

SHIRE OF KELLERBERRIN
MINUTES OF ORDINARY COUNCIL MEETING

Minutes of the Ordinary Council Meeting held at the Shire of Kellerberrin Council Chamber, 110
Massingham Street Kellerberrin on Tuesday 19th November 2019, commencing at 6:00pm.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISTORS

The Presiding Member opened the meeting at 6.08pm

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Present:

Cr. Forsyth	Shire President
Cr. O'Neill	Deputy Shire President
Cr. Steber	Member
Cr. Leake	Member
Cr. Talbot	Member
Cr. Reid	Member
Mr Raymond Griffiths	Chief Executive Officer
Ms Kate Dudley	Deputy Chief Executive Officer
Mr Mick Jones	Manager of Works and Services
Mr Brett Taylor	Senior Finance Officer

Apologies:

Cr. McNeil

Public:

Nil

Leave of Absence:

Nil

3. RESPONSE TO PREVIOUS PUBLIC QUESTION TAKEN ON NOTICE:

Nil

4. PUBLIC QUESTION TIME:

Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE:

Nil

6. DECLARATION OF INTEREST:

In accordance with Section 5.65 of the *Local Government Act 1995* the following disclosures of **Closely Association Person and Impartiality** interest were made at the Council meeting held on 19 Novemeber 2019

Date	Name	Item No.	Reason
19 November 2019	Cr Dennis Reid	11.2.2	Brother in law is the Builder and wife works for the owner.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

7.1 Shire of Kellerberrin Ordinary Council Meeting Minutes 23rd October 2019

COUNCIL RESOLUTION

MIN198/19 MOTION: Moved Cr. Steber 2nd Cr. Reid

That the minutes of the Shire of Kellerberrin Ordinary Council Meeting held on Wednesday 23rd October 2019, be confirmed as a true and accurate record.

With an amendment to the March council meeting date being changed from 18 March 2020 to 17 March 2020.

CARRIED 6/0

7.2 Shire of Kellerberrin Special Council Meeting Minutes 23rd October 2019

COUNCIL RESOLUTION

MIN 199/19 MOTION: Moved Cr. Leake 2nd Cr. Talbot

That the minutes of the Shire of Kellerberrin Special Council Meeting held on Wednesday 23rd October 2019, be confirmed as a true and accurate record

CARRIED 6/0

8. ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

Nil

9. PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS

Nil

10. REPORTS OF COMMITTEES/COUNCILLORS

10.1 Reports of Committees/Councillors

MIN 200/19 MOTION: Moved Cr.Reid 2nd Cr. O'Neill

That the Presidents Reports for October 2019 be received and noted.

CARRIED 6/0

10.2 Standing Orders

MIN 201/19 MOTION: Moved Cr. O'Neill 2nd Cr. Leake

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 6/0

11.1 CORPORATE SERVICES – AGENDA ITEM

Agenda Reference:	11.1.1
Subject:	Community Requests and Discussion Items
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin - Council
File Ref:	Various
Disclosure of Interest:	N/A
Date:	4 th November, 2019
Author:	Mr Raymond Griffiths, Chief Executive Officer

BACKGROUND

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

October 2019 Council Meeting

MIN176/19 MOTION - Moved Cr. Leake 2nd Cr. McNeil

That the Council;

1. *Nominate Cr Forsyth for a position on LGAFG;*
2. *Request that the CEO continue to monitor the pigeons at the senior citizens centre; and*
3. *Request that the CEO to inspect the damaged pole at the entrance to the bridge replica.*

September 2019 Council Meeting

MIN155/19 MOTION - Moved Cr. Reid 2nd Cr. O'Neill

That the council request the CEO to continue with daily checks on the skate park for leaves, sand etc.

August 2019 Council Meeting

MIN143/19 MOTION - Moved Cr. McNeil 2nd Cr. Steber

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

COMMENT

October MIN 176/19

1. Will occur at Zone AGM
2. re-inspected and they aren't in the roof, contacted Team Leader Parks & Gardens to look into
3. pole replaced

September MIN 161/19

Item noted

1. Mick Jones sourcing Quotes for Council to review

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

MIN 202/19 MOTION - Moved Cr. Steber 2nd Cr. Leake

That Council note no requests to be actioned for the month of November 2019.

CARRIED 6/0

Agenda Reference:	11.1.2
Subject:	Status Report of Action Sheet
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin - Council
File Ref:	Various
Disclosure of Interest:	N/A
Date:	7 th November 2019
Author:	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
Council Staff
Council
Community Members.

STAFF RECOMMENDATION

That Council receives the Status Report.

COUNCIL RESOLUTION

MIN 203/19 MOTION - Moved Cr. Reid 2nd Cr. Leake

That Council receives the Status Report.

CARRIED 6/0

Agenda Reference:	11.1.3
Subject:	WE-ROC Council Meeting Minutes and Resolutions
Location:	Shire of Westonia, Council Chambers
Applicant:	WE-ROC Council
File Ref:	ORG-10
Disclosure of Interest:	Nil
Date:	7 th November 2019
Author:	Raymond Griffiths, Chief Executive Officer

BACKGROUND

The Minutes of the recent Council Meeting of the Wheatbelt East Regional Organisation of Councils (WE-ROC) held on Wednesday, 30th October 2019, in the Council Chambers at the Shire of Westonia, are provided to Council formally, with the aim of providing a stronger link and partnership development between member Councils and WE-ROC to keep this Council abreast of forward/strategic planning initiatives of the Council Group and to consider outcomes from the WE-ROC Council Meetings.

COMMENT

Attached to this agenda item is a copy of the last WE-ROC Council Meeting Minutes held on Wednesday, 30th October 2019, in the Council Chambers at the Shire of Westonia.

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 WE-ROC.

Resolutions arising out of the 30th October, 2019 WE-ROC Council Meeting summarised hereunder,

RESOLUTION: **Moved: Cr Forsyth** **Seconded: Cr Della Bosca**

That WEROC acknowledge the appointment of the following Council representatives to WEROC:

Shire of Bruce Rock: **Cr Ram Rajagopalan, Member**
 Mr Darren Mollenoyux, Member
 Cr Stephen Strange, Deputy Member
 Mr Alan O'Toole, Deputy Member

Shire of Kellerberrin: **Cr Rod Forsyth, Member**
 Mr Raymond Griffiths, Member
 Cr Matt Steber, Deputy Member

Shire of Merredin **Cr Julie Flockart, Member**
 Mr Greg Powell, Member

Shire of Westonia **Cr Karin Day, Member**
 Mr Jamie Criddle, Member
 Cr Bill Huxtable, Deputy Member

Shire of Yilgarn Cr Wayne Della Bosca, Member
Mr Peter Clarke, Member
Cr Linda Rose, Deputy Member

CARRIED

RESOLUTION: Moved: Cr Day Seconded: Cr Huxtable

That the current WEROC Memorandum of Understanding be extended until such time as the Department of Mines Industry and Regulation has approved the new constitution for Wheatbelt Communities Inc, which includes the renaming of the organisation to WEROC Inc.

CARRIED

RESOLUTION: Moved: Cr Della Bosca Seconded: Mr Mollenoyux

That the Minutes of the Executive Meeting held Tuesday 27 August 2019 be confirmed as a true and correct record.

CARRIED

RESOLUTION: Moved: Mr Clarke Seconded: Mr Griffiths

That the Minutes of the Executive Meeting held Wednesday 25 September 2019 be received.

CARRIED

RESOLUTION: Moved: Cr Day Seconded: Cr Della Bosca

That:

1. The WEROC Executive Meeting scheduled for Wednesday 27 November 2019 be cancelled and a WEROC Council Meeting be held in Merredin on Thursday 28 November 2019, with the meeting commencing at 1.00pm; and
2. Synergy be advised of the meeting changes and invited to meet with the WEROC Council on Thursday 28 November 2019.

CARRIED

RESOLUTION: Moved: Cr Forsyth Seconded: Cr Day

That the Status Report for October 2019 be received.

CARRIED

RESOLUTION: Moved: Cr Flockart Seconded: Mr Clarke

That the matters listed for noting be received.

CARRIED

RESOLUTION: Moved: Cr Flockart Seconded: Cr Della Bosca

That the WEROC Financial Report for the period ending 30 September 2019 be received.

CARRIED

RESOLUTION: Moved: Mr Mollenoyux Seconded: Mr Clarke

That the Accounts Paid for the period 1 August 2019 to 30 September 2019 totalling \$13,266.68 be approved.

CARRIED

RESOLUTION: Moved: Cr Della Bosca Seconded: Mr Clarke

That WEROC:

1. Approve the Draft Financial Report and Representation Letter and authorise the WEROC Chair and Executive Officer, as appropriate, to sign the documents; and
2. Note the Management Letter.

CARRIED

RESOLUTION: **Moved: Mr Griffiths** **Seconded: Cr Della Bosca**

That:

1. The WEROC Executive Officer prepare and arrange the audit of the final statements of account for WEROC in order that all funds can be transferred from WEROC to the revised entity WEROC Inc once established;
2. WEROC determine how all projects currently being undertaken by WEROC will be continued/completed under WEROC Inc once established;
3. A Special General Meeting of Wheatbelt Communities Inc be held, via teleconference, prior to Christmas for the purpose of adopting the new constitution; and
4. WEROC write to the Shire of Tammin to seek feedback on whether or not the Shire was interested in re-joining WEROC following its incorporation.

