opportunity to deliver tangible outcomes to every community in Australia”.

The paper was briefly discussed at the September WE-ROC Executive Meeting at which time it was resolved as shown below:

RESOLUTION: Moved: Greg Powell Seconded: Alan O’Toole

That the WE-ROC Executive “workshop” the issues detailed in the ALGA Federal Election Initiatives publication titled “All Politics is Local – 12 ways to deliver for Australian communities” to determine whether any of the issues are ones WE-ROC should advocate on ahead of the next Federal election.

COMMENT


The Australian Local Government Association (ALGA) has provided twelve (12) Policy Initiatives to assist Councils in delivering tangible outcomes to our local communities throughout Australia. It is estimated by ALGA that these initiatives could add an estimated \$8.97 billion to national GDP and create an estimated 24,000 jobs over the first three years.

The twelve initiatives are:



1. Repair federal funding to local government


Restore the quantum of **Financial Assistance Grants** to at least 1 per cent of Commonwealth taxation revenue

 **BY 3RD YEAR**
CUMULATIVE GDP BENEFIT
\$1.42 billion
4,000 jobs



2. Realise the productive potential of Australia's freight routes


Fund a Local Government - **Higher Productivity Investment Plan** starting at \$200 million per annum over 5 years

 **BY 3RD YEAR**
CUMULATIVE GDP BENEFIT
\$1.07 billion
2,300 jobs



3. Boost safety on local roads


Increase R2R funding to \$800 million per annum and make the **Bridges Renewal Program** permanent

 **BY 3RD YEAR**
CUMULATIVE GDP BENEFIT
\$1.71 billion
4,000 job



4. Promote equitable access to community services


Invest in a Local Government **Community Infrastructure Program** of \$300 million per annum over four years

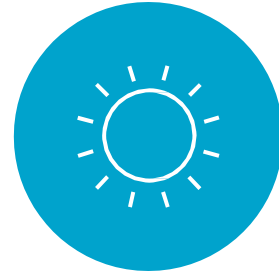
 **BY 3RD YEAR**
CUMULATIVE GDP BENEFIT
\$1.41 billion
3,600 jobs



5. Protect communities from the impacts of natural disasters


Fund a targeted disaster mitigation program at a level of \$200 million per annum for four years

 **BY 3RD YEAR**
CUMULATIVE GDP BENEFIT
\$620 million
1,500 jobs



6. Support communities with their climate change response

Establish a Local Government **Climate Change Partnership Fund** of \$200 million over four years

 **BY 3RD YEAR**
CUMULATIVE GDP BENEFIT
\$451 million
1,100 jobs



7. Promote healthier communities

Invest in a Local Government Place-Based Preventative Health and Activity Program of \$100 million over four years



BY 3RD YEAR
CUMULATIVE GDP BENEFIT
\$292 million
1,600 jobs



8. Foster Indigenous well-being and prosperity

Continue to provide at least \$5.5 billion over the next decade to address the needs in Indigenous communities



BY 3RD YEAR
CUMULATIVE GDP BENEFIT
\$1.66 billion
5,300 jobs



9. Support communities on their digital transformation journeys

Provide a Smart Communities Program of \$100 million per annum and a Digital Local Government and Rural / Regional Telecommunications Program of \$100 million over four years



BY 3RD YEAR
CUMULATIVE GDP BENEFIT
\$340.4 million
1,000 jobs



10. Strengthen Australia's circular economy

Achieve more cost-effective and equitable funding approaches across all parties involved in a product's lifecycle



11. Support local government's current work in addressing affordable housing and homelessness issues

Reinstate a national governance model to address affordable housing and homelessness, that includes local government



12. Address the South Australian road funding anomaly

Adjust the Identified Roads Component of Financial Assistance Grants to make the additional funding to South Australia permanent

The twelve initiatives are positive initiatives for the Australian Communities and Economy.

Below are examples of local impacts under the twelve initiatives:

1. Repair Federal Funding to Local Government

The Federal Assistance Grants (FAG) is provided in two categories, General and Road. The provision of additional funds to either category will be a huge advantage to all Local Governments with additional funds to maintain/upgrade roads with the General fund providing additional funds for either:

- Infrastructure spend
- Allocation to increase reserves
- Additional resources for increased compliance

2. Realise the productive potential of Australia's Freight routes

Council is very aware of this area with the Kellerberrin's CBH facility being on the standard gauge there is significant increase in traffic on Council's local road network as we are the last mile in all access points.

Council supports this initiative with the support of Secondary Grain Freight Routes and Primary routes to ensure local communities are wearing the brunt of expenditure for external impact on local roads.

3. Boost safety on local roads

Council over the past three years has recognized that with the fluctuation in R2R funding it provides an impact on Council's ability to upgrade/maintain its Road Network.

