

**SHIRE OF KELLERBERRIN**  
**MINUTES**

Minutes of the Ordinary Council Meeting held at the Shire of Kellerberrin Council Chamber, 110  
Massingham Street Kellerberrin on Tuesday, 20<sup>th</sup> August 2019, commencing at 2.08pm

**1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISTORS**

The Presiding Member opened the meeting at 2.08pm.

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

**Present:**

Cr. Forsyth	President
Cr. O'Neill	Deputy President
Cr. Reid	Member
Cr. Steber	Member
Cr. McNeil	Member
Mr Raymond Griffiths	Chief Executive Officer
Ms Kate Dudley	Deputy Chief Executive Officer
Mr Lewis York	Town Planner (left the meeting at 3.14pm)
Mr Brett Taylor	Senior Finance Officer (left the meeting at 3.04pm)

**Apologies:**

Cr. Leake	Member
Mr Mick Jones	Manager of Works and Services
Mrs Natasha Giles	Communtiy Development Officer

**Public:**

1

**Leave of Absence:**

Nil

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

Nil

**4. PUBLIC QUESTION TIME:**

Dr Andrew Van Ballegooyen presented Council with an action plan for the doctor surgery in Kellerberrin, which included Dr Van Ballegooyen's intentions for the future.

Dr Van Ballegooyen asked the Council if there was a possibility to have solar panels installed at the doctor surgery and his residence (Shire owned property).

The presiding member responded that the Chief Executive Officer and Manager of Works Services would look into the costs associated with this request.

**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 **Closely Association Person and Impartiality** interest were made at the Council meeting held on **20<sup>th</sup> August 2019**

Date	Name	Item No.	Reason
20 <sup>th</sup> August 2019	Mr Raymond Griffiths	11.1.4	Closely associated persons as daughter submitted an EOI

## 7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

### 7.1 Shire of Kellerberrin Ordinary Council Meeting Minutes, 16<sup>th</sup> July, 2019

## COUNCIL RESOLUTION

MIN139/19 MOTION: Moved Cr. Steber 2<sup>nd</sup> Cr. Reid

*That the minutes of the Shire of Kellerberrin Ordinary Council Meeting held on Tuesday 16<sup>th</sup> July 2019, be confirmed as a true and accurate record*

CARRIED 5/0

### 7.2 Roadworks Advisory Committee Meeting Minutes, 5<sup>th</sup> August, 2019

## COUNCIL RESOLUTION

MIN140/19 MOTION: Moved Cr. McNeil 2<sup>nd</sup> Cr. O'Neill

*That the minutes of the Roadworks Advisory Committee Meeting held on Monday 5<sup>th</sup> August 2019, be confirmed as a true and accurate record*

CARRIED 5/0

## 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

**MIN141/19 MOTION:** Moved Cr O'Neill 2<sup>nd</sup> Cr Reid

*That the Presidents Reports for July 2019 be received and noted.*

**CARRIED 5/0**

### 10.2 Standing Orders

**MIN142/19 MOTION:** Moved Cr O'Neill 2<sup>nd</sup> Cr Steber

*That Standing Order numbers 8.9 – Speaking Twice & 8.10 – Duration of Speeches be suspended for the duration of the meeting to allow for greater debate on items in the agenda.*

**CARRIED 5/0**

2.19pm At this time Cr McNeil left the meeting.

2.26pm At this time Cr McNeil returned to the meeting.

## 11.1 CORPORATE SERVICES – AGENDA ITEM

<b>Agenda Reference:</b>	11.1.1
<b>Subject:</b>	Community Requests and Discussion Items
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	Shire of Kellerberrin - Council
<b>File Ref:</b>	Various
<b>Disclosure of Interest:</b>	N/A
<b>Date:</b>	1 <sup>st</sup> August 2019
<b>Author:</b>	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.

July 2019 Council Meeting

**MIN118/19 MOTION -** Moved Cr.Reid 2<sup>nd</sup> Cr. McNeil

***That Council;***

- 1. Submit the Shackleton Road Petition to the Minister for Transport with a “cc” to Hon. Darren West and Mia Davies; and***
- 2. Investigate and install roadside convex mirrors within car parks, subject to Main Roads approval.***

June 2019 Council Meeting

**MIN 097/19 MOTION -** Moved Cr. Reid 2<sup>nd</sup> Cr. Steber

***That Council;***

- 1. Provides \$550.00 financial support for Wheatbelt Ag Care Community Support Services Inc.; and***
- 2. endorse the grant application to Landcorp for further release of industrial land blocks.***

May 2019 Council Meeting

**MIN 073/19 MOTION -** Moved Cr.McNeil 2<sup>nd</sup> Cr. Steber

***That Council review the Leake Street footpath near Dryandra for a pothole.***

**July MIN 118/19**

- Petitions were collected from Kellerberrin Townsite and submitted to the Minister for Transport and “cc” to Hon. Rita Saffioti and Mia Davies on 5<sup>th</sup> August 2019.
- Mirror isn’t supported by Main Roads. Council to have lines painted on the parking area to see if this assists.

**June MIN 097/19**

- Letter issued to Wheatbelt Ag Care, 24<sup>th</sup> June 2019. Invoice being paid 30<sup>th</sup> July 2019.
- Landcorp applications are not open at this stage.

1. MWS inspected the footpath but noted that it was in the Dryandra Carpark.

## **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 RESOLUTION**

**MIN143/19 MOTION -** Moved Cr. McNeil 2<sup>nd</sup> Cr. Steber

***That Council directs the CEO to investigate the costs of installing solar panels at the doctor surgery and residence.***

**CARRIED 5/0**

**2.42pm At this time Dr Van Ballegooyen left the meeting.**

<b>Agenda Reference:</b>	11.1.2
<b>Subject:</b>	Status Report of Action Sheet
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	Shire of Kellerberrin - Council
<b>File Ref:</b>	Various
<b>Disclosure of Interest:</b>	N/A
<b>Date:</b>	1 <sup>st</sup> August 2019
<b>Author:</b>	Raymond Griffiths, Chief Executive Officer

## BACKGROUND

Council at its March 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 RESOLUTION**

**MIN144/19**    **MOTION** - Moved Cr. McNeil    2<sup>nd</sup> Cr. Reid

*That Council receives the Status Report.*

**CARRIED    5/0**

<b>Agenda Reference:</b>	11.1.3
<b>Subject:</b>	CEACA Special General Committee Meeting
<b>Location:</b>	Kellerberrin Recreation Centre
<b>Applicant:</b>	CEACA Council
<b>File Ref:</b>	AGE - 03
<b>Disclosure of Interest:</b>	Nil
<b>Date:</b>	1 <sup>st</sup> August, 2019
<b>Author:</b>	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, 3<sup>rd</sup> July, 2019 held at the Kellerberrin Recreation 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, 3<sup>rd</sup> July, 2019 held at the Kellerberrin Recreation 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 Wednesday, 3<sup>rd</sup> July, 2019 CEACA Council Meeting summarised hereunder,