CARRIED

RESOLUTION: **Moved: Mr Clarke** **Seconded: Mr Mollenoyux**

That the decision made by flying email on Thursday 10 October 2019 and detailed below be endorsed by the WEROC Council. That:

1. WEROC meet the costs associated with Enterprises Australia Pty Ltd undertaking the work detailed in Option 1 of its proposal to undertake a review of the record keeping policies for the Shires of Kellerberrin, Merredin, Westonia and Yilgarn, with travel and other costs associated with any onsite visits if required or requested to be covered by the Council being visited; and
2. The Shire of Bruce Rock be given the opportunity to participate in any future records management projects should they be considered following the conclusion of the IAE's review of record keeping policies across the Shires of Kellerberrin, Merredin, Westonia and Yilgarn.

CARRIED

RESOLUTION: **Moved: Mr Mollenoyux** **Seconded: Mr Clarke**

That WEROC's submission to the Department of Health, highlighting the potential difficulties small rural and remote local governments may face if the State Government as an outcome of its review of the Health (Pesticides) Regulations 2011, be endorsed.

CARRIED

RESOLUTION: **Moved: Mr Mollenoyux** **Seconded: Cr Forsyth**

That WEROC:

1. Terminate its contract with go2GUIDES and in doing so seek clarification on ownership for both the WEROC App and website (including content and intellectual property); and
2. Seek quotations from suitably qualified organisations for the further development and management of the WEROC website.

CARRIED

RESOLUTION: **Moved: Mr Griffiths** **Seconded: Mr Mollenoyux**

That WEROC take no further action on the issue of CA07 and restricted access vehicle operating condition.

CARRIED

RESOLUTION: **Moved: Cr Forsyth** **Seconded: Mr Mollenoyux**

That the Executive Officer's report be received.

CARRIED

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

POLICY IMPLICATIONS

STATUTORY IMPLICATIONS:

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

Participation in WE-ROC 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 WE-ROC.

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
WE-ROC Member Councils
Staff Information re Minutes and Agendas of WE-ROC

ABSOLUTE MAJORITY REQUIRED - NO

STAFF RECOMMENDATION

That Council receive the Minutes of the Council Meeting of the Wheatbelt East Regional Organisation of Councils (WE-ROC) held on Wednesday 30th October, 2019

COUNCIL RESOLUTION

MIN 204/19 MOTION - Moved Cr. O'Neill 2nd Cr. Talbot

That Council receive the Minutes of the Council Meeting of the Wheatbelt East Regional Organisation of Councils (WE-ROC) held on Wednesday 30th October, 2019

CARRIED 6/0

Agenda Reference:	11.1.4
Subject:	Wheatbelt Communities Inc Meeting Minutes and Resolutions
Location:	Shire of Westonia
Applicant:	Wheatbelt Communities
File Ref:	
Disclosure of Interest:	Nil
Date:	7 th November, 2019
Author:	Raymond Griffiths, Chief Executive Officer

BACKGROUND

The Minutes of the recent Council Meeting of the Wheatbelt Communities Inc. held on Wednesday, 30th October 2019, at the Shire of Westonia in the Council Chambers, are provided to Council formally, with the aim of providing a stronger link and partnership development between member Councils and Wheatbelt Communities to keep this Council abreast of forward/strategic planning initiatives of the Council Group and to consider outcomes from the Wheatbelt Communities Council Meetings.

COMMENT

Attached to this agenda item is a copy of the last Wheatbelt Communities Inc. Council Meeting Minutes held on Wednesday, 30th October 2019, at the Shire of Westonia.

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 the Wheatbelt Communities Inc.

Resolutions arising out of the 30th October, 2019 Wheatbelt Communities Inc. Council Meeting summarised hereunder,

RESOLUTION: **Moved: Raymond Griffiths** **Seconded: Darren Mollenoyux**

That the Wheatbelt Communities Inc Financial Report for the period ending 30 September 2019 be received.

CARRIED

RESOLUTION: **Moved: Karin Day** **Seconded: Rod Forsyth**

That the list of accounts paid for the period 15 August 2019 to 14 October 2019 totalling \$396.00 be endorsed.

CARRIED

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

POLICY IMPLICATIONS

STATUTORY IMPLICATIONS:

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

Participation in Wheatbelt Communities Inc. 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.

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
Wheatbelt Communities Inc. Member Councils
Staff Information re Minutes and Agendas

ABSOLUTE MAJORITY REQUIRED - NO

STAFF RECOMMENDATION

That Council receive the Minutes of the Council Meeting of the Wheatbelt Communities Inc. held on Wednesday, 30th October 2019.

COUNCIL RESOLUTION

MIN 205/19 MOTION - Moved Cr. Reid 2nd Cr. Steber

That Council receive the Minutes of the Council Meeting of the Wheatbelt Communities Inc. held on Wednesday, 30th October 2019.

CARRIED 6/0

Agenda Reference:	11.1.5
Subject:	Common Seal Register and Reporting
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	ADM-52
Disclosure of Interest:	N/A
Date:	8 th November 2019
Author:	Raymond Griffiths, Chief Executive Officer

BACKGROUND

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

COMMENT

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

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

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

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

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

FINANCIAL IMPLICATIONS: Nil (not known at this time)

POLICY IMPLICATIONS: Nil (not known at this time)

STATUTORY IMPLICATIONS

Shire of Kellerberrin Standing Orders Local Law 2006

Clause 19.1 The Council's Common Seal

- (1) The CEO is to have charge of the common seal of the Local Government, and is responsible for the safe custody and proper use of it.
- (2) The common seal of the Local Government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.
- (3) The common seal of the local government is to be affixed to any local law which is made by the local government.
- (4) The CEO is to record in a register each date on which the common seal of the Local Government was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed.

- (5) Any person who uses the common seal of the Local Government or a replica thereof without authority commits an offence. Penalty \$1,000

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

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

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

ABSOLUTE MAJORITY REQUIRED – NO

STAFF RECOMMENDATION

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

COUNCIL RESOLUTION

MIN 206/19 MOTION - Moved Cr. Leake 2nd Cr. Steber

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

CARRIED 6/0

Agenda Reference:	11.1.6
Subject:	Annual Report 2018-2019
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	FIN-01
Disclosure of Interest:	N/A
Date:	12 November 2019
Author:	Ms Kate Dudley, Deputy Chief Executive Officer

BACKGROUND

Council's Audit Committee reviewed the 2018-2019 Annual Report, Management Letter and Audit Report at its Audit Committee meeting scheduled for 19th November 2019.

This report presents the Shire of Kellerberrin 2018-2019 Annual Report (Annual Report) for Council acceptance in accordance with the *Local Government Act 1995* (the Act) and seeks endorsement of a date for the holding of the annual general electors' meeting.

The Shire produces an annual report of activities at the conclusion of each financial year, in accordance with the requirements of the Act, as outlined in the Statutory Implications section of this report. The Shire's Annual Report provides information about the Shire's progress over the financial year in respect of its priorities, as outlined in the Corporate Business Plan; which contribute to achievement of the goals and aspirations contained in the Strategic Community Plan.

COMMENT

The Financial Statements were completed and audited at the time of the audit visit with all aspects of the audit being attended to with minor changes being made following the auditors departure.

The Shire of Kellerberrin Annual Report 2018-2019 requires acceptance by an absolute majority of Council before being publicly released. Council is also requested to endorse the proposed date for the annual general electors' meeting.

Council is continually improving its financial reporting and maintaining good Audit Reports and for this, congratulations to all staff on the efforts for the 2018-2019 financial year.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the officer recommendation.

POLICY IMPLICATIONS

There are no relevant plans or policies to consider in relation to this matter.

STATUTORY IMPLICATIONS

Local Government Act 1995 (As Amended)

5.27. Electors' general meetings

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

5.54. Acceptance of annual reports

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

** Absolute majority required.*

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

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

5.55. Notice of annual reports

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

Division 4 — General

7.12A. Duties of local government with respect to audits

- (1) A local government is to do everything in its power to —
 - (a) assist the auditor of the local government to conduct an audit and carry out his or her other duties under this Act in respect of the local government; and
 - (b) ensure that audits are conducted successfully and expeditiously.
- (2) Without limiting the generality of subsection (1), a local government is to meet with the auditor of the local government at least once in every year.
- (3) A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to —
 - (a) determine if any matters raised by the report, or reports, require action to be taken by the local government; and
 - (b) ensure that appropriate action is taken in respect of those matters.
- (4) A local government is to —
 - (a) prepare a report on any actions under subsection (3) in respect of an audit conducted in respect of a financial year; and
 - (b) forward a copy of that report to the Minister,

by the end of the next financial year, or 6 months after the last report prepared under section 7.9 is received by the local government, whichever is the latest in time.