For example of the past two years Council's funding has reduced by \$240K which is one full town street upgrade, should the funding be reinstated back to this level Council has the capacity to upgrade a town street per year which wouldn't be able to be completed otherwise.

4. Promote Equitable access to community services

Within this initiative an increase in this funding area would enable our Council to access funds for the upgrade to Council facilities in particular the Kellerberrin Memorial Swimming Pool.

5. Protect Communities from the impacts of natural disasters

Kellerberrin is well aware of the significant impact Natural Disasters have on communities and the associated costs to repair/upgrade damaged infrastructure.

With this in mind Council would be very supportive to ensure that the 75% funding model remains in place.

6. Support Communities with their climate change response

Support the initiative.

7. Promote Healthier Communities

Wheatbelt and Regional Communities could benefit majority from this initiative with additional funding for the health care sector whether it be Aged Care and GP's.

Additionally it provides funding for healthier communities with footpaths, bike paths and outdoor gyms etc.

8. Foster Indigenous well-being and prosperity

Council supports any initiative for fostering indigenous well-being and prosperity.

9. Support communities on their digital transformation journeys

Council supports this initiative especially considering the amount of black spot areas within the Council boundaries, this affects the abilities and capabilities of our Agricultural industry and the ability in attracting new business.

10. Strengthen Australia’s circular economy

Council supports the initiative.

11. Support Local Government’s current work in addressing affordable housing and homelessness issues.

Council supports the imitative in provision of appropriate and affordable housing and addressing homelessness issues.

Wheatbelt and Regional communities often don’t have capacity or ability to provide high wage or salaries to employee’s therefore appropriate and affordable houses within the regions is imperative.

12. Address the South Australian Road Funding anomaly.

Council supports the initiative to ensure that the recent measures and increase in funding is maintained going forward and not just a temporary fix.

FINANCIAL IMPLICATIONS – Not known at this stage.

POLICY IMPLICATIONS

STATUTORY IMPLICATIONS- Nil at this time

STRATEGIC PLAN IMPLICATIONS - Nil

FUTURE PLAN IMPLICATIONS - Nil

COMMUNITY CONSULTATION

Chief Executive Officer
WEROC

STAFF RECOMMENDATION

That Council:

1. *Supports the Australian Local Government Association’s (ALGA) twelve (12) Federal Election Initiatives.*
2. *Instructs Councils Chief Executive Officer to write to:*
 - a. *ALGA providing written support for the twelve (12) initiatives as presented while providing examples of the benefit to the Shire of Kellerberrin as presented.*
 - b. *Our current Federal Members supporting the twelve (12) initiative as presented while providing examples of the benefit to the Shire of Kellerberrin as presented.*

COUNCIL RECOMMENDATION

MIN 235/18 MOTION - Moved Cr. Steber 2nd Cr. Leake

That Council:

- 1. Supports the Australian Local Government Association's (ALGA) twelve (12) Federal Election Initiatives.***
- 2. Instructs Councils Chief Executive Officer to write to:***
 - a. ALGA providing written support for the twelve (12) initiatives as presented while providing examples of the benefit to the Shire of Kellerberrin as presented.***
 - b. Our current Federal Members supporting the twelve (12) initiative as presented while providing examples of the benefit to the Shire of Kellerberrin as presented.***

CARRIED 6 / 0

Agenda Reference:	11.1.17
Subject:	Cheque List November 2018
Location:	Shire of Kellerberrin
Applicant:	N/A
File Ref:	N/A
Record Ref:	N/A
Disclosure of Interest:	N/A
Date:	07 th December 2018
Author:	Morgan Ware, Finance Officer

BACKGROUND

Accounts for payment from 1st November 2018 – 30th November 2018

Trust Fund

TRUST TOTAL **\$ 2,388.03**

Municipal Fund

Cheque Payments
34515-34527 **\$ 17,649.40**

EFT Payments
8929-9031 **\$ 468,167.29**

Direct Debit Payments **\$ 56,182.18**

TOTAL MUNICIPAL **\$ 485,816.69**

COMMENT

During the month of November 2018, the Shire of Kellerberrin made the following significant purchases:

Evoke Living Homes **\$ 149,701.05**
Lock up, Materials delivered to site, Construction of Two (GROH) Houses on 72 Hammond Street, Kellerberrin, As per Tender and Contract 01-18, Carry out report on neighbouring property including shed and house inspection

Evoke Living Homes **\$ 104,347.14**
Construction of Two (GROH) Houses on 72 Hammond Street, Kellerberrin as per Tender and Contract 01-18, Paid Deposit on Construction of Two (GROH) Houses on 72 Hammond Street, Kellerberrin twice, As per Tender and Contract 01-18

Deputy Commissioner Of Taxation **\$ 29,001.00**
PAYGTAX, Fuel Tax Credits

Shire Of Merredin **\$ 19,659.94**
CEACA, As per resolution, 26th March 2018, \$13.00 @1172.33, Lot 1, Electrical headwork fees to changeover power to existing CBH infrastructure, Variation claim, Visitors guide, Advertising for the Shire of Kellerberrin business