**RESOLUTION:**                      **Moved: Quentin Davies**                      **Seconded: Darren Mollenoyux**

**That the proposed Central East Aged Care Alliance Inc Constitution be amended as follows:**

- a) That Rule 2.2 in line 1 the word "papers" be amended to read "appears"; and
- b) That Rule 14.4(h) be amended to read:

***"All Members, or other guests, may attend Management Committee Meetings if invited by the Management Committee but the person shall not have any right to comment without invitation, or any right to vote."***

**CARRIED**

**SPECIAL RESOLUTION:**                      **Moved: Eileen O'Connell**                      **Seconded: Rachel Kirby**

**That Central East Aged Care Alliance Inc adopt by Special Resolution the Constitution of the Association (new Constitution) as detailed in the attached Central East Aged Care Alliance Inc Constitution in substitution for the existing constitution.**

**CARRIED (10/0)**

## 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 IMPLICATIONS**

## **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 Council Meeting of the Central East Aged Care Alliance of Councils (CEACA) held on Wednesday, 3<sup>rd</sup> July, 2019*

## **COUNCIL RESOLUTION**

**MIN145/19 MOTION** - Moved Cr. Steber      2<sup>nd</sup> Cr. O'Neill

*That Council receive the Minutes of the Council Meeting of the Central East Aged Care Alliance of Councils (CEACA) held on Wednesday, 3<sup>rd</sup> July, 2019.*

**CARRIED 5/0**

<b>Agenda Reference:</b>	11.1.4
<b>Subject:</b>	Expression of Interest for Sale of Items
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	
<b>File Ref:</b>	ENG31
<b>Record Ref:</b>	ICR192131
<b>Disclosure of Interest:</b>	Mr Raymond Griffiths
<b>Date:</b>	12 August 2019
<b>Author:</b>	Ms Kate Dudley, Deputy Chief Executive Officer

***The Deputy Chief Executive Officer deferred the item 11.1.4 due to lack of Absolute Majority***

## **BACKGROUND**

The Council invited expression of interest for the purchase of the following Machinery/Equipment pursuant to the Local Government Act 1995 (Section 3.58 (1))

- 2000 White Mitsubishi Magna
- Tri-axle Water Tanker Trailer
- Glass Doors
  - 1x ex-hardware wooden frame
  - 1x steel frame, sliding door

The expression of interest was advertised over a period of two weeks through the Pipeline, the Shire of Kellerberrin Facebook page and webpage, with a closing date of Friday, 9 August at 12.00pm.

## **COMMENT**

In this period there were two expressions of interest received;

- Ms Jasmin Griffiths made an offer of \$500.00 for the 2000 Mitsubishi Magna
- Mr Josh Nicholls on behalf of JFH Nicholls and Son made an offer of \$3500.00 for the Tri-axle Water Tanker

On Friday 9 August the Deputy Chief Executive Officer and Manager of Works Services reviewed and discussed the two expressions of interest that were received.

After comparing market prices, officers are of the view that the offer of \$500.00 for the 2000 Mitsubishi Magna be approved and the offer of \$3500.00 for the Tri-axle Water Tanker not be approved.

## **FINANCIAL IMPLICATIONS**

Shire of Kellerberrin 2019/20 Budget – Council has no funds allocated for proceeds on sale of these assets.

## **POLICY IMPLICATIONS**

Nil

## STATUTORY IMPLICATIONS

### **Local Government Act 1995 – Part 3, Division 3**

#### Section 3.58

- (2) *Except as stated in this section, a local government can only dispose of property to;*
- the highest bidder at public auction; or*
  - the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property; gives local public notice of the proposed disposition*
- describing the property concerned;*
  - giving details of the proposed disposition; and*
  - inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the date specified in the notice is first given;*
- and*
- it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include;*
- the names of all other parties concerned;*
  - the consideration to be received by the local government for the disposition; and*
  - the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.*

#### **3.59. Commercial enterprises by local governments**

- (1) *In this section —*

**acquire** *has a meaning that accords with the meaning of “dispose”;*

**dispose** *includes to sell, lease, or otherwise dispose of, whether absolutely or not;*

**land transaction** *means an agreement, or several agreements for a common purpose, under which a local government is to —*

- acquire or dispose of an interest in land; or*
- develop land;*

**major land transaction** *means a land transaction other than an exempt land transaction if the total value of —*

- the consideration under the transaction; and*
- anything done by the local government for achieving the purpose of the transaction, is more, or is worth more, than the amount prescribed for the purposes of this definition;*

**major trading undertaking** *means a trading undertaking that —*

- in the last completed financial year, involved; or*
- in the current financial year or the financial year after the current financial year, is likely to involve,*

*expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;*

**trading undertaking** means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of “land transaction”.

- (2) Before it —
- (a) commences a major trading undertaking;
  - (b) enters into a major land transaction; or
  - (c) enters into a land transaction that is preparatory to entry into a major land transaction,
- a local government is to prepare a business plan.
- (3) The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —
- (a) its expected effect on the provision of facilities and services by the local government;
  - (b) its expected effect on other persons providing facilities and services in the district;
  - (c) its expected financial effect on the local government;
  - (d) its expected effect on matters referred to in the local government’s current plan prepared under section 5.56;
  - (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
  - (f) any other matter prescribed for the purposes of this subsection.
- (4) The local government is to —
- (a) give Statewide public notice stating that —
    - (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction;
    - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- and
- (b) make a copy of the business plan available for public inspection in accordance with the notice.
- (5) After the last day for submissions, the local government is to consider any submissions made and may decide\* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.
- \* Absolute majority required.
- (5a) A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.
- (6) If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.
- (7) The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister’s approval.



- (8) *A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.*
- (9) *A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.*
- (10) *For the purposes of this section, regulations may —*  
*(a) prescribe any land transaction to be an exempt land transaction;*  
*(b) prescribe any trading undertaking to be an exempt trading undertaking.*  
*[Section 3.59 amended by No. 1 of 1998 s. 12; No. 64 of 1998 s. 18(1) and (2).]*

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

### **CORPORATE BUSINESS PLAN IMPLICATIONS**

**(Including Workforce Plan and Asset Management Plan Implications)**

Nil

## **TEN YEAR FINANCIAL PLAN IMPLICATIONS**

Nil

## **COMMUNITY CONSULTATION**

The Expression of Interest was advertised for a period of two weeks through the Pipeline, Shire of Kellerberrin Facebook page and webpage.