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

Local Government (Financial Management) Regulations 1996

51. Completion of financial report

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

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

STRATEGIC PLAN IMPLICATIONS

Core drivers identify what Council will be concentrating on as it works towards achieving Councils vision. The core drivers developed by Council are:

1. Relationships that bring us tangible benefits (to the Shire and our community)
2. Our lifestyle and strong sense of community
3. We are prepared for opportunities and we are innovative to ensure our relevancy and destiny

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

No external stakeholder consultation was required or undertaken in relation to this matter.

ABSOLUTE MAJORITY REQUIRED

Yes

STAFF/COMMITTEE RECOMMENDATION

That Council;

1. *Adopt the Annual Financial Report for the Financial Year 2018/19;*
2. *Adopt the Audit Concluding Memorandum for 2018/19 Financial Year;*
3. *Adopt the Management Report for the 2018/19 Financial Year;*
4. *Adopt the Annual Report for the 2018/19 Financial Year inclusive of the above as presented; and*
5. *Advertises Annual Elector's Meeting be held on _____ commencing at _____ in the Cuolahan/Cottle Room at the Kellerberrin Recreation and Leisure Centre.*

COUNCIL RESOLUTION

MIN 207/19 MOTION - Moved Cr. O'Neill

2nd Cr. Steber

That Council lay the matter on the table until the Auditors Report has been provided by the OAG and tabled at an Audit Committee meeting.

CARRIED 6/0

REASON: The Auditors Report wasn't made available by the auditors or OAG at the time of the meeting.

Agenda Reference:	11.1.7
Subject:	LGIS 2019 Surplus Distribution
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	
Disclosure of Interest:	N/A
Date:	12 November 2019
Author:	Ms Kate Dudley, Deputy Chief Executive Officer

BACKGROUND

On 24 October 2019 Cr Lynne Craigie OAM wrote to the Chief Executive Officer to advise that the LGIS 2018/19 results had now been finalised and the surplus distributions were now available to Member Local Governments.

The surplus this year is a consequence of a lower than anticipated number of claims in Property and WorkCare; a better than expected performance in investments; and a reduced requirement of the capital needed to be carried by the Scheme.

In 2018 the Shire of Kellerberrin surplus share was to the value of \$10,217. The total Scheme surplus share to date is to the value of \$80,528 and the LGIS Scheme members equity is to the value of \$71,423.

COMMENT

The Shire of Kellerberrin received a share of the surplus to the values of \$14,569.

There are three option to receive the surplus:

1. As an immediate refund via electronic transfer
2. LGIS to retain the funds to offset the Shire contribution next year
3. LGIS to hold the amount in trust for risk mitigation activities.

Officers are of the opinion that option three be the preferred option - LGIS to hold the amount in trust for risk mitigation activities. This will allow wellbeing programs to be utilised with no impact on the current budget.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

Nil

STATUTORY IMPLICATIONS

Nil

STRATEGIC PLAN IMPLICATIONS:

Core drivers identify what Council will be concentrating on as it works towards achieving Councils vision. The core drivers developed by Council are:

1. Relationships that bring us tangible benefit s (to the Shire and our community)
2. Our lifestyle and strong sense of community
3. We are prepared for opportunities and we are innovative to ensure our relevancy and destiny

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

Nil

LONG TERM PLAN IMPLICATIONS:

Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

Community consultation is not required.

STAFF RECOMMENDATION

That Council adopts that LGIS hold the amount in trust for risk mitigation activities.

COUNCIL RESOLUTION

MIN 208/19 MOTION - Moved Cr. Steber 2nd Cr. Talbot

That Council adopts that LGIS hold the amount in trust for risk mitigation activities.

CARRIED 6/0

Agenda Reference:	11.1.8
Subject:	Employee Code of Conduct/Customer Service Charter
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	Code of Conduct
Disclosure of Interest:	N/A
Date:	12 November 2019
Author:	Ms Kate Dudley, Deputy Chief Executive Officer

BACKGROUND

The *Local Government Act 1995* (the Act) requires every local government to prepare and adopt a Code of Conduct to be observed by Council Members and signed by employees.

Council previously held a policy on code of conduct, which was last updated in October 2016. This policy has now been rescinded as part of the Councils policy review. It is considered good practice to review the Code regularly for the following reasons:

- To ensure the Code remains current and relevant;
- That any Legislative changes can be included; and
- The review acts as a reminder to Council Members

As part of Officers policy review, a review of Policy 2.19 Customer Service Charter and Policy has been carried out. As a result of this review the policy was rescinded and will be preplace with the proposed Charter.

COMMENT

Officers have reviewed the Code of Conduct of various other local governments and noted that they vary considerably in size and format, however the content is invariably similar. This is perhaps given the purpose of the document and the requirements that must be included as per the provisions of the Act.

Upon review, Officers found that the current code of conduct and customer service charter remain largely relevant and effective, but identified the following areas for amendment:

- The style of the current code is dated and could be remodelled to use more enabling and empowering language; and
- The length of the document was considered to be a potential obstacle to the document being read and fully understood by its intended audience.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

Nil

STATUTORY IMPLICATIONS

Section 5.103 of the *Local Government Act 1995* requires the Shire to adopt a Code of Conduct. Part 9 of the Local Government (Administration) Regulations 1996 sets out a number of requirements that must be included in the Shire's Code of Conduct.

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* it is the role of the Council to determine the Local Government's policies.

It is also common for a Council to adopt significant Corporate documents and make these documents available to those persons to whom the document applies as well as to make them available to members of the public on the website. Corporate documents normally have a higher profile than policies and as a consequence have greater exposure.

It is normal for Local Governments to have a Customer Service Charter adopted by Council that forms part of a suite of Corporate documents rather than have a policy.

STRATEGIC PLAN IMPLICATIONS:

Core drivers identify what Council will be concentrating on as it works towards achieving Councils vision. The core drivers developed by Council are:

1. Relationships that bring us tangible benefits (to the Shire and our community)
2. Our lifestyle and strong sense of community
3. We are prepared for opportunities and we are innovative to ensure our relevancy and destiny

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

Nil

LONG TERM PLAN IMPLICATIONS:

Nil (not applicable at this date and therefore unknown)

COMMUNITY CONSULTATION:

The Code of Conduct is substantially an internal document and there is little change to the substance and effect of the code. It is therefore considered that there is little value in undertaking public consultation on the revised Code.

Once approved, the Code and Customer Service Charter will be published on the Shire's website and all employees will be provided with a copy of the new code to sign.

STAFF RECOMMENDATION

That Council

1. *adopts the revised Shire of Kellerberrin Employee Code of Conduct 2019, included as Attachment A; and*
2. *adopts the proposed Customer Service Charter included as Attachment B.*

COUNCIL RESOLUTION

MIN 209/19 MOTION - Moved Cr.Reid

2nd Cr. O'Neill

That Council

1. ***adopts the revised Shire of Kellerberrin Employee Code of Conduct 2019, included as Attachment A; and***
2. ***adopts the proposed Customer Service Charter included as Attachment B.***

CARRIED 6/0

Agenda Reference:	11.1.9
Subject:	King Street Extension – Leake St – Scadden St
Location:	King Street
Applicant:	Shire of Kellerberrin
File Ref:	ENG.09.79
Record Ref:	
Disclosure of Interest:	NIL
Date:	11 th November 2019
Author:	Mr Raymond Griffiths, Chief Executive Officer

BACKGROUND

Council has previously considered the opportunity of extending King Street from Leake Street to Scadden Street to enable easier access to the Recreation Centre for all users, especially the trots and Pony Club members, as currently the access is Via Bath Street if they are aware of that or weaving your way through from Scadden, McCulloch, Leake, King Streets.



The process was put on hold purely as Council was tied up with major roadworks construction program and planning of further works in addition to a large tree being within the road construction area.

COMMENT

Council has now taken the opportunity to revisit the opportunity to commence the process again as the tree has been removed for safety reasons as it was dropping large limbs due to white ant damage.

This project will take considerable time to come to fruition due to;

1. Land Acquisition and reallocation of Reserve
2. Surveying, planning approvals.
3. Titles changes etc.

Council has received a quote from Automated Surveys of \$12,000 to have the Surveying, field works and administration of the process.

FINANCIAL IMPLICATIONS

Council will need to consider allowing funds for the following:

- Possible land purchase from State Government
- Site Surveys, Field Survey, Drafting and Administration of King Street Extension \$12,000
- Land Transfers
- Construction of Road in future budgets.

POLICY IMPLICATIONS - Nil

STATUTORY IMPLICATIONS

Land Administration Act 1997

52. Local government may request acquisition as Crown land of certain land no longer required

- (1) Subject to this section, a local government may request the Minister to acquire as Crown land —
- (a) any alienated land designated for a public purpose on a plan of survey or sketch plan lodged with the Registrar;
 - (b) any private road; or
 - (c) any alienated land in a townsite which the Minister proposes to abolish under section 26,

within the district of the local government (in this section called **the subject land**).