Ligna Construction **\$ 18,325.07**
In reference to Purchase Order 1905, Release of retention held for Centenary Park

Merredin Refrigeration & Gas **\$ 15,246.00**
Installation of Freezer into current storeroom at Recreation Centre as per quotation dated 1st June 2018, Final Payment, Provide Maintenance 6 monthly service to Air Conditioning & Refrigeration equipment for Shire owned properties

KLM Mining & Industrial Pty Ltd **\$ 14,822.50**
Supply & Install synthetic turf, 26 Hammond Street, Kellerberrin

Moore Stephens **\$ 14,009.60**

Compilation of 2017/18 Annual Financial Statements, Including telephone meetings, Discussions, Emails, Collation of information, Analysis of reports and input data into the model to Auditor, Additional fees: Assist CEO with revaluation journal for infrastructure

Farmways Kellerberrin Pty Ltd \$ 13,824.94
 Purchase of sprinklers for oval, Replacement program, Toro rotor turf sprinkler, Mop refill lightning extra wide, Black shield, Pine post single rail, Cement rapid/fast set 20kg, Mower blade, 2 x 45kg gas bottles, 205ltr diesel supreme, Coolant, Uniforms for all Shire outside Staff and other misc. items under \$100.00

United Card Services Pty Ltd \$ 12,861.48
 Fuel Purchases, October 2018

Kellerberrin & Districts Club \$ 12,706.65
 Quarterly payment, Salary of KRLCMAC Manager, Reimbursement of cleaning wages, September 18, Catering for LHAG Ladies Day Out, Monthly repayment of Macquarie Bank Solar Panels, Refreshments for Council Meeting, Bush Fire Brigade

Griffin Valuation Advisory \$ 12,023.00
 Plant and Equipment Asset Fair Value Valuation, Infrastructure Asset Fair Value Desktop Evaluation, Travelling & Meal Expenses

AUSQ Training \$ 11,998.00
 Basic Worksite Traffic Management & Traffic Controller, 23/24/25th October 2018, AusQ Training, Course 1 & Course 2, Deposit & Full Course Fees

Avon Waste \$ 7,768.07
 Domestic Refuse Collection, 478 @ 1.67 x 4 weeks, Domestic Refuse Collection, 478 @ 1.67 x 4 weeks, Commercial Refuse Collection, 64 @ 1.67 x 4 weeks, Recycling Bins, 12th October, Additional Recycling Bins, 12th October, Cardboard only service, 4th and 18th October, Transport Collection Waste to Northam, KBN Hospital, 10 @ 1.67 x 4 weeks, Dryandra, 13 @ 1.67 x 4 weeks, KDHS, 13 @ 1.67 x 4 weeks, Caravan Park, 12 @ 1.67 x 4 weeks, Swimming Pool, 2 @ 1.67 x 4 weeks, Recreation Centre, 10 @ 1.67 x 4 weeks, CRC, 3 @ 1.67 x 4 weeks, Shire Office, 3 @ 1.67 x 4 weeks, Hall, 4 @ 1.67 x 4 weeks, Golf Club, 4 @ 1.67 x 4 weeks, Service Transfer Station, Transport Station Waste to Northam, 18th October 2018

Moore Stephens \$ 7,513.00
 Roads to Recovery, Annual return for the year ending 30th June 2018, Rates Processing Service, Review and lodge Business Activity Statement for September 2018, Compilation of the Statement of Financial Activity for September 2018 including end of month review service

WA Local Government Superannuation Plan Pty Ltd \$ 5,900.94
 Payroll Deductions

Synergy \$ 5,627.15
 Power Consumption for Streetlight Tariff, Shire owned facilities

WA Local Government Superannuation Plan Pty Ltd \$ 5,625.09
 Payroll Deductions

WA Local Government Superannuation Plan Pty Ltd \$ 5,493.12
 Payroll Deductions

Shire of Kellerberrin 2018/2019 Operating Budget

POLICY IMPLICATIONS - Nil

STATUTORY IMPLICATIONS

Local Government (Financial Management) Regulations 1996

11. Payment of accounts

- (1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —

- (a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and
 - (b) Petty cash systems.
- (2) A local government is to develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so.
- (3) Payments made by a local government —
- (a) Subject to sub-regulation (4), are not to be made in cash; and
 - (b) Are to be made in a manner which allows identification of —
 - (i) The method of payment;
 - (ii) The authority for the payment; and
 - (iii) The identity of the person who authorised the payment.
- (4) Nothing in sub-regulation (3) (a) prevents a local government from making payments in cash from a petty cash system.

[Regulation 11 amended in Gazette 31 Mar 2005 p. 1048.]