## **ABSOLUTE MAJORITY REQUIRED**

Yes

## **STAFF RECOMMENDATION**

*That Council:*

- 1. approves the sale of the 2000, Mitsubishi Magna by private agreement, to Ms Jasmin Griffiths for the sum of \$500.00 including GST and authorises for the Deputy Chief Executive Officer and Shire President to execute the transfer of registration documentation.*
- 2. delegates authority to the Chief Executive Officer to enter into further negotiations for the sale of the Tri-axle Water Tanker and glass doors.*

**BY ABSOLUTE MAJORITY**

***The Deputy Chief Executive Officer deferred the item 11.1.4 due to lack of Absolute Majority***

<b>Agenda Reference:</b>	11.1.5
<b>Subject:</b>	Membership on the Roadworks Advisory Committee
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	Shire of Kellerberrin
<b>File Ref:</b>	ENG45.1
<b>Record No.:</b>	
<b>Disclosure of Interest:</b>	
<b>Date:</b>	12 August 2019
<b>Author:</b>	Kate Dudley, Deputy Chief Executive Officer

*The Chief Executive Offer deferred item 11.1.5 due to lack of Absolute Majority*

## BACKGROUND

Council's July Ordinary Meeting of Council – 23<sup>rd</sup> July 2019

**MIN125/19 MOTION** - Moved Cr. Leake 2<sup>nd</sup> Cr. O'Neill

*That Council;*

1. *establish the Roadworks Advisory Committee as per the terms of reference (with an amendment to the number of committee members)*
2. *elect the following members to the Roadworks Advisory Committee:*
  - *Cr Rod Forsyth*
  - *Cr Matt Steber*
  - *Chief Executive Officer*
  - *Manager of Works Services*
  - *Mr Ric Newman*
  - *Mr Grant Gardiner*

**CARRIED 5/0  
BY ABSOLUTE MAJORITY**

In accordance with the *Local Government Act 1995* and section 5.8. Establishment of Committees. A local government may establish committees of three or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

## COMMENT

Council after the establishment of the abovementioned committee received interest from Mr Mark Ryan and Mr Kelvin Tiller, both parties where requested to attend the first Roadworks Advisory Committee held on Tuesday, 6 August, as observers.

Mr Tiller and Mr Ryan expressed interest in becoming members on the Roadworks Advisory Committee.

Officers are of the view that additional members will be beneficial to committee.

## FINANCIAL IMPLICATIONS

Nil

## POLICY IMPLICATIONS

Nil

## STATUTORY IMPLICATIONS

Section 5.10(4) of the Act provides that the Council must appoint the President to each Committee if the President informs the Shire of their wish to be a member of a particular Committee. The Committee, once appointed, must select a Presiding Member at its first meeting.

Section 5.10 (5) of the Act provides for the CEO or their delegate to be appointed to a Committee that has or will have an employee if the CEO so wishes.

## STRATEGIC COMMUNITY PLAN IMPLICATIONS

This matter aligns with Goal 13 “Council leads the organisation and engages with the community in an accountable and professional manner” and particularly 13.1 Develop and maintain our integrated planning documents.

## CORPORATE BUSINESS PLAN IMPLICATIONS

(Including Workforce Plan and Asset Management Plan Implications)

Nil

## LONG TERM FINANCIAL PLAN IMPLICATIONS

Nil

## ABSOLUTE MAJORITY REQUIRED

Yes

## STAFF RECOMMENDATION

*That the Council elect to add the following community members to the Roadworks Advisory Committee;*

- *Mr Kelvin Tiller*
- *Mr Mark Ryan*

*BY ABSOLUTE MAJORITY*

***The Chief Executive Offer deferred item 11.1.5 due to lack of Absolute Majority***

<b>Agenda Reference:</b>	11.1.6
<b>Subject:</b>	Procedure for making local laws – Animals, Environment and Nuisance Local Law 2019
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	Shire of Kellerberrin
<b>File Ref:</b>	LLAW-08
<b>Record Number</b>	
<b>Disclosure of Interest:</b>	N/A
<b>Date:</b>	12 <sup>th</sup> August 2019
<b>Author:</b>	Mr Raymond Griffiths, Chief Executive Officer

***The Chief Executive Offer deferred item 11.1.6 due to lack of Absolute Majority***

## **BACKGROUND**

The *Local Government Act 1995* (the Act), requires that the Council must every eight (8) years after adoption of any Local Law, or the last review, conduct a review of the Local Law to ensure that it still retains currency.

Generally and specifically the first part of the review was to establish whether there were any Local Laws that were considered obsolete and consequently requiring repeal without being replaced. The Department of Local Government Local Laws Register has been referred to.

There are two situations that may lead to the repeal of a Local Law;

1. Repealing a local law with the intent of making a new Local Law for substantially the same purpose, but reflecting contemporary practices ie new Standing Orders Local Law that reflects contemporary meeting procedure practices; or
2. A Local Law is deemed to be no longer necessary, has a defunct purpose or has been superseded by other legislation.

It is appropriate to point out that any outcomes from a review that result in amendments to a Local Law must then be processed as though it was a change to the Local Law and the amendments formally adopted using S3.12 of the Act.

Council's February 2019 Ordinary Meeting of Council – 12 <sup>th</sup> February 2019
--

**MIN 011/19 MOTION** - Moved Cr. Reid      2<sup>nd</sup> Cr. Steber

***That Council:***

1. ***Proceed with the procedure for making the following Local Law as per the Department of Local Government Laws Register in accordance with section 3.12 of the Local Government Act 1995;***
  - ***Animal, Environment and Nuisance Local Law***
2. ***Provide state wide public notice for the purpose and effect of the proposed Animal, Environment and Nuisance Local Law in accordance with section 3.12 (3a) of the Local Government Act 1995:***

CARRIED      6/0  
**BY ABSOLUTE MAJORITY**

## COMMENT

Council after adopting its draft local law in February 2019 followed the due process for making the local law, however the template in which Council used required amendments. The amendments were deemed to be amending the Local Law significantly therefore recommended to recommence the process.

Council at this point didn't understand why an adopted previous local law template all of the sudden isn't applicable.

Therefore Council has found a new template from the Shire of Cunderdin which was adopted and received in 2019.

## FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

Council believes the cost of advertising the initial stage could be up to \$2,000.

G/L Number	Description	Budget	Actual	Available Funds
042001	Advertising	\$5,000	\$138	\$4,862

## POLICY IMPLICATIONS – Nil

## STATUTORY IMPLICATIONS

### Local Government Act 1995 (as amended)

#### 2.7. Role of council

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

*[Section 2.7 amended by No. 17 of 2009 s. 4.]*

#### 3.1. General function

- (1) The general function of a local government is to provide for the good government of persons in its district.
- (2) The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.
- (3) A liberal approach is to be taken to the construction of the scope of the general function of a local government.