- (2) A request made under subsection (1) is to be accompanied by —
- (a) a plan of survey or sketch plan —
 - (i) showing the subject land; and
 - (ii) approved by the Planning Commission;and
 - (b) copies of all objections lodged with the local government during the period referred to in subsection (3)(b)(i) or (ii), as the case requires.
- (3) Before making a request under subsection (1), a local government must —
- (a) take all reasonable steps to give notice of that request to —
 - (i) the holder of the freehold in the subject land unless the local government holds that freehold;
 - (ii) the holders of the freehold in land adjoining the subject land unless the local government holds that freehold; and
 - (iii) all suppliers of public utility services to the subject land;and
 - (b) in the case of —
 - (i) alienated land referred to in subsection (1)(a) or a private road referred to in subsection (1)(b), state in the notice a period of not less than 30 days from the day of that notice during which period persons may lodge objections with it against the making of that request; or

- (ii) any land referred to in subsection (1)(c), advertise or take such steps as may be prescribed to notify interested persons of an intention to make the request and state in the notification a period of not less than 30 days from the day of that notification during which period persons may lodge objections with it against the making of that request.
- (4) The Minister may, on receiving a request made under subsection (1), the accompanying plan of survey or sketch plan referred to in subsection (2)(a) and copies of all objections referred to in subsection (2)(b) —
 - (a) by order grant that request;
 - (b) direct the local government to reconsider that request, having regard to such matters as he or she thinks fit to mention in that direction; or
 - (c) refuse to grant that request.
- (5) On the registration of an order made under subsection (4)(a), the subject land —
 - (a) ceases to belong to the holder of its freehold;
 - (b) is freed from all encumbrances; and
 - (c) becomes Crown land.
- (6) Subject to subsection (7), compensation is payable under Part 10 to any holder of the freehold in the subject land who suffers loss on the registration of an order referred to in subsection (5) as if that loss resulted from a taking under Part 9.
- (7) A person with an interest in land that is a private road (including a person who has the benefit of an easement created under section 167A of the TLA) the subject of an order under subsection (4)(a) who suffers loss on the registration of the order is not entitled to compensation under Part 10.
- (8) Sections 188, 189, 190 and 191 do not apply to a private road or an interest in land that is a private road if the land is the subject of an order under subsection (4)(a) and the land was taken or resumed or purportedly taken or resumed under a written law for the purpose of a right of way or a right of way and recreation.

[Section 52 amended by No. 59 of 2000 s. 14.]

Part 5 — Roads

Division 1 — Conventional roads

53. Status of *Main Roads Act 1930* in respect of highways and main roads

To the extent that there is in the case of a road which is a highway or main road within the meaning of the *Main Roads Act 1930* an inconsistency between this Act and that Act, that Act prevails.

54. Configuration and situation of roads

A road may have —

- (a) a 2 dimensional configuration consisting of —
 - (i) length; and
 - (ii) width;or
- (b) a 3 dimensional configuration consisting of —
 - (i) length;
 - (ii) width; and

- (iii) height or depth or both,

as specified in the relevant plan of survey or sketch plan lodged with the Registrar and may be situated in airspace or waters or on the surface of or below the ground (including the bed of waters) or in any combination of 2 or more of these situations.

55. Property in roads etc.

- (1) Subject to this section and to section 57, the absolute property in land comprising a road is by this subsection —
 - (a) revested in the Crown; and
 - (b) in the case of land under the operation of the TLA or the *Registration of Deeds Act 1856*, removed from that operation and so revested.
- (2) Subject to the *Main Roads Act 1930* and the *Public Works Act 1902*, the local government within the district of which a road is situated has the care, control and management of the road.
- (3) The operation of subsection (1) —
 - (a) suspends, until the relevant road is closed under section 58, any rights to mine for minerals within the meaning of the *Mining Act 1978* excepted from the acquisition of the land reserved, declared or dedicated as that road; but
 - (b) does not affect the functions of a local government in respect of a road of which it has the care, control and management.
- (4) If land comprising a private road is revested in the Crown under this section, a person with an interest in that land (including a person who has the benefit of an easement created under section 167A of the TLA) is not entitled to compensation because of that revesting.

[Section 55 amended by No. 59 of 2000 s. 15.]

56. Dedication of roads

- (1) If in the district of a local government —
 - (a) land is reserved or acquired for use by the public, or is used by the public, as a road under the care, control and management of the local government;
 - (b) in the case of land comprising a private road constructed and maintained to the satisfaction of the local government —
 - (i) the holder of the freehold in that land applies to the local government, requesting it to do so; or
 - (ii) those holders of the freehold in rateable land abutting the private road, the aggregate of the rateable value of whose land is greater than one half of the rateable value of all the rateable land abutting the private road, apply to the local government, requesting it to do so;or
 - (c) land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,

and that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.

- (2) If a local government resolves to make a request under subsection (1), it must —
 - (a) in accordance with the regulations prepare and deliver the request to the Minister; and

- (b) provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.
- (3) On receiving a request delivered to him or her under subsection (2), the Minister must consider the request and may then —
 - (a) subject to subsection (5), by order grant the request;
 - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or
 - (c) refuse the request.
- (4) On the Minister granting a request under subsection (3), the relevant local government is liable to indemnify the Minister against any claim for compensation (not being a claim for compensation in respect of land referred to in subsection (6)) in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request.
- (5) To be dedicated under subsection (3)(a), land must immediately before the time of dedication be —
 - (a) unallocated Crown land or, in the case of a private road, alienated land; and
 - (b) designated in the relevant plan of survey, sketch plan or document as having the purpose of a road.
- (6) If land referred to in subsection (1)(b) or (c) is dedicated under subsection (3)(a), a person with an interest in that land (including a person who has the benefit of an easement created under section 167A of the TLA) is not entitled to compensation because of that dedication.

[Section 56 amended by No. 59 of 2000 s. 16.]

57. Leases in relation to roads

- (1) The Minister may —
 - (a) grant a lease in respect of land above or below a road; or
 - (b) with the consent of the relevant local government, the Commissioner of Main Roads, or the Minister responsible for the administration of the *Public Works Act 1902*, as the case requires, grant a lease in respect of land comprising a road, if —
 - (i) there are structures above the road; or
 - (ii) the purpose of that lease is consistent with the use of the road by the public.
- (2) When a lease is granted under subsection (1)(b) in respect of land comprising a road and the road is closed under section 58 during the subsistence of the lease, the lease continues to subsist as an interest in Crown land until it terminates in accordance with law.

[Section 57 amended by No. 59 of 2000 s. 17.]

58. Closure of roads

- (1) When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.
- (2) When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.

- (3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.
- (4) On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —
 - (a) by order grant the request;
 - (b) direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or
 - (c) refuse the request.
- (5) If the Minister grants a request under subsection (4) —
 - (a) the road concerned is closed on and from the day on which the relevant order is registered; and
 - (b) any rights suspended under section 55(3)(a) cease to be so suspended.
- (6) When a road is closed under this section, the land comprising the former road —
 - (a) becomes unallocated Crown land; or
 - (b) if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.

[Section 58 amended by No. 59 of 2000 s. 18(1)⁹.]

STRATEGIC PLAN IMPLICATIONS -

FUTURE PLAN IMPLICATIONS -

COMMUNITY CONSULTATION

Automated Surveys
Chief Executive Officer
Manager Works and Services
Mr Rod Munns
Councillors

ABSOLUTE MAJORITY

Yes

STAFF RECOMMENDATION

That Council

1. *Resolves to create King Street road re-alignment by adding 160m by continuing the road from previous alignment terminating at Leake Street, continuing on to Scadden Street.*
2. *Indemnifies Department of Regional Development and Lands against all claims and costs associated with the creation of new roads*
3. *Nominates Mr Frank Mastaglia of Automated Surveys as its appointed surveyor.*

NOT CONFIRMED

COUNCIL RESOLUTION

MIN210/19 MOTION - Moved Cr. Steber

2nd Cr. Leake

That Council;

1. *Resolves to create King Street road re-alignment by adding 160m by continuing the road from previous alignment terminating at Leake Street, continuing on to Scadden Street.*
2. *Indemnifies Department of Regional Development and Lands against all claims and costs associated with the creation of new roads*
3. *Nominates Automated Surveys as its appointed surveyor.*

CARRIED 6/0
BY ABSOLUTE MAJORITY

Agenda Reference:	11.1.10
Subject:	Submission – Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination, Mandatory Code of Conduct for Council Members, Committee Members and Candidates.
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	
Record Ref	
Disclosure of Interest:	N/A
Date:	12 th November 2019
Author:	Mr Raymond Griffiths, Chief Executive Officer

BACKGROUND

Council on the 25th September 2019 received the following email from WALGA regarding a proposed Code of Conduct and CEO Standards prepared by the Department of Local Government, Sport and Cultural Industries.

Dear Chief Executive Officers

DLGSCI Consultation on proposed Code of Conduct and CEO Standards

The Local Government Legislation Amendment Act 2019 will introduce new requirements in relation to Codes of Conduct (Sections 5.102A, 5.103 and 5.104) and CEO recruitment, performance and termination (Sections 5.39A and 5.39B).