12. Payments from municipal fund or trust fund

- (1) A payment may only be made from the municipal fund or the trust fund —
- (a) If the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
 - (b) Otherwise, if the payment is authorised in advance by a resolution of the council.
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

[Regulation 12 inserted in Gazette 20 Jun 1997 p. 2838.]

13. Lists of accounts

- (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;
 - (b) The amount of the payment;
 - (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;
 - (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 sub-regulation (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.

STRATEGIC COMMUNITY PLAN IMPLICATIONS - Nil

**CORPORATE BUSINESS PLAN IMPLCATIONS - Nil
(Including Workforce Plan and Asset Management Plan Implications)**

TEN YEAR FINANCIAL PLAN IMPLCATIONS - Nil

COMMUNITY CONSULTATION - Nil

ABSOLUTE MAJORITY REQUIRED – NO

STAFF RECOMMENDATION

That Council notes that during the month of November 2018, the Chief Executive Officer has made the following payments under council’s delegated authority as listed in appendix A to the minutes.

- 1. *Municipal Fund payments totalling \$ 485,816.69 on vouchers EFT , CHQ, Direct payments*
- 2. *Trust Fund payments totalling \$ 2,388.03 on vouchers EFT, CHQ, Direct payments*

COUNCIL RECOMMENDATION

MIN 236/18 MOTION - Moved Cr. Leake 2nd Cr. McNeil

That Council notes that during the month of November 2018, the Chief Executive Officer has made the following payments under council’s delegated authority as listed in appendix A to the minutes.

- 1. *Municipal Fund payments totalling \$ 485,816.69 on vouchers EFT , CHQ, Direct payments*
- 2. *Trust Fund payments totalling \$ 2,388.03 on vouchers EFT, CHQ, Direct payments*

CARRIED 6/0

Agenda Reference:	11.1.18
Subject:	Direct Debit List and Visa Card Transactions for the month November 2018
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	N/A
Record Ref:	N/A
Disclosure of Interest:	N/A
Date:	5 th December 2018
Author:	Brett Taylor, Senior Finance Officer

BACKGROUND

Please see below the Direct Debit List and Visa Card Transactions for the month of November 2018.

Municipal Fund – Direct Debit List

Date

1-Nov-18	NAB	Merchant Fees	42.00
1-Nov-18	NAB	Merchant Fees	48.40
1-Nov-18	Westnet	EFT Payment	144.94
1-Nov-18	NAB	Merchant Fees-Caravan Park	166.27
1-Nov-18	Shire of Kellerberrin	Payrun	48,708.10
5-Nov-18	Shire of Kellerberrin	EFT Payment	2,859.00
6-Nov-18	Shire of Kellerberrin	Superchoice	7,577.15
7-Nov-18	Dot Inspections	EFT Payment	131.97
8-Nov-18	Shire of Kellerberrin	Creditors Payment	226,192.86
9-Nov-18	NAB	Connect Fees	92.74
13-Nov-18	DLL	Monthly Rent	265.21
13-Nov-18	Housing Authority	Fortnightly Rent	420.00
15-Nov-18	Shire of Kellerberrin	Payrun	49,680.52
16-Nov-18	Shire of Kellerberrin	Superchoice	7,380.75
19-Nov-18	Shire of Kellerberrin	Creditors Payment	18,325.07
20-Nov-18	Shire of Kellerberrin	Superchoice	228.01
22-Nov-18	Shire of Kellerberrin	Creditors Payment	223,649.36
27-Nov-18	Housing Authority	Monthly Rent	420.00
29-Nov-18	Shire of Kellerberrin	Payrun	48,791.54
30-Nov-18	NAB	Bank Fees- B PAY	82.56
30-Nov-18	NAB	Account Fees	51.20
30-Nov-18	NAB	Merchant Fees	54.80
30-Nov-18	NAB	Merchant Fees	88.17
30-Nov-18	NAB	Merchant Fees	102.22
30-Nov-18	NAB	Merchant Fees-Caravan Park	121.79
30-Nov-18	Shire of Kellerberrin	Superchoice	7,982.16
30-Nov-18	NAB	Connect Fees	63.99
TOTAL			\$ 643,670.78

Trust Fund – Direct Debit List

Date	Name	Details	\$	Amount
30-Nov-18	Department of Transport	D/D Licensing Payments November 2018	\$	48,365.50
TOTAL			\$	48,365.50

Visa Card Transactions

Date	Name	Details	\$	Amount
08-Nov-18	Crown Perth	Food & Beverages		434.15
09-Nov-18	Crown Merrywell	Food & Beverages		52.60
12-Nov-18	Crown Perth	Accommodation - LG Conference		1,297.38
15-Nov-18	Department of Water	Clearing Permit		200.00
28-Nov-18	NAB	Card Fee		9.00
TOTAL - CEO			\$	<u>1,993.13</u>