### 3.12. Procedure for making local laws

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.
- (3) The local government is to —
  - (a) give Statewide public notice stating that —
    - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
  - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.  
*\* Absolute majority required.*
- (5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the *Gazette* the local government is to give local public notice —
  - (a) stating the title of the local law;
  - (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- (8) In this section —  
**making** in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

*[Section 3.12 amended by No. 1 of 1998 s. 8; No. 64 of 1998 s. 6; No. 49 of 2004 s. 16(4) and 23.]*

### 3.16. Periodic review of local laws

- (1) Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.
- (2) The local government is to give Statewide public notice stating that —
  - (a) the local government proposes to review the local law;
  - (b) a copy of the local law may be inspected or obtained at any place specified in the notice; and
  - (c) submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.
- (2a) A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.
- (3) After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.
- (4) When its council has considered the report, the local government may determine\* whether or not it considers that the local law should be repealed or amended.

*\* Absolute majority required.*

*[Section 3.16 amended by No. 64 of 1998 s. 7; No. 49 of 2004 s. 24.]*

### 3.17. Governor may amend or repeal local laws

- (1) The Governor may make local laws to amend the text of, or repeal, a local law.
- (2) Subsection (1) does not include the power to amend a local law to include in it any provision that bears no reasonable relationship to the local law as in force before the amendment.
- (3) The Minister is to give a local government notice in writing of any local law that the Governor makes to amend the text of, or repeal, any of the local government's local laws.
- (4) Section 5.94 applies as if a local law made under this section by the Governor were a local law made by the local government in accordance with section 3.12.

## Local Government (Functions and General) Regulations 1996.

### Part 1A — Local laws

*[Heading inserted in Gazette 11 Sep 1998 p. 4927.]*

#### 2A. Matters about which local laws are not to be made (Act s. 3.5)

Local laws are not to be made —

- (a) requiring the payment of fees or charges for the parking of vehicles on any land under the care, control or management of a local government in any part of the district of Cottesloe west of Broome Street; or
- (b) enabling such a requirement to be imposed.

*[Regulation 2A inserted in Gazette 11 Sep 1998 p. 4927.]*

### 3. Prescribed manner of giving notice of purpose and effect of proposed local law (Act s. 3.12(2))

For the purpose of section 3.12 of the Act, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that —

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

*[Regulation 3 inserted in Gazette 31 Mar 2005 p. 1057; amended in Gazette 27 Sep 2011 p. 3846.]*

#### Interpretation Act 1984

Section 43(4) describes the requirements to amend subsidiary legislation S3.16 of the Act requires the Council to carry out a formal review of its Local Laws every 8 years.

Following the review of the Local Laws any amendments will be processed in accordance with S3.12 of the Act

#### STRATEGIC COMMUNITY PLAN IMPLICATIONS

##### 3 Governance

*Refers to the organisational leadership and the way we aspire to be led*

To have community leaders and elected community representatives that protect and promote the interests, aspirations and desires of our community.

*We acknowledge that Council's operations could improve by enhancing our planning capabilities and fostering an open, transparent and honest relationship between Council representatives and our community members.*

*We understand there is a concern that our present community is fragmented and we aspire to create a stronger and more unified community spirit.*

## Our Strategic Priorities and Goals

In recognition of our community's aspirations, we have identified seven key strategic priorities. These strategic priorities represent our ultimate community aspirations and, with Council's assistance, will strive to achieve to become a Shire that displays strength, unity, leadership and diversity.

#### Theme 3: Leadership

##### To be led by an open, honest and transparent government.

3.1	Our Elected Representatives provide effective, respected and progressive leadership.	3.1.1	To lead and govern in a fair, transparent, ethical and responsive manner.			✓		
		3.1.2	To inform the community of activities and events that may have an impact on the way they live and/or where they live.	✓		✓		



	3.1.3	To actively engage and consult with the community to ensure they have the opportunity to have a say and be heard.	✓		✓		
	3.1.4	To actively pursue a positive community spirit and support.	✓		✓		

## Our Stakeholders and Partners

The community recognises that whilst Council can lead and facilitate the delivery of many of these strategies and goals, the successful implementation of these initiatives will also be largely dependent on participation by other external parties, such as community groups, and State and Federal Government agencies. Listed below are the key stakeholders who may influence the successful delivery of each of Council's goals.

<b>Theme 3: Leadership</b>							
3.1.1	To lead and govern in a fair, transparent, ethical and responsive manner.	✓					
3.1.2	To inform the community of activities and events that may have an impact on the way they live and/or where they live.	✓	✓				
3.1.3	To actively engage and consult with the community to ensure they have the opportunity to have a say and be heard.	✓	✓				
3.1.4	To actively pursue a positive community spirit and support.	✓	✓				

### An Overview

Our community has identified a desire to have a Council that is honest, transparent and open. An effective Council should:

- Encourage and be open to community consultation;
- Encourage community participation and community involvement;
- Provide greater opportunities for community participation in activities and events;
- Actively pursue opportunities that will unify the community and develop a stronger community spirit.

### Our Objective

- To provide the community with a strong and trusted Council, with members and representatives listening and responding to the needs of the community.

### Our Desired Outcomes

- A strong and progressive and community focused government leading the community

### Our Goals

3.1.1	To lead and govern in a fair, transparent, ethical and responsive manner.
3.1.2	To inform the community of activities and events that may have an impact on the way they live and/or where they live.
3.1.3	To actively engage and consult with the community to ensure they have the opportunity to have a say and be heard.
3.1.4	To actively pursue a positive community spirit and support.

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

Nil

**LONG TERM FINANCIAL PLAN IMPLCATIONS**

Nil

**COMMUNITY CONSULTATION**

Chief Executive Officer  
Deputy Chief Executive Officer

**ABSOLUTE MAJORITY REQUIRED**

Yes

**STAFF RECOMMENDATION**

*That Council:*

1. *Proceed with the procedure for making the following Local Law as per the Department of Local Government Laws Register in accordance with section 3.12 of the Local Government Act 1995;*
  - *Animal, Environment and Nuisance Local Law*
2. *Provide state wide public notice for the purpose and effect of the proposed Animal, Environment and Nuisance Local Law in accordance with section 3.12 (3a) of the Local Government Act 1995:*

**BY ABSOLUTE MAJORITY**

***The Chief Executive Offer deferred item 11.1.6 due to lack of Absolute Majority***

**3.04pm At this time the Senior Finance Officer – Brett Taylor left the meeting**

<b>Agenda Reference:</b>	11.1.7
<b>Subject:</b>	Council Policy Manual Review
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	
<b>File Ref:</b>	Policy Manual
<b>Disclosure of Interest:</b>	N/A
<b>Date:</b>	12 <sup>th</sup> August 2019
<b>Author:</b>	Ms Kate Dudley, Deputy Chief Executive Officer

## BACKGROUND

Council undertakes an annual review of its policies and determines new or updated policies to guide its day to day operations and responsibilities in regards to its adopted structure and legislative requirements.