The Department of Local Government, Sport and Cultural Industries have released two papers for consultation (attached):

- 1. Mandatory Code of Conduct for Council Members, Committee Members and Candidates*
- 2. Standards and Guidelines For Local Government CEO Recruitment and Selection, Performance Review and Termination*

While WALGA and other invited parties participated in two separate working groups to develop the documents, both documents have been released without WALGA's endorsement and we still have a number of concerns that we will again raise with the Department and will inform a formal submission.

We are preparing some additional information outlining our concerns that we will distribute to members next week.

Given the electoral period, we will be requesting that the consultation timeframes be extended until December to enable Councils to endorse submissions and for WALGA's submissions to be considered at November Zone meetings.

Working to the current consultation timeframes and following the provision of the additional information next week, we would appreciate feedback on the documents to assist in the development of WALGA submissions by 18 October 2019. Feedback can be provided to James McGovern at jmcgovern@walga.asn.au or (08) 9213 2093.

COMMENT

WALGA successfully lobbied to have the submission period extended to the Friday 6th December 2019.

Please find attached in Attachments:

- Draft for consultation - Mandatory Code of Conduct for Council Members, Committee Members and Candidates
- Draft for consultation – Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination.
- WALG Draft Submissions
 - Mandatory Code of Conduct for Council Members, Committee Members and Candidates
 - Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination.

Please find below minimum standards that are being described in the CEO Recruitment and Selection, Performance Review and Termination.

Recruitment and Selection Standard

The minimum standard for recruitment and selection will be met if:

- S1.1** The council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO within that particular local government context.
- S1.2** The council has approved, by absolute majority, the Job Description Form which clearly outlines the qualifications, selection criteria and responsibilities of the position, and which is made available to all applicants.
- S1.3** The local government has established a selection panel to conduct the recruitment and selection process. The panel must include at least one independent person who is not a current elected member or staff member of the local government.
- S1.4** The local government attracts applicants through a transparent, open and competitive process (this is not necessary for vacancies of less than one year).
- S1.5** The local government has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.
- S1.6** The local government has thoroughly verified the recommended applicant's work history, qualifications, referees and claims made in his or her job application.
- S1.7** The appointment is merit-based, with the successful applicant assessed as clearly demonstrating how his or her knowledge, skills and experience meet the selection criteria.
- S1.8** The appointment is made impartially and free from nepotism, bias or unlawful discrimination.
- S1.9** The council has endorsed by absolute majority the final appointment.
- S1.10** The council has approved the employment contract by absolute majority.
- S1.11** The local government must re-advertise the CEO position after each instance where a person has occupied the CEO position for ten (10) consecutive years.

Performance Review Standard

The minimum standard for performance review will be met if:

- S2.1** Key result areas are specific, relevant, measurable, achievable and time-based.
- S2.2** The key result areas and the performance process are recorded in a written document, negotiated with and agreed upon by the CEO and council.
- S2.3** The CEO is informed about how their performance will be managed and the results of their performance assessment.

- S2.4** The collection of evidence regarding key result areas is thorough and comprehensive.
- S2.5** Assessment is made free from bias and based on the CEO's achievement against key result areas and decisions and actions are impartial, transparent and capable of review.
- S2.6** The council has endorsed the performance review assessment by absolute majority.

Termination Standard

The minimum standard for the early termination of a CEO's contract will be met if:

- S3.1** Decisions are based on the assessment of the local government's requirements (such as the documented key result areas) and the CEO's performance is measured against these.
- S3.2** Performance issues have been identified and the CEO informed. The council has given the CEO a reasonable opportunity to improve and implement a plan to remedy the performance issues, but the CEO has not subsequently remedied these issues.
- S3.3** Procedural fairness and the principles of natural justice are applied. The CEO is informed of their rights, entitlements and responsibilities in the termination process. This includes the CEO being provided with notice of any allegations against them, given a reasonable opportunity to respond to those allegations or decision affecting them, and their response is genuinely considered.
- S3.4** Decisions are impartial, transparent and capable of review.
- S3.5** The council of the local government has endorsed the termination by absolute majority.
- S3.6** The required notice of termination (which outlines the reason for termination) is provided in writing.

The minimum standards listed above excluding the highlighted versions are supported by Council's Management however the highlighted items are not supported.

The requirement to have an independent person on the Selection panel and the review process doesn't suit the all Local Governments within Western Australia, again a rule set as one fits all. If the requirement for an individual person is a major requirement, then there is sufficient professionals in the consultancy industry that can perform this role.

In review of the WALGA submissions, Council's Management feels that the WALGA submission is a reflection of Management and seek Councils endorsement.

Part A – Principles

Personal integrity

- 1.1** Act with care and diligence and participate in decision making in an honest, fair, impartial and timely manner, considering all relevant information.
- 1.2** Act with honesty, integrity and uphold the concept of natural justice.
- 1.3** Identify, declare and appropriately manage any conflicts of interest in the public interest and the interests of the Council including not accepting gifts that may give the appearance of a conflict of interest or an attempt to corruptly influence behaviour.
- 1.4** Uphold the law, and, on all occasions, act in accordance with the trust placed in council members.
- 1.5** Avoid damage to the reputation of the local government.
- 1.6** Not be impaired by mind affecting substances while performing official duties.

Relationships with others

- 1.7 Treat others with respect, courtesy and fairness.
- 1.8 Maintain and contribute to a harmonious, safe and productive work environment for all.
- 1.9 Respect and value diversity in the workplace and in the community.

Accountability

- 1.10 Base decisions on relevant and factually correct information and make decisions on merit and in accordance with statutory obligations and good governance.

Be open and accountable to the public, represent all constituents and make decisions in the public interest.

Part B – Behaviour

Personal integrity

- 2.1 Act in line with the principles outlined in this Code when performing official duties.
- 2.2 Attend and participate constructively in council meetings, briefings, relevant workshops and training opportunities.
- 2.3 Respect and comply with all council policies, procedures and resolutions.
- 2.4 Ensure professional behaviour is not compromised by the use of alcohol or drugs.
- 2.5 Use all forms of media, including social media, in a way that complies with this Code.

Relationships with others

- 2.6 Treat other council members, council employees and members of the public with courtesy, respect, honesty and fairness.
- 2.7 Do not bully or harass council staff, other council members or members of the public in any form, including social media.
- 2.8 Deal with the media in a positive, informative and appropriate manner in accordance with the Local Government Act 1995 and relevant local government policies.
- 2.9 While acting as a council member, do not:
 - i. use offensive or pejorative language in reference to another council member, council employee or member of the public; or
 - ii. disparage the character of any council member or employee, or impute dishonest or unethical motives to them in the performance of their duties.
- 2.10 When attending a council or committee meeting, do not:
 - i. behave in an abusive or threatening manner towards another council member or other person attending the meeting;
 - ii. make statements that the person knows, or could be reasonably expected to know, that are false or misleading; or

- iii. repeatedly disrupt the meeting.

2.11 When attending a council or committee meeting:

- i. comply with the local law that relates to conduct of people at council or committee meetings;
- ii. promptly comply with any direction given by the presiding member at that meeting; and
- iii. immediately cease any conduct that has been ruled out of order by the presiding member in accordance with the local government's local law.

2.12 Direct all requests for work or actions by council staff to the CEO or the CEO's nominated delegate.

Accountability

2.13 Make decisions honestly and impartially, considering all available information, legislation, policies and procedures.

2.14 Take responsibility for decisions and actions.

2.15 Abide by the decisions of council and publicly support the decisions even if of an alternative view.

2.16 Adhere to the principles in the:

- i. Occupational Safety and Health Act 1984 (WA);
- ii. Equal Opportunity Act 1984 (WA);
- iii. Racial Discrimination Act 1975 (Cth); and
- iv. Sex Discrimination Act 1984 (Cth).

Complaint management

2.17 Any person may make a complaint about a council member under this Part within three months of the alleged breach occurring.

2.18 A breach of this part does not include a matter:

- i. that is resolved by the Presiding Member during a meeting, or
- ii. where a council member complies with a request for remedial action in accordance with the relevant local law.

2.19 Complaints about an alleged breach should be made to the Mayor or President or the CEO of the local government or nominated delegate.

2.20 Complaints about an alleged breach by the Mayor or President should be made to the Deputy Mayor or President or a nominated delegate.

2.21 A complaint may be handled or managed in any manner that council deems appropriate for handling an alleged breach of this section. This includes investigation or dismissal of the complaint. This must be laid out in a council endorsed policy.

2.22 A complaint may be dismissed as trivial, vexatious or frivolous and accordingly not investigated.

Findings

2.23 Following an investigation in accordance with rule 2.21, the Council may, by resolution, make a finding of breach or no breach.

- 2.24** In accordance with rule 2.23, if a breach is found, the Council may, by resolution:
- i. take no action, or
 - ii. prepare an action plan, developed in conjunction with the council member, to address future behaviour.
- 2.25** An action plan may include the requirement for the council member to undertake training, mediation or counselling or any other actions deemed appropriate by the Council.
- 2.26** The Council to which the member is elected, may decide, via resolution, to make an allegation of a rule of conduct breach under Part C:
- i. after the third finding of a breach of this Part by the same council member, or
 - ii. where the council member fails to comply with the action plan in accordance with sub-rule 2.24(ii).
- 2.27** A matter under sub-rule 2.26(i) cannot be alleged as a Part C breach unless an action plan has been developed in accordance with sub-rule 2.24(ii) for the previous two breaches.
- 2.28** Written notification of the outcome of an alleged breach under this section must be given to the council member and complainant.
- 2.29** A written record must be kept of all complaints made under this Part and how they were dealt with.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

Shire of Kellerberrin 2019/2020 Salary and Wages Budget.