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

➤ Financial Management of 2018/2019

POLICY IMPLICATIONS - Nil

STATUTORY IMPLICATIONS

Local Government (Financial Management) Regulations 1996

34. Financial activity statement report — s. 6.4

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - (b) budget estimates to the end of the month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity December be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

STRATEGIC PLAN IMPLICATIONS - Nil

CORPORATE BUSINESS PLAN IMPLICATIONS - Nil

TEN YEAR FINANCIAL PLAN IMPLICATIONS - Nil

COMMUNITY CONSULTATION – Nil

ABSOLUTE MAJORITY REQUIRED – No

STAFF RECOMMENDATION

1. *That the Direct Debit List for the month of November 2018 comprising;*
- a) *Municipal Fund – Direct Debit List*
 - b) *Trust Fund – Direct Debit List*
 - c) *Visa Card Transactions*

Be adopted.

COUNCIL RECOMMENDATION

MIN 237/18 MOTIONS - Moved Cr. Reid 2nd Cr. McNeil

That Council adopts the Direct Debit List for the month of November 2018 comprising;

- a) Municipal Fund – Direct Debit List***
- b) Trust Fund – Direct Debit List***
- c) Visa Card Transactions***

Be adopted.

CARRIED 6/0

Agenda Reference:	11.1.19
Subject:	Financial Management Report for November 2018
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	N/A
Record Ref:	N/A
Disclosure of Interest:	N/A
Date:	8 th November, 2018
Author:	Sean Sibly, Deputy Chief Executive Officer

BACKGROUND

Enclosed is the Monthly Financial Report for the month of November 2018.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

- Financial Management of 2018/2019

POLICY IMPLICATIONS - Nil

STATUTORY IMPLICATIONS

Local Government (Financial Management) Regulations 1996

34. Financial activity statement report — s. 6.4

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - (b) budget estimates to the end of the month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —

- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

STRATEGIC PLAN IMPLICATIONS - Nil

CORPORATE BUSINESS PLAN IMPLICATIONS - Nil

TEN YEAR FINANCIAL PLAN IMPLICATIONS - Nil

COMMUNITY CONSULTATION – Nil

ABSOLUTE MAJORITY REQUIRED – No

STAFF RECOMMENDATION

That the Financial Report for the month of November 2018 comprising;

- a. Statement of Financial Activity*
- b. Note 1 to Note 13*

Be adopted.

COUNCIL RECOMMENDATION

MIN 238/18 MOTIONS - Moved Cr. Steber 2nd Cr. Reid

That the Financial Report for the month of November 2018 comprising;

- (a) Statement of Financial Activity***
- (b) Note 1 to Note 13***

Be adopted.

CARRIED 6/0

DEVELOPMENT SERVICES – AGENDA ITEM

Agenda Reference:	11.2.1
Subject:	Building Returns: November 2018
Location:	Shire of Kellerberrin
Applicant:	Various
File Ref:	BUILD06
Disclosure of Interest:	Nil
Date:	3 rd December, 2018
Author:	Raymond Griffiths, Chief Executive Officer

BACKGROUND

Council has provided delegated authority to the Chief Executive Officer, which has been delegated to the Building Surveyor to approve of proposed building works which are compliant with the Building Act 2011, Building Code of Australia and the requirements of the Shire of Kellerberrin Town Planning Scheme No.4.

COMMENT

1. There were one (1) applications received for a "Building Permit" during the November 2018 period. A copy of the "Australian Bureau of Statistics appends".
2. There was one (1) "Building Permits" issued in the November 2018 period. See attached form "Return of Building Permits Issued".

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

There is income from Building fees and a percentage of the levies paid to other agencies. ie: "Building Services Levy" and "Construction Industry Training Fund" (when construction cost exceeds \$20,000)

POLICY IMPLICATIONS

NIL

STATUTORY IMPLICATIONS

- Building Act 2011
- Shire of Kellerberrin Town Planning Scheme 4

STRATEGIC COMMUNITY PLAN IMPLICATIONS - Nil

CORPORATE BUSINESS PLAN IMPLCATIONS - Nil (Including Workforce Plan and Asset Management Plan Implications)

TEN YEAR FINANCIAL PLAN IMPLCATIONS - Nil

COMMUNITY CONSULTATION

Building Surveyor
Owners
Building Contractors

ABSOLUTE MAJORITY REQUIRED – YES/NO

NO

STAFF RECOMMENDATION

That Council

1. *Acknowledge the "Return of Proposed Building Operations" for the November 2018 period.*
2. *Acknowledge the "Return of Building Permits Issued" for the November 2018 period.*