The annual review process ensures Council has current and applicable policies.

## COMMENT

The current Policy Manual includes a number of operation processes. It is proposed that the manual be separated into two documents, a Council Policy Manual and an Operational Procedures Manual.

Policy making is an important function of local government. Policies guide decision making and therefore affect all those who may be impacted by a decision.

Officers are of the view that:

1. There should be a review of the Council Policies with the intent that a Council Policy:
  - a. Should deal with higher level objectives and strategies;
  - b. Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and
  - c. Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.
2. As part of that review, any existing Council Policy should be rescinded where it could, more sensibly, be dealt with by an operational procedure adopted by the CEO

As part of the review, a new template has been drafted for Council policies, which is attached for council consideration. A final version of the proposed Council Policy Manual will be provided to Council by December 2019, with all Council Policies transferred to the new template and any proposed changes included and marked up.

## FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

New policies or amendments to existing policies will have financial implications on Council's Budget depending upon which policy/s are added/deleted/amended.

## 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)**

**LONG TERM PLAN IMPLICATIONS:**

Nil (not applicable at this date and therefore unknown)

**COMMUNITY CONSULTATION:**

Council has a legislative requirement to consider and determine Policies.

**STAFF RECOMMENDATION**

*That Council;*

- 1. adopts the proposed template as it's "new" format for Council existing policies;*
- 2. instructs the CEO to have all policies reviewed and converted to the "new" format by December 2019;*
- 3. rescinds Council Policies;*
  - a. 1.1.1 Debt recovery policy debtors*
  - b. 1.1.2 Debt recovery policy rates*
  - c. 1.3 Payment approval process*
  - d. 1.4 Budget preparation*
  - e. 1.5 Financial activity statement – Material variance report*
  - f. 1.7 Sale of land housing proceeds*
  - g. 1.10 Use of council facilities and plant*
  - h. 2.2 Smoking council buildings*
  - i. 2.8 Supply of council notice papers minutes and information*
  - j. 2.9 Release of unconfirmed minutes*
  - k. 2.10 Councillor agenda availability*
  - l. 2.11 Advertising of public notice*
  - m. 2.15 Signature stamp- Shire President*
  - n. 2.16 Office Hours*
  - o. 2.17 Use of council vehicles*
  - p. 2.18 Internet & email use*
  - q. 2.19 Customer Service Charter and Policy*
  - r. 2.21 Master Key authorisation*
  - s. 2.22 Legislative compliance*
  - t. 2.27 Community engagement policy*
  - u. 4.1 Staff annual leave*
  - v. 4.2 Rostered day off – inside staff*
  - w. 4.3 Rostered day off – outside staff*
  - x. 4.4 Uniforms*
  - y. 4.5 Provisions of outside staff uniforms*
  - z. 5.2 Confidential business*
  - aa. 5.4 Notice of ordinary meetings*
  - bb. 5.5 Council delegates policy confidential business*
  - cc. 5.6 Model of code of conduct*
  - dd. 5.10 Use of council chambers*
  - ee. 5.15 Use of Common Seal*
  - ff. 6.1 Noise abatement*
  - gg. 12.4 Visitor management*

*As these policies are to be recorded as operating procedures under the direction of the CEO.*

# COUNCIL RESOLUTION

MIN146/19 MOTION - Moved Cr. O'Neill

2<sup>nd</sup> Cr. Reid

*That Council;*

1. *adopts the proposed template as it's "new" format for Council existing policies;*
2. *instructs the CEO to have all policies reviewed and converted to the "new" format by December 2019;*
3. *rescinds Council Policies;*
  - a. *1.1.1 Debt recovery policy debtors*
  - b. *1.1.2 Debt recovery policy rates*
  - c. *1.3 Payment approval process*
  - d. *1.4 Budget preparation*
  - e. *1.5 Financial activity statement – Material variance report*
  - f. *1.7 Sale of land housing proceeds*
  - g. *1.10 Use of council facilities and plant*
  - h. *2.2 Smoking council buildings*
  - i. *2.8 Supply of council notice papers minutes and information*
  - j. *2.9 Release of unconfirmed minutes*
  - k. *2.10 Councillor agenda availability*
  - l. *2.11 Advertising of public notice*
  - m. *2.15 Signature stamp- Shire President*
  - n. *2.16 Office Hours*
  - o. *2.17 Use of council vehicles*
  - p. *2.18 Internet & email use*
  - q. *2.19 Customer Service Charter and Policy*
  - r. *2.21 Master Key authorisation*
  - s. *2.22 Legislative compliance*
  - t. *2.27 Community engagement policy*
  - u. *4.1 Staff annual leave*
  - v. *4.2 Rostered day off – inside staff*
  - w. *4.3 Rostered day off – outside staff*
  - x. *4.4 Uniforms*
  - y. *4.5 Provisions of outside staff uniforms*
  - z. *5.2 Confidential business*
  - aa. *5.4 Notice of ordinary meetings*
  - bb. *5.5 Council delegates policy confidential business*
  - cc. *5.6 Model of code of conduct*
  - dd. *5.10 Use of council chambers*
  - ee. *5.15 Use of Common Seal*
  - ff. *6.1 Noise abatement*
  - gg. *12.4 Visitor management*

*As these policies are to be recorded as operating procedures under the direction of the CEO.*

CARRIED 5/0

3.14pm At this time the Town Planner – Lews York left the meeting

<b>Agenda Reference:</b>	11.1.8
<b>Subject:</b>	Legislative Council of WA Select Committee into Local Government Submission
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	Shire of Kellerberrin
<b>File Ref:</b>	
<b>Record Ref:</b>	
<b>Disclosure of Interest:</b>	N/A
<b>Date:</b>	20 <sup>th</sup> August 2019
<b>Author:</b>	Ms Kate Dudley, Deputy Chief Executive Officer

## BACKGROUND

On 4 July 2019, the Legislative Council of Western Australia released a media statement for the Parliamentary inquiry into local government. A select Committee will inquire into the system of local government in Western Australia. The Council received an invitation to prepare a submission in reference to one or more of the terms of reference.