POLICY IMPLICATIONS

STATUTORY IMPLICATIONS

5.23. Meetings generally open to public

- (1) Subject to subsection (2), the following are to be open to members of the public —
 - (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
 - (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;

- (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person,
where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

5.37. Senior employees

- (1) A local government may designate employees or persons belonging to a class of employee to be senior employees.
- (2) The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.
- (3) Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (4A) Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.
- (4) For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.

[Section 5.37 amended by No. 49 of 2004 s. 45 and 46(4); No. 17 of 2009 s. 22.]

5.38. Annual review of certain employees' performances

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

5.39. Contracts for CEO and senior employees

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
- (1a) Despite subsection (1) —
 - (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and
 - (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.
- (2) A contract under this section —
 - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
 - (b) in every other case, cannot be for a term exceeding 5 years.
- (3) A contract under this section is of no effect unless —
 - (a) the expiry date is specified in the contract;
 - (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
 - (c) any other matter that has been prescribed as a matter to be included in the contract has been included.
- (4) A contract under this section is to be renewable and subject to subsection (5), may be varied.
- (5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.
- (6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.
- (7) A report made by the Salaries and Allowances Tribunal, under section 7A of the Salaries and Allowances Act 1975, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

[Section 5.39 amended by No. 49 of 2004 s. 46(1)-(3).]

5.40. Principles affecting employment by local governments

The following principles apply to a local government in respect of its employees —

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity;
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage;
- (c) employees are to be treated fairly and consistently;
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the Equal Opportunity Act 1984 or on any other ground;
- (e) employees are to be provided with safe and healthy working conditions in accordance with the Occupational Safety and Health Act 1984; and

- (f) such other principles, not inconsistent with this Division, as may be prescribed.

5.41. Functions of CEO

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the council so that informed decisions can be made;
- (c) cause council decisions to be implemented;
- (d) manage the day to day operations of the local government;
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;
- (f) speak on behalf of the local government if the mayor or president agrees;
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.
- * Absolute majority required.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

[Section 5.42 amended by No. 1 of 1998 s. 13.]

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (h) any power or duty that requires the approval of the Minister or the Governor;

- (i) such other powers or duties as may be prescribed.

[Section 5.43 amended by No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23.]

5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
 - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) —
conditions includes qualifications, limitations or exceptions.

[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

5.45. Other matters relevant to delegations under this Division

- (1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
 - (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing —
 - (a) a local government from performing any of its functions by acting through a person other than the CEO; or
 - (b) a CEO from performing any of his or her functions by acting through another person.

5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

SALARIES AND ALLOWANCES ACT 1975

Section 7A. Recommendations as to remuneration of local government CEOs

- (1) The Tribunal shall, from time to time, inquire into and make a report containing recommendations as to the remuneration to be paid or provided to chief executive officers of local governments.
- (2) A report of the Tribunal made under this section shall be —
 - (a) in writing; and
 - (b) signed by the members.
- (3) A copy of every report made by the Tribunal under this section shall be published in the *Gazette*.

DEPARTMENT OF LOCAL GOVERNMENT

Local Government Guidelines

- Number 10 – Appointing a CEO
- Model Contract of Employment – Local Government CEO's
- Gender Diversity and the Selection of CEO's and Senior Staff in Local Government.
- Number 11 – Use of Corporate Credit Cards
- Number 17 - Delegations

STRATEGIC COMMUNITY PLAN IMPLICATIONS

CORPORATE BUSINESS PLAN IMPLICATIONS

(Including Workforce Plan and Asset Management Plan Implications)

Shire of Kellerberrin - Workforce Plan

TEN YEAR FINANCIAL PLAN IMPLICATIONS

COMMUNITY CONSULTATION - Nil

ABSOLUTE MAJORITY REQUIRED – No

STAFF RECOMMENDATION

That Council:

1. *Endorse WALGA's Draft Submission – Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination.*
2. *Endorse WALGA's Draft Submission - Mandatory Code of Conduct for Council Members, Committee Members and Candidates*
3. *Provide additional submission on the Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination*
 - a. *Remove Wording in section S1.3 "The panel must include at least one independent person who is not a current elected member or staff member of the local government."*
 - b. *Remove Clause S1.11 - The local government must re-advertise the CEO position after each instance where a person has occupied the CEO position for ten (10) consecutive years.*
4. *Endorse the surveys for both submissions as presented, and*
5. *Instruct the Chief Executive Officer to provide these response to the Department of Local Government, Sport and Cultural Industries and WALGA*

COUNCIL RESOLUTION

MIN 211/19 MOTION - Moved Cr. O'Neill

2nd Cr. Talbot

That Council:

- 1. Endorse WALGA's Draft Submission – Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination.***
- 2. Endorse WALGA's Draft Submission - Mandatory Code of Conduct for Council Members, Committee Members and Candidates.***
- 3. Provide additional submission on the Standards and Guidelines for CEO Recruitment and Selection, Performance Review and Termination.***
 - a. Remove Wording in section S1.3 "The panel must include at least one independent person who is not a current elected member or staff member of the local government."***
 - b. Remove Clause S1.11 - The local government must re-advertise the CEO position after each instance where a person has occupied the CEO position for ten (10) consecutive years.***
- 4. Endorse the surveys for both submissions as presented, and***
- 5. Instruct the Chief Executive Officer to provide these response to the Department of Local Government, Sport and Cultural Industries and WALGA.***

CARRIED 6/0

Agenda Reference:	11.1.11
Subject:	Direct Debit List and Visa Card Transactions for the month October 2019
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	N/A
Record Ref:	N/A
Disclosure of Interest:	N/A
Date:	6 th November 2019
Author:	Brett Taylor – Senior Finance Officer

BACKGROUND

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

Municipal Direct Debit List

Date	Name	Details	\$	Amount
1-Oct-19	NAB	Merchant Fees		1.93
1-Oct-19	Westnet	Internet Costs		4.99
1-Oct-19	NAB	Merchant Fees		52.37
1-Oct-19	NAB	Merchant Fees		97.10
1-Oct-19	NAB	Merchant Fees		124.93
1-Oct-19	Department of Housing	Rent		420.00
1-Oct-19	Alleasing	Gym Equipment Lease		3,121.83
3-Oct-19	Shire of Kellerberrin	Payrun		52,889.79
10-Oct-19	Shire of Kellerberrin	Creditors		362,213.11
11-Oct-19	DLL	Photocopier Lease		265.21
11-Oct-19	Shire of Kellerberrin	Creditors		59,884.00
15-Oct-19	Department of Housing	Rent		420.00
17-Oct-19	Shire of Kellerberrin	Payrun		54,064.09
22-Oct-19	Telstra	Internet Fees		164.85
24-Oct-19	ATO	BAS September 2019		9,467.00
24-Oct-19	Shire of Kellerberrin	Creditors		91,438.95
24-Oct-19	NAB	Bank Fees		47.73
29-Oct-19	Department of Housing	Rent		420.00
29-Oct-19	Shire of Kellerberrin	Superchoice		8,014.55
29-Oct-19	Shire of Kellerberrin	Superchoice		8,658.53
31-Oct-19	NAB	Bank Fees		71.76
31-Oct-19	NAB	Bank Fees		10.00
31-Oct-19	Shire of Kellerberrin	Payrun		52,346.26
31-Oct-19	NAB	Bank Fees		55.10
TOTAL			\$	<u>704,254.08</u>

Trust Direct Debit List

Date	Name	Details	\$	Amount
31-Oct-19	Department of Transport	Licencing October 2019		62,755.80
TOTAL			\$	<u>62,755.80</u>

Visa Transactions

Date	Name	Details	\$	Amount
30-Sep-19	Tammin Roadhouse	Fuel - KE1		137.34
07-Oct-19	Tammin Roadhouse	Fuel - KE1		77.37
28-Oct-19	NAB	Bank Fees		9.00
TOTAL - CEO			\$	223.71

Date	Name	Details	\$	Amount
11-Oct-19	Town of Cambridge	Parking		4.35
11-Oct-19	United Petroleum	Fuel KE 003		60.30
11-Oct-19	Kmart Online	Caravan Park Linen		888.50
11-Oct-19	Kmart Online	Caravan Park Linen		288.00
14-Oct-19	Kmart Online	Caravan Park Linen -CREDIT		-110.50
19-Oct-19	United Petroleum	Election Lunches		33.90
28-Oct-19	NAB	Bank Fees		9.00
TOTAL -DCEO				1,173.55
TOTAL VISA TRANSACTIONS			\$	1,397.26

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

Be adopted.

COUNCIL RESOLUTION

MIN 212/19 MOTION - Moved Cr. Leake

2nd Cr. Reid

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

Be adopted.