COUNCIL RECOMMENDATION

MIN 239/18 MOTION - Moved Cr. Steber

2nd Cr. Reid

That Council

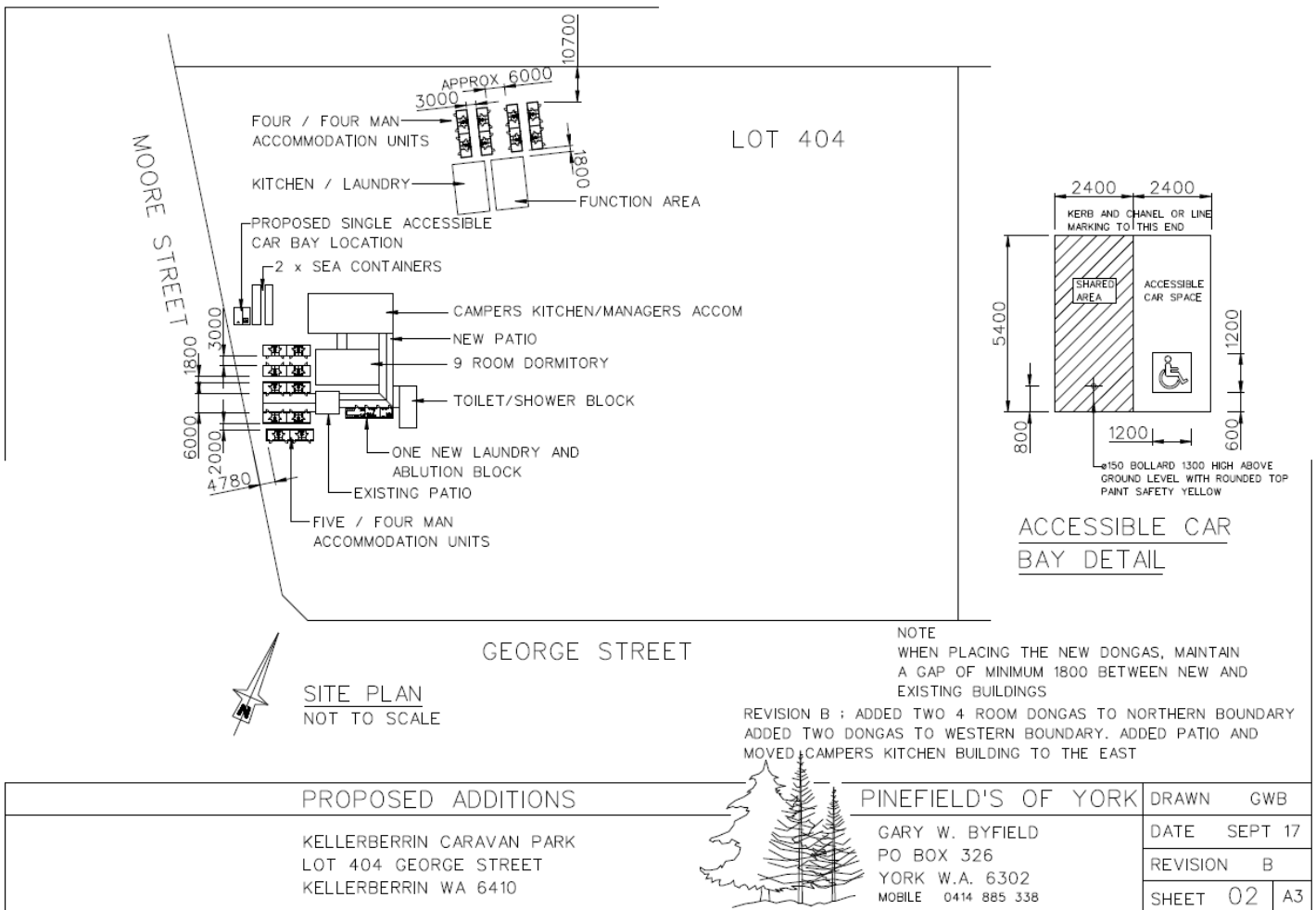
- 1. Acknowledge the "Return of Proposed Building Operations" for the November 2018 period.*
- 2. Acknowledge the "Return of Building Permits Issued" for the November 2018 period.*

CARRIED 6/0

Agenda Reference: 11.2.2
Subject: Development Application: Caravan Park
Location: Lot 404 George Street, Kellerberrin
Applicant: Shire of Kellerberrin
File Ref: A565
Record Ref: IPA1751
Disclosure of Interest: N/A
Date: 6th December 2018
Author: Mr. Lewis York, Town Planner

BACKGROUND

A development application has been received from the Shire of Kellerberrin for four (4) accommodation blocks to be located at the Shire's caravan park. The dongas will each contain four (4) bedrooms, with two (2) to be located on the northern boundary and two on the western boundary. Existing on the lot are five (5) dongas, a shower block, laundry, dormitory, campers kitchen, sea containers and other structures that support the parks operations.



FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

The applicant paid a standard planning application fee of \$147.