Terms of Reference:

- (1) That a Select Committee into local government be established
- (2) The select committee is to inquire into how well the system of local government is functioning in Western Australia, with particular reference to –
  - a. Whether the Local Government Act 1995 and related legislation is generally suitable in scope, construction and application;
  - b. The scope of activities of local governments;
  - c. The role of the department of state administering the Local Government Act 1995 and related legislation;
  - d. The role of elected members and chief executive officers/employees and whether these are clearly defined, delineated, understood and accepted;
  - e. The funding and financial management of local government; and
  - f. Any other related matters the select committee identifies as worthy of examination and report.
- (3) The select committee shall comprise of five members
  - Hon. Simon O'Brien MLC
  - Hon. Laurie William Graham MLC
  - Hon. Diane Marie Evers MLC
  - Hon. Martin Aldridge MLC
  - Hon. Charles Leonard Smith MLC
  - Mr Mark Warner (Committee Clerk)
- (4) The select committee shall report by no later than 12 months after the motion for its establishment is agreed to and may, if it sees fit, provide interim reports to the house.

On 13 August 2019, The Executive Manager Governance & Organisational Services for WALGA distributed a draft submission to the sector to review and provide any feedback on. The Chief Executive Officer and Deputy Chief Executive Officer reviewed the submission and were in general support on the WALGA draft submission.

On 7 August 2019, the Legislative Council of Western Australia released another media statement to address queries about whether local government councilors are permitted to make submissions to the inquiry without fear of the submission being used in a legal or disciplinary action against them. The committee advised that submissions received are protected by Parliamentary Privileges and welcomed submissions from all members of the public, including local government councilors and employees.

## **COMMENT**

The Council has prepared a submission for the Legislative Council of Western Australia. Officers are of the view that it is important for the local government sector that individual councils provide a written submission.

The Council have drafted a submission to address all four terms of reference but with an emphasis on 2.c “the role of the department of state administering *the Local Government Act 1995* and related legislation”.

WALGA have requested that Councils provide them with a copy of their adopted submission. Submission to the Select Committee by 13 September 2019.

## **FINANCIAL IMPLICATIONS**

Nil

## **POLICY IMPLICATIONS**

Nil

## **STATUTORY IMPLICATIONS**

Local Government Act 1995 and all related legislation and regulations

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

Nil

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

Nil

## **TEN YEAR FINANCIAL PLAN IMPLICATIONS**

Nil

## **COMMUNITY CONSULTATION**

The details of the invitation for submissions and submission period are available to the community on the Shire of Kellerberrin website.

## **ABSOLUTE MAJORITY REQUIRED**

No

## STAFF RECOMMENDATION

*That Council endorses the draft submission to the Select Committee into local government and directs the Chief Executive Officer to provide a copy to the Select Committee.*

## COUNCIL RESOLUTION

**MIN147/19 MOTION** - Moved Cr. Steber

2<sup>nd</sup> Cr. O'Neill

***That Council endorses the draft submission to the Select Committee into local government and directs the Chief Executive Officer to provide a copy to the Select Committee.***

**CARRIED 5/0**

<b>Agenda Reference:</b>	11.1.9
<b>Subject:</b>	Direct Debit List and Visa Card Transactions for the month July 2019
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	Shire of Kellerberrin
<b>File Ref:</b>	N/A
<b>Record Ref:</b>	N/A
<b>Disclosure of Interest:</b>	N/A
<b>Date:</b>	1 <sup>st</sup> August 2019
<b>Author:</b>	Brett Taylor- Senior Finance Officer

## BACKGROUND

Please see below the Direct Debit List and Visa Card Transactions for the month of July 2019.

### Municipal Direct Debit List

<b>Date</b>	<b>Name</b>	<b>Details</b>	<b>\$</b>	<b>Amount</b>
1-Jul-19	Westnet	Internet Fees		4.99
1-Jul-19	Alleasing	Gym Equipment Rent		3,121.83
2-Jul-19	Shire of Kellerberrin	Creditors		107,250.00
4-Jul-19	Shire of Kellerberrin	Creditors		101,465.23
9-Jul-19	Department of Housing	Rent		420.00
11-Jul-19	Shire of Kellerberrin	Pay Run		56,501.91
12-Jul-19	DLL	Photocopier Lease		265.21
12-Jul-19	Shire of Kellerberrin	Super Choice		7,597.12
17-Sep-19	Shire of Kellerberrin	ATO - BAS Payment		27,968.00
18-Jul-19	Shire of Kellerberrin	Creditors		167,490.34
19-Jul-19	Shire of Kellerberrin	Creditors		5,595.00
23-Jul-19	Department of Housing	Rent		420.00
23-Jul-19	Shire of Kellerberrin	Creditors		7,500.75
25-Jul-19	Shire of Kellerberrin	Pay Run		58,657.38
26-Jul-19	Shire of Kellerberrin	Super Choice		9,280.77
26-Jul-19	NAB	Bank Fees		50.98
31-Jul-19	NAB	Bank Fees		18.40
31-Jul-19	NAB	Bank Fees		46.70
31-Jul-19	NAB	Bank Fees		51.20
<b>TOTAL</b>			<b>\$</b>	<b>553,705.81</b>

### Trust Direct Debit List

<b>Date</b>	<b>Name</b>	<b>Details</b>	<b>\$</b>	<b>Amount</b>
31-Jul-19	Department of Transport	Licencing July 2019		43,081.90
<b>TOTAL</b>			<b>\$</b>	<b>43,081.90</b>

### Visa Transactions

<b>Date</b>	<b>Name</b>	<b>Details</b>	<b>\$</b>	<b>Amount</b>
09-Jul-19	Department of Transport	Licencing KE2970		40.75
29-Jul-19	NAB	Card Fee		9.00
<b>TOTAL - CEO</b>			<b>\$</b>	<b>49.75</b>

<b>Date</b>	<b>Name</b>	<b>Details</b>	<b>\$</b>	<b>Amount</b>
<b>TOTAL -DCEO</b>				<b>0.00</b>
<b>TOTAL VISA TRANSACTIONS</b>			<b>\$</b>	<b>49.75</b>

## FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

➤ Financial Management of 2019/2020

## 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 July 2019 comprising;
  - a) Municipal Fund – Direct Debit List
  - b) Trust Fund – Direct Debit List
  - c) Visa Card Transactions

Be adopted.