CARRIED 6/0

Agenda Reference:	11.1.12
Subject:	Cheque List October 2019
Location:	Shire of Kellerberrin
Applicant:	N/A
File Ref:	N/A
Record Ref:	N/A
Disclosure of Interest:	N/A
Date:	12 th November 2019
Author:	Codi Mullen, Personal Assistant

BACKGROUND

Accounts for payment from 1st October 2019 – 31st October 2019

TRUST

TRUST TOTAL	\$ 200.00
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MUNICIPAL FUND

Cheque Payments

34671 - 34683	\$ 26,030.92
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EFT Payments

10016 - 10112	\$ 513,536.06
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Direct Debit Payments

	\$ 44,908.45
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TOTAL MUNICIPAL

	\$ 584,475.43
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COMMENT

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

Triplains PTY LTD t/a L & L Steber	\$ 59,519.00
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Hire of PM & Side tipper for September and purchase of gravel.

Smith Earthmoving Pty Ltd	\$ 32,103.50
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Semi Hire for September 19

LGIS Property	\$ 30,640.86
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LGIS Property Contribution, 2nd Instalment, 19/20

Smith Earthmoving Pty Ltd	\$ 29,815.50
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Hire of semi for the month of August for gravel haulage at tendered rate
07/08/2019 to 31/08/2019

Peak Transport	\$ 27,065.50
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Hire of LV at tendered rate, September 19

LGIS Workcare	\$ 23,103.98
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LGIS Workcare contribution, Instalment, 19/20

Verum Group Pty Ltd	\$ 20,416.00
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Project Management Services, Phase 1, Kellerberrin Memorial Swimming Pool
Redevelopment, Progress payment of Fees August & September 19/20

United Card Services Pty Ltd Fuel Purchases, September 19, Fuel Trailer	\$ 19,248.63
Geoff Ninnas Fong & Partners PTY LTD Phase 1 Masterplan & Concept only, Lump sum fee \$16400 + GST, Kellerberrin Memorial Swimming Pool	\$ 18,040.00
Merredin Refrigeration & Gas Supply & Install new Mitsubishi ducted and split reverse cycle air conditioners	\$ 18,023.37
WCS Concrete Pty Ltd Supply, Delivery & Laying of 25MPA concrete to Hammond St for 3.2m wide footpath	\$ 17,281.00
Sam Williams Semi Hire, September 19	\$ 16,698.00
Farmways Kellerberrin Pty Ltd Purchase of Upright 90cm Gas Oven, supply of chemicals, Purchase of Oils & Grease, Heavy duty truck reverse camera kit and various items under \$100.00 from September & October 2019	\$ 15,008.77
Donovan Payne Architects Agreed phase 1 fee, 30/08/2019, Kellerberrin Memorial Swimming Pool	\$ 14,949.00
Water Corporation Water charges for various Standpipes August - October 2019	\$ 14,264.39
Wheatbelt Plumbing & Gas 50% Progress Claim Quote No 086 Plumbing New Dongas Caravan Park - New plumbing to transportable buildings	\$ 13,936.45
Innes & Co Sale of gravel from pit to Tiller Drive, Fire Road & Yerapin Rd	\$ 11,753.00
LGIS Liability LGIS Liability Instalment, 19/20	\$ 11,594.63
Brooks Hire Service Pty Ltd Hire of roller for month of August 19	\$ 10,860.56
InfoCouncil Pty Ltd Average Implementation fee due on signing, for configuration and implementation of the minutes and agenda software	\$ 10,208.00
Deputy Commissioner Of Taxation PAYG Tax	\$ 9,467.00
Lite Industries Pty Ltd Liteguard cemetery shield base unit with cutting edge, 2 panels 2400mmx800mm, 4 x 600mm, legs and 4 adjustable spreader bars 600-900mm pins and clips, Liteguard cemetery stacking panels 2400x600mm, 2 spreaders bars 600-900mm, 4 extension joiners, pins & clips, Freight	\$ 8,300.05
Avon Waste Commercial & Domestic Collection for September 2019	\$ 7,634.57

WA Local Government Superannuation Plan Pty Ltd Payroll deductions & Superannuation contributions	\$ 6,802.54
WA Local Government Superannuation Plan Pty Ltd Payroll deductions & Superannuation contributions	\$ 6,794.84
Cutting Edges Equipment Parts GB7834HT - grader blade & misc. parts	\$ 6,619.54
Kellerberrin Community Resource Centre Monthly library payment, August/September 19, ATM Electricity June - September 19 & Licencing Commissions August	\$ 6,322.15
WA Local Government Superannuation Plan Pty Ltd Payroll deductions & Superannuation contributions	\$ 6,277.69
STS West Pty Ltd Loader tyre, Double coin 20.5R25, 25" o-ring, Fitting, rotate tyres, low loader tyres October 2019	\$ 6,160.00
IAME (Inc) Launch X431 HD Truck scan tool, heavy duty module	\$ 6,120.00
VISA Payments - National Australia Bank Credit Card Payments - CEO	\$ 5,164.75
Fire And Emergency Services (WA) ESL Payments Q2, 2019/20	\$ 5,063.47

Shire of Kellerberrin 2019/2020 Operating Budget

POLICY IMPLICATIONS - Nil

STATUTORY IMPLICATIONS

Local Government (Financial Management) Regulations 1996

11. Payment of accounts

- (1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —
 - (a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and
 - (b) Petty cash systems.
- (2) A local government is to develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so.
- (3) Payments made by a local government —
 - (a) Subject to sub-regulation (4), are not to be made in cash; and
 - (b) Are to be made in a manner which allows identification of —
 - (i) The method of payment;
 - (ii) The authority for the payment; and

- (iii) The identity of the person who authorised the payment.
- (4) Nothing in sub-regulation (3) (a) prevents a local government from making payments in cash from a petty cash system.

[Regulation 11 amended in Gazette 31 Mar 2005 p. 1048.]

12. Payments from municipal fund or trust fund

- (1) A payment may only be made from the municipal fund or the trust fund —
 - (a) If the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or
 - (b) Otherwise, if the payment is authorised in advance by a resolution of the council.
- (2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

[Regulation 12 inserted in Gazette 20 Jun 1997 p. 2838.]

13. Lists of accounts

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
 - (a) The payee's name;
 - (b) The amount of the payment;
 - (c) The date of the payment; and
 - (d) Sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
 - (a) For each account which requires council authorisation in that month —
 - (i) The payee's name;
 - (ii) The amount of the payment; and
 - (iii) Sufficient information to identify the transaction;
 - And
 - (b) The date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under sub-regulation (1) or (2) is to be —
 - (a) Presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) Recorded in the minutes of that meeting.

STRATEGIC COMMUNITY PLAN IMPLICATIONS

Nil

CORPORATE BUSINESS PLAN IMPLCATIONS

(Including Workforce Plan and Asset Management Plan Implications)

Nil

TEN YEAR FINANCIAL PLAN IMPLCATIONS

Nil

COMMUNITY CONSULTATION

Nil

ABSOLUTE MAJORITY REQUIRED

No

STAFF RECOMMENDATION

That Council notes that during the month of October 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 \$584,475.43 on vouchers EFT , CHQ, Direct payments*
2. *Trust Fund payments totalling \$200.00 on vouchers EFT, CHQ, Direct payments*

COUNCIL RESOLUTION

MIN 213/19 MOTION - Moved Cr. O'Neill

2nd Cr. Leake

That Council notes that during the month of October 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 \$584,475.43 on vouchers EFT , CHQ, Direct payments***
2. ***Trust Fund payments totalling \$200.00 on vouchers EFT, CHQ, Direct payments***

CARRIED 6/0

Agenda Reference:	11.1.13
Subject:	Financial Management Report for October 2019
Location:	Shire of Kellerberrin
Applicant:	Shire of Kellerberrin
File Ref:	
Record Ref:	
Disclosure of Interest:	N/A
Date:	12 November 2019
Author:	Kate Dudley, Deputy Chief Executive Officer

BACKGROUND

Enclosed is the Monthly Financial Report for the month of October 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

Core drivers identify what Council will be concentrating on as it works towards achieving Councils vision. The core drivers developed by Council are:

1. Relationships that bring us tangible benefits (to the Shire and our community)
2. Our lifestyle and strong sense of community
3. We are prepared for opportunities and we are innovative to ensure our relevancy and destiny

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 October 2019 comprising;

- (a) *Statement of Financial Activity*
- (b) *Note 1 to Note 13*

Be adopted.

COUNCIL RESOLUTION

MIN 214/19 MOTION - Moved Cr. O'Neill

2nd Cr. Steber

That the Financial Report for the month of October 2019 comprising;

- (a) *Statement of Financial Activity*
- (b) *Note 1 to Note 13*

Be adopted.

CARRIED 6/0

Agenda Reference:	11.2.1
Subject:	Building Returns: October 2019
Location:	Shire of Kellerberrin
Applicant:	Various
File Ref:	BUILD06
Disclosure of Interest:	Nil
Date:	8 th November 2019
Author:	Raymond Griffiths, Chief Executive Officer

BACKGROUND

Council has provided delegated authority to the Chief Executive Officer, which has been delegated to the Building Surveyor to approve of proposed building works which are compliant with the Building Act 2011, Building Code of Australia and the requirements of the Shire of Kellerberrin Town Planning Scheme No.4.