POLICY IMPLICATIONS

N/A

STATUTORY IMPLICATIONS

Local Planning Scheme No.4

The Caravan Park is located in a Special Use Zone

3.7. SPECIAL USE ZONES

1. 3.7.1. Special use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.
2. 3.7.2. A person must not use any land, or any structure or buildings on land, in a special use zone except for the purpose set out against that land in Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

Note: Special use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.

SCHEDULE 4 — SPECIAL USE ZONES

No.	Description of land	Special use	Conditions
1	Lots 404 and 405 George/Moore/Bedford Streets, Kellerberrin	Tourist Accommodation	As determined by local government

Planning Comment

The abovementioned application raises no major issues. Special Use zones provide Council with the opportunity to control development in certain areas of the shire that do not fall within the regular zoning framework under the Scheme. The caravan park has seen strong growth over the last decade and expansion to increase its capacity can only be seen as a positive for the Shire. It is important that new development at the park is aesthetically pleasing and integrates with existing color schemes and structures on the lot.

STRATEGIC PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

**CORPORATE BUSINESS PLAN IMPLICATIONS
(Including Workforce Plan and Asset Management Plan Implications)**

LONG TERM PLAN IMPLICATIONS: Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

Not required.

STAFF RECOMMENDATION

That Council grants development approval for an additional four (4) accommodation dongas to be located at the Shires Caravan Park at Lot 404 George Street, Kellerberrin, with the following conditions;

- 1. The approval will expire if the development is not substantially commenced within two years of the approval date; and*
- 2. Development is to be undertaken in accordance with the endorsed plans.*

COUNCIL RECOMMENDATION

MIN 240/18 MOTION - Moved Cr. O'Neill 2nd Cr. McNeil

That Council grants development approval for an additional four (4) accommodation dongas to be located at the Shires Caravan Park at Lot 404 George Street, Kellerberrin, with the following conditions;

- 1. The approval will expire if the development is not substantially commenced within two years of the approval date; and***
- 2. Development is to be undertaken in accordance with the endorsed plans.***

CARRIED 6/0

11.3 WORKS & SERVICES – AGENDA ITEMS

Nil Items

11 ELECTED MEMBERS OF MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

13 LATE ITEMS

COUNCIL RECOMMENDATION

MIN 241/18 MOTION - Moved Cr. McNeil 2nd Cr. Reid

That Council receive late items.

CARRIED 6/0

Agenda Reference:	13.1.1
Subject:	Air BnB 'change of use class'
Location:	56 Hammond Street, Kellerberrin
Applicant:	Mr. Stuart Willis
File No:	IPA1866
Record Ref:	
Disclosure of Interest:	NIL
Date:	14 th December 2018
Author:	Mr. Lewis York, Town Planner

BACKGROUND

A development application has been received from Mr. Stuart Willis for a 'change of use' at 56 Hammond Street, Kellerberrin. The property has previously been used for Residential purposes however the applicant wishes to use the dwelling for the purpose of short-term accommodation. The applicant intends to advertise the dwelling for nightly rent on the online platform 'AirBnB'. The accommodation will be used by up to five (5) guests at a time, while the applicant will not supply breakfast.



FINANCIAL IMPLICATIONS

A Development Application fee of \$147.00 was paid at the time of lodging the application.

POLICY IMPLICATIONS

Local Planning Scheme No.4

Zoning: Residential

Coding: R10/40

3.2. OBJECTIVES OF THE ZONES

The objectives of the zones are — 3.2.1 **Residential Zone**

- a) **To retain the single dwelling as the predominant form of residential development in the Shire's townsites.**
- b) **To provide for lifestyle choice in and around the townsites with a range of residential densities.**
- c) **To allow for the establishment of non-residential uses subject to local amenities not being adversely affected.**

3.3. ZONING TABLE

3.3.1. The Zoning Table indicates, subject to the provisions of the Scheme, the uses permitted in the Scheme area in the various zones. The permissibility of any uses is determined by cross-reference between the list of use classes on the left hand side of the Zoning Table and the list of zones at the top of the Zoning Table.

3.3.2. The symbols used in the cross reference in the Zoning Table have the following meanings —

'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;

'D' means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

'A' means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with **clause 64 of the deemed provisions**.

'X' means a use that is not permitted by the Scheme.

3.3.3. **A change in the use of land from one use to another is permitted if —**

- (a) the local government has exercised its discretion by granting development approval;**
- (b) the change is to a use which is designated with the symbol 'P' in the cross reference to that zone in the Zoning Table and the proposed use complies with all the relevant development standards and any requirements of the Scheme;
- (c) the change is an extension of a use within the boundary of the lot which does not change the predominant use of the lot; or
- (d) the change is to an incidental use that does not change the predominant use of the land.**

NOTE: In considering a 'D' or 'A' use, the local government will have regard to the matters set out in clause 67 of the deemed provisions.