## COUNCIL RESOLUTION

**MIN147/19 MOTION** - Moved Cr. Reid 2<sup>nd</sup> Cr. McNeil

1. *That the Direct Debit List for the month of July 2019 comprising;*
  - a) Municipal Fund – Direct Debit List*
  - b) Trust Fund – Direct Debit List*
  - c) Visa Card Transactions*

***Be adopted.***

**CARRIED 5/0**

<b>Agenda Reference:</b>	11.1.10
<b>Subject:</b>	Cheque List July 2019
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	N/A
<b>File Ref:</b>	N/A
<b>Record Ref:</b>	N/A
<b>Disclosure of Interest:</b>	N/A
<b>Date:</b>	12 <sup>th</sup> August 2019
<b>Author:</b>	Morgan Ware, Finance Officer

## BACKGROUND

Accounts for payment from 1<sup>st</sup> July 2019 – 31<sup>st</sup> July 2019

## TRUST

<b>TRUST TOTAL</b>	<b>\$ 78,044.91</b>
--------------------	---------------------

## MUNICIPAL FUND

### Cheque Payments

34624 - 34640

**\$ 36,497.97**

### EFT Payments

9737 - 9781

**\$ 389,301.32**

### Direct Debit Payments

**\$ 49,564.61**

### TOTAL MUNICIPAL

**\$ 425,799.29**

## COMMENT

During the month of July 2019, the Shire of Kellerberrin made the following significant purchases:

### Allied Equipment Sales

**\$ 107,250.00**

Purchase of unused 2019 action tri axle Water Tanker, LDV9HRA35K1000010, Pit passed, 33,000ltr capacity, Eifel pump, Dribble bar, 3 fan sprays 10 stud rims, 90mm king pin, 11R22.5 tyres

### Department of Transport - TRUST DIRECT DEBITS Licensing CRC

**\$ 45,808.50**

LICENCING PAYMENTS JULY 2019

### Woodstock Electrical Services

**\$ 40,339.09**

Works completed at Sewrage dam, Caravan Park, Memorial Hall, Recreation Centre, Massingham Street Public Toilets including Materials & Labour. February - June 2019

### Perfect Computer Solutions

**\$ 31,390.00**

Hp dual xeon server with backup device and 5 x 2tb drives, eaton 200 va ups, windows server 2016 w/ 15 calcs, windows server licence for altus server ms exchange server 15 calcs, anti virus software, windows remote desktop cal, veeam backup and replication software

### Karni Engineering

**\$ 30,497.45**

Line bore , fit bushes and pins., Z bar seals., repair rams, steering bushes , labour

### Shire Of Kellerberrin

**\$ 28,400.00**

PRE-PAID RATES 19/20

<b>Deputy Commissioner Of Taxation</b> BAS June 2019	\$ 27,968.00
<b>Central East Aged Care Alliance (CEACA)</b> Annual Contribution 19/20	\$ 22,000.00
<b>Innes &amp; Co</b> Hire semi and trailer, May, Truck hire for May 2019	\$ 20,556.25
<b>United Card Services Pty Ltd</b> Fuel Purchases, June 19	\$ 18,682.35
<b>Brooks Hire Service Pty Ltd</b> Hire grader & roller throughout, June 19 & Environmental levy	\$ 14,836.13
<b>Wheatbelt East Regional Organisation of Councils WE-ROC</b> General Subscription 19/20	\$ 13,200.00
<b>Shire Of Kellerberrin</b> Staff rates subsidy payments, Rates 19/20	\$ 9,763.90
<b>Synergy</b> Power consumption for various properties 5th Apr- 19th Jun	\$ 8,688.40
<b>WA Local Government Superannuation Plan Pty Ltd</b> Payroll deductions	\$ 7,717.38
<b>Western Australian Treasury Corporation</b> Various Loans GFEE	\$ 7,500.75
<b>Avon Waste</b> Domestic Refuse Collection, Commercial Refuse Collection, Recycling Bins, Additional Recycling Bins, Cardboard only service, Transport Collection Waste to Northam, June 19	\$ 6,811.23
<b>RAMM Software Pty Ltd</b> RAMM Annual Support and Maintenance Fee 01/07/19 - 30/06/20	\$ 6,795.05
<b>WA Local Government Superannuation Plan Pty Ltd</b> Payroll deductions & Superannuation contributions	\$ 6,266.35
<b>F-111 Engineering Pty Ltd</b> Partial Payment, 3 x 15" Spider hub axles	\$ 5,595.00
<b>Kellerberrin Community Resource Centre</b> Licensing commission May MDL Annual payment for credit card facilities	\$ 5,137.53
<b>Farmways Kellerberrin Pty Ltd</b> Purchase of 3x3x2.2 colourbond Garden Sheds for GROH houses, Keypad deadlock for Bus Shed access door, samsung microwave white, Purchase of 2.5kg Terrain for town spraying. Misc items under \$100.00	\$ 5,121.29
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 IMPLICATIONS - Nil (Including Workforce Plan and Asset Management Plan Implications)**

#### **TEN YEAR FINANCIAL PLAN IMPLICATIONS**

Nil

#### **COMMUNITY CONSULTATION**

Nil

#### **ABSOLUTE MAJORITY REQUIRED**

No

#### **STAFF RECOMMENDATION**

*That Council notes that during the month of July 2019, 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 **425,799.29** on vouchers EFT, CHQ, Direct payments*
2. *Trust Fund payments totalling **\$78,044.91** on vouchers EFT, CHQ, Direct payments*

### **COUNCIL RESOLUTION**

**MIN148/19 MOTION - Moved Cr. Steber**

**2<sup>nd</sup> Cr. O'Neill**

***That Council notes that during the month of July 2019, 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 425,799.29 on vouchers EFT, CHQ, Direct payments***
2. ***Trust Fund payments totalling \$78,044.91 on vouchers EFT, CHQ, Direct payments***

**CARRIED 5/0**

<b>Agenda Reference:</b>	11.1.11
<b>Subject:</b>	Financial Management Report for July 2019
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	Shire of Kellerberrin
<b>File Ref:</b>	
<b>Record Ref:</b>	
<b>Disclosure of Interest:</b>	
<b>Date:</b>	9 August 2019
<b>Author:</b>	Kate Dudley, Deputy Chief Executive Officer

*The Chief Executive Offer deferred item 11.1.11 due to lack of Absolute Majority*

## BACKGROUND

Enclosed is the Monthly Financial Report for the month of July 2019.

## FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

Financial Management of 2019/2020 Budget

## 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**

Yes

#### **STAFF RECOMMENDATION**

*That the Financial Report for the month of July 2019 comprising;*

- d) *Statement of Financial Activity*
- e) *Note 1 to Note 13*

*Be adopted.*

BY ABSOLUTE MAJORITY

***The Chief Executive Offer deferred item 11.1.11 due to lack of Absolute Majority***

## DEVELOPMENT SERVICES – AGENDA ITEM

<b>Agenda Reference:</b>	11.2.1
<b>Subject:</b>	Building Returns: July 2019
<b>Location:</b>	Shire of Kellerberrin
<b>Applicant:</b>	Various
<b>File Ref:</b>	BUILD06
<b>Disclosure of Interest:</b>	Nil
<b>Date:</b>	1 <sup>st</sup> August 2019
<b>Author:</b>	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 two (2) applications received for a "Building Permit" during the June period. A copy of the "Australian Bureau of Statistics appends".
2. There was nil (0) "Building Permits" issued in the June 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 IMPLICATIONS

(Including Workforce Plan and Asset Management Plan Implications)

Nil

### TEN YEAR FINANCIAL PLAN IMPLICATIONS

Nil

### COMMUNITY CONSULTATION

Building Surveyor  
Owners  
Building Contractors



## ABSOLUTE MAJORITY REQUIRED

No

## STAFF RECOMMENDATION

*That Council*

1. *Acknowledge the "Return of Proposed Building Operations" for the July 2019 period.*
2. *Acknowledge the "Return of Building Permits Issued" for the July 2019 period.*

## COUNCIL RESOLUTION

**MIN149/19 MOTION** - Moved Cr. Reid      2<sup>nd</sup> Cr. McNeil

*That Council*

1. *Acknowledge the "Return of Proposed Building Operations" for the July 2019 period.*
2. *Acknowledge the "Return of Building Permits Issued" for the July 2019 period.*

**CARRIED      5/0**

<b>Agenda Reference:</b>	11.2.2
<b>Subject:</b>	Activ Foundation- 'Change of use class'
<b>Location:</b>	20 Moore Street, Kellerberrin
<b>Applicant:</b>	Mr. Wayne Wardle
<b>File No:</b>	A732
<b>Record Ref:</b>	IPA1864
<b>Disclosure of Interest:</b>	NIL
<b>Date:</b>	12 <sup>th</sup> August 2019
<b>Author:</b>	Mr. Lewis York, Town Planner

## BACKGROUND

In November 2018 Council approved a change of use for 20 Moore Street Kellerberrin. Mr. Wayne Wardle has since contacted the Shire as the site is in the final stages of completion. However it has been mentioned that the facility will be used to accommodate guests on an overnight basis, which would be in contrary to the conditions of approval passed by Council in November 2018. Thus it was advised that the application be re-submitted to Council to remove the condition.

Council's November 2018 Ordinary Meeting of Council – 20 <sup>th</sup> November 2018
--

**MIN 214/18 MOTION -** Moved Cr. Leake 2<sup>nd</sup> Cr. Reid

***That Council grants approval for a change of use at 20 Moore Street, Kellerberrin, from 'Residential' to 'Community Purpose', with the following conditions;***

1. ***The landowners shall ensure the facility is only to be operated between the hours of 8am- 5pm;***
2. ***The endorsed approved use shall not be altered without the prior written approval of the Shire; and***
3. ***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. ***The provision of planning approval is not considered approval under the Health (Public Buildings) Regulations 1992 for Public Building Legislation.***
3. ***A Public Building inspection to occur for the building to be signed off as compliant for the abovementioned use.***
4. ***You are advised of the need to obtain a Building Permit prior to the commencement of any Building Work.***
5. ***The facility will be required to comply with the requirements of the National Construction Code 2016 (Volume One) and AS 1428.1-2009 (Disability Access) with regard to the required upgrades and disabled access to and within the Buildings.***
6. ***As required by the Building Regulations 2012 plans of the proposed accommodation (Class 3) building must be submitted to the Fire & Emergency Services (FES) Commissioner in sufficient detail to allow assessment of compliance with the FES Commissioner's operational requirements.***

CARRIED 5/0



## FINANCIAL IMPLICATIONS

A fee of \$295.00 will be charged to the applicant.

## POLICY IMPLICATIONS

### Local Planning Scheme No.4

Zoning: Residential

Coding: R5

## 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.***

### **ZONING TABLE**

USE CLASSES	ZONES					
	RESIDENTIAL	TOWN CENTRE	INDUSTRIAL	GENERAL AGRICULTURE	RURAL TOWNSITE	RURAL RESIDENTIAL
<b>CIVIC AND COMMUNITY</b>						
Child care premises	A	A	X	X	A	X
Civic use	D	D	D	X	A	X
Club premises	D	P	D	X	A	X
Community purpose	A	P	A	X	A	X
Educational establishment	X	P	A	X	A	X
Exhibition centre	X	D	X	X	A	X
Family day care	D	D	X	A	A	D
Hospital	X	X	X	X	A	X
Place of worship	A	A	X	X	A	X
Recreation - private	D	D	D	D	A	D

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.

**Use Class in Local Planning Scheme No.4:**

***Community purpose*** means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit;

***Planning and Development Regulations 2015***

**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 '**Community Purpose**'.

The Shires scheme expresses a 'Community Purpose' use as an 'A' in the zoning table. This means Council must use its discretion in granting planning approval, taking into account Clause 67 of the *Planning and Development Local Planning Schemes Regulations 2015*.

The application does not raise any significant planning issues, however it has been advised that the use change would need to satisfy the criteria outlined in the Building Design Codes. In this case it is advised that conditions be added to the approval to ensure that the outlined use is complimentary with surrounding land uses. It is advised that consideration be given to noise, operating hours and operational size to ensure minimal impact on surrounding landowners. It is also advised that the applicant notifies surrounding landowners of the use change.

The facility will have up to 4 guests at a time, with guests from time to time using the facility on an overnight basis.

## 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;*

1. Amend condition 1.0 from minute 214/18 with the following;
  - a. "The landowner shall ensure the outbuilding is only to be operated between the hours of 8am-5pm for the rear shed portion only";
2. Add Advice Note 7.0 to conditional approval:
  - a. "The residential dwelling is permitted to accommodate guests on an overnight basis";

*All other conditions and advice notes shall not be altered.*

## COUNCIL RESOLUTION

**MIN150/19 MOTION** - Moved Cr. O'Neill

2<sup>nd</sup> Cr. Reid

*That Council;*

1. Amend condition 1.0 from minute 214/18 with the following;
  - a. "The landowner shall ensure the outbuilding is only to be operated between the hours of 8am-5pm for the rear shed portion only";
2. Add Advice Note 7.0 to conditional approval:
  - a. "The residential dwelling is permitted to accommodate guests on an overnight basis";

*All other conditions and advice notes shall not be altered.*

**CARRIED 5/0**



### **11.3 WORKS & SERVICES – AGENDA ITEMS**

Nil

### **11 ELECTED MEMBERS OF MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

### **12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

Nil

## **CLOSURE OF MEETING**

The presiding member closed the meeting at 4.07pm

## **NEXT MEETING DATES**

Ordinary Council Meeting, Tuesday, 17<sup>th</sup> September 2019

NOT CONFIRMED