3.4. INTERPRETATION OF THE ZONING TABLE

3.4.1. Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.

3.4.2. If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —

(a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;

(b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 64 of the deemed provisions in considering an application for development approval; or AMD 2 GG 12/09/17

(c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.

Use class definitions are outlined in the ***Planning and Development (Local Planning Schemes) Regulations 2015***

Division 1- General definitions used in Scheme

Schedule 1, Part 6, cl.38.

holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;

Part 7 — Requirement for development approval

Requirement for development approval

A person must not commence or carry out any works on, or use, land in the Scheme area unless —

(a) the person has obtained the development approval of the local government under Part 8; or

(b) the development is of a type referred to in clause 61.

67 . Matters to be considered by local government

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the [*Planning and Development \(Local Planning Schemes\) Regulations 2015*](#) or any other proposed planning instrument that the local government is seriously considering adopting or approving;

- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the [Environmental Protection Act 1986 section 31\(d\)](#);
- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any local planning policy for the Scheme area;
- (h) any structure plan, activity centre plan or local development plan that relates to the development;
- (i) any report of the review of the local planning scheme that has been published under the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#);
- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- (k) the built heritage conservation of any place that is of cultural significance;
- (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (n) the amenity of the locality including the following —
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;
- (s) the adequacy of —
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (u) the availability and adequacy for the development of the following —

- (i) public transport services;
- (ii) public utility services;
- (iii) storage, management and collection of waste;
- (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- (v) access by older people and people with disability;
- (v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- (w) the history of the site where the development is to be located;
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (za) the comments or submissions received from any authority consulted under clause 66;
- (zb) any other planning consideration the local government considers appropriate.

PLANNING COMMENT

The abovementioned application is for a **change of use**, from **‘Residential’ to ‘Holiday House’**. As shown above, the use change does not fit comfortably within any categorization within the Shires Zoning table. This does not mean that the use is simply not permitted, however requires Council to judge the application on its merits.

Firstly the use must fit within the objectives of the Residential zone. As the proposed use still provides a ‘Residential’ component, therefore not impacting upon primary use of the land. However the short-term accommodation typology represents a planning issue in the fact the property will be rented on a nightly basis and therefore has the potential for a reasonably high turnover of guests. It is noted that a number of urban and coastal Councils have created local planning policies in an attempt to regulate short-term accommodation typologies, however the current demand for such a use in the Shire is low. The categorization in which the use could fall within is ‘Holiday House’ (defined above). The applicant intends to provide suitable car parking arrangements for guests.

It is believed that the proposed use fits within the parameters of the residential zone and therefore should be permitted with conditions.

STRATEGIC PLAN IMPLICATIONS

There are no strategic plan implications.

FUTURE PLAN IMPLICATIONS

There are no future plan implications.

COMMUNITY CONSULTATION

Chief Executive Officer
 Lewis York – Town Planning Consultant

STAFF RECOMMENDATION

That Council grants development approval for a change of use at 56 Hammond Street Kellerberrin, from 'Residential' to a 'Holiday House'

- 1. *The landowners shall ensure the dwelling is only used by a maximum of five (5) guests at any one time;*
- 2. *Breakfast shall not be provided to the guests;*
- 3. *Guests shall not use the accommodation for more than three (3) consecutive months; and*
- 4. *The landowners shall ensure surrounding landowners are notified, in writing, of the intended use of the lot.*

Advice notes;

- 1. *The provision of planning approval is not considered Building approval and such works should be accompanied with a building permit;*
- 2. *That the building be compliant with building regulations, more importantly but not limited to, smoke alarm compliance and electrical certification.*

COUNCIL RECOMMENDATION

MIN 242/18 MOTION - Moved Cr. O'Neill 2nd Cr. Reid

That Council grants development approval for a change of use at 56 Hammond Street Kellerberrin, from 'Residential' to a 'Holiday House'

- 1. ***The landowners shall ensure the dwelling is only used by a maximum of five (5) guests at any one time;***
- 2. ***Breakfast shall not be provided to the guests;***
- 3. ***Guests shall not use the accommodation for more than three (3) consecutive months; and***
- 4. ***The landowners shall ensure surrounding landowners are notified, in writing, of the intended use of the lot.***

Advice notes;

- 1. ***The provision of planning approval is not considered Building approval and such works should be accompanied with a building permit;***
- 2. ***That the building be compliant with building regulations, more importantly but not limited to, smoke alarm compliance and electrical certification.***

CARRIED 6/0

CLOSURE OF MEETING

Cr Rodney Forsyth President thanked all members for the year and wished all Councillors, Staff and Community a safe and merry Christmas and a prosperous new year an closed the meeting at 4:22pm

NEXT MEETING DATES

Ordinary Council Meeting, Tuesday, 12th February, 2019
Electors Meeting, Tuesday 12th February 2019 – 7pm – Kellerberrin Recreation Centre.