COMMENT

1. There were one (1) applications received for a "Building Permit" during the October period. A copy of the "Australian Bureau of Statistics appends".
2. There was one (1) "Building Permits" issued in the October period. See attached form "Return of Building Permits Issued".

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

There is income from Building fees and a percentage of the levies paid to other agencies. ie: "Building Services Levy" and "Construction Industry Training Fund" (when construction cost exceeds \$20,000)

POLICY IMPLICATIONS

Nil

STATUTORY IMPLICATIONS

- Building Act 2011
- Shire of Kellerberrin Town Planning Scheme 4

STRATEGIC COMMUNITY PLAN IMPLICATIONS - Nil

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

TEN YEAR FINANCIAL PLAN IMPLCATIONS - Nil

COMMUNITY CONSULTATION

Building Surveyor
Owners
Building Contractors

ABSOLUTE MAJORITY REQUIRED

No

STAFF RECOMMENDATION

That Council;

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

COUNCIL RESOLUTION

MIN 215/19 MOTION - Moved Cr. Steber 2nd Cr. Reid

That Council;

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

CARRIED 6/0

Agenda Reference:	11.2.2
Subject:	Development Application: Office Moylan Silos
Location:	2 Mather Road, Kellerberrin
Applicant:	Mr. Mike Spadaccini
File Ref:	A844
Disclosure of Interest:	N/A
Date:	6 th November 2019
Author:	Mr Lewis York, Town Planner

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 **19 Novemeber 2019**

Date	Name	Item No.	Reason
19 November 2019	Cr Dennis Reid	11.2.2	Brother in law and wife work for the applicant.

BACKGROUND

A development application has been received from Mr. Mike Spadaccini on behalf of Mr. Corey Moylan for the construction of an office, which will extend from the current office block. Located on the lot are a number of fabrication sheds, office facilities, storage bays and worker amenities.



FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

The applicant to pay a standard planning application fee of \$147.00

POLICY IMPLICATIONS

N/A

STATUTORY IMPLICATIONS

Local Planning Scheme No.4

Zoned: INDUSTRIAL

Current Use- Industry (P) 'Permitted'

Industry- means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance, or repairing of goods, products, articles, materials or substances and includes facilities for any of the following purposes;

- A) the storage of goods
- B) the work of administration or accounting
- C) the selling of goods by wholesale or retail
- D) the provision of amenities for employees
- E) incidental purposes

4.9 INDUSTRIAL DEVELOPMENT

1. 4.9.1 Buildings within the Industrial zone shall comply with the following minimum lot boundary setbacks:

Front: 7.5 metres

Rear: 7.5 metres

Side: 5.0 metres (on one side)

2. 4.9.2 The first 5 metres of the front setback on any lot shall be landscaped to the satisfaction of the local government. Where a lot has frontage to two streets the local government may vary the landscaping requirement only where the setback is reduced in which case the whole of the setback so reduced shall be landscaped to the satisfaction of the local government.
3. 4.9.3 All other development standards for development in the Industrial zone are at Local government's discretion.

4.5. VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

1. 4.5.1. Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for development approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

Planning Comment

The proposed office is an extension of the existing office and generally would not require formal Council approval if it adhered to the provisions of the Industrial zone in the Scheme. However the existing office is within the front setback area (3.7m) (scheme; 7.5m), therefore triggering the requirement of Council approval. The proposed office extension is aesthetically pleasing and raises no further planning issues.

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

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

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

COMMUNITY CONSULTATION:

Not required.

STAFF RECOMMENDATION

That Council grants development approval for a site office extension and endorse the development plans (18089) for Lot 210 Mather Road, Kellerberrin, with the following conditions;

GENERAL CONDITIONS

1. *The approval will expire if the development is not substantially commenced within two years of the approval date;*
2. *The applicant to pay the applicable planning fee;*
3. *The endorsed approved plans shall not be altered without the prior written approval of the Shire*

Advice Note: Planning approval is not considered Building approval and shall be obtained through a building permit.

COUNCIL RESOLUTION

MIN 216/19 MOTION - Moved Cr. Steber 2nd Cr. Leake

That Council grants development approval for a site office extension and endorse the development plans (18089) for Lot 310 Mather Road, Kellerberrin, with the following conditions;

GENERAL CONDITIONS

1. *The approval will expire if the development is not substantially commenced within two years of the approval date;*
2. *The applicant to pay the applicable planning fee;*
3. *The endorsed approved plans shall not be altered without the prior written approval of the Shire*

Advice Note: Planning approval is not considered Building approval and shall be obtained through a building permit.

CARRIED 6/0

Agenda Reference:	11.2.3
Subject:	Development Application: Sea Container
Location:	Lot 207 Barr Street, Doodlakine
Applicant:	Mr. Kevin Howe
File Ref:	A1099
Disclosure of Interest:	N/A
Date:	6 th November 2019
Author	Mr. Lewis York – Town Planner

BACKGROUND

A development application has been received from Mr. Kevin Howe for the use of a single (1x 40ft) Sea Container for storage at Lot 207 Barr Street, Doodlakine. Mr. Howe intends to remove the container once building works have been completed. The lot is currently vacant, with no significant vegetation.



COMMENT

Council has received notification that Mr Howe is purchasing the property and settlement is scheduled for the 22nd November 2019 therefore the item is subject to successful sale.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

Planning application fee of \$147 is to be paid.

STATUTORY IMPLICATIONS

Zoning: Rural Townsite

Coding: R10 – R Codes are applicable to this application

State Planning Policy 3.1- Residential Design Codes (r codes)

The subject land is coded R10-40, therefore some provisions of the R-Codes are applicable.

Part 2- Judging proposals

2.4 Judging merit of proposals

Where a proposal does not meet **deemed-to-comply** provision(s) of the R-Codes and addresses **design principle(s)**, the **decision-maker** is required to exercise judgement to determine the proposal.

Judgement of merit is exercised only for specific element(s) of a proposal which do not satisfy the relevant deemed-to-comply provision(s).

2.5 Exercise of judgement

2.5.1

Subject to clauses 2.5.2 and 2.5.3, the **decision-maker** is to exercise its judgement to consider the merits of proposals having regard to objectives and balancing these with the consideration of **design principles** provided in the R-Codes.

The decision-maker, in its assessment of a proposal that addresses the design principle(s), should not apply the corresponding **deemed-to-comply** provision(s).

2.5.2

In making a determination on the suitability of a proposal, the **decision-maker** shall exercise its judgement, having regard to the following:

- (a) any relevant purpose, objectives and provisions of the **scheme**;
- (b) any relevant objectives and provisions of the R-Codes;
- (c) a provision of a **local planning policy** adopted by the decision-maker consistent with and pursuant to the R-Codes; and
- (d) orderly and proper planning.

Part 5- Design Elements

5.1.2 Street setback

P2.1 **Buildings** set back from **street boundaries** an appropriate distance to ensure they:

- contribute to, and are consistent with, an established streetscape;
- provide adequate privacy and **open space** for dwellings;
- accommodate site planning requirements such as parking, **landscape** and utilities; and
- allow safety clearances for easements for essential service corridors.

P2.2 **Buildings** mass and form that:

- uses design features to affect the size and scale of the building;
- uses appropriate minor projections that do not detract from the character of the streetscape;
- minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank **walls**, servicing infrastructure access and meters and the like; and
- positively contributes to the prevailing **development** context and streetscape.

C2.1 **Buildings** set back from the **primary street** boundary:

- i. in accordance with **Table 1**;
- ii. corresponding to the average of the **setback** of existing **dwellings** on each adjacent property fronting the same **street**;
- iii. reduced by up to 50 per cent provided that the area of any building, including a **carport** or **garage**, intruding into the setback area is compensated for by at least an equal area of **open space** between the setback line and line drawn parallel to it at twice the setback distance (refer **Figure 2a, 2b** and **2c**);
- iv. in the case of areas coded R15 or higher, where:
 - a **grouped dwelling** has its main **frontage** to a **secondary street**;
 - a **single house** results from subdivision of an original corner lot and has its frontage to the original secondary street; or
 - a single house or grouped dwelling (where that grouped dwelling is not adjacent to the primary street), has its main frontage to a **communal street, right-of-way** or shared pedestrian or vehicle access way;

Design principles <i>Development demonstrates compliance with the following design principles (P)</i>	Deemed-to-comply <i>Development satisfies the following deemed-to-comply requirements (C)</i>
	<p>the street setback may be reduced to 2.5m, or 1.5m to a porch, verandah, balcony or the equivalent (refer Figure 2b and 2d); and</p> <p>v. to provide for registered easements for essential services.</p> <p>C2.2 Buildings set back from the secondary street boundary in accordance with Table 1.</p> <p>C2.3 Buildings set back from the corner truncation boundary in accordance with the secondary street setback in Table 1.</p> <p>C2.4 A porch, balcony, verandah, chimney or the equivalent may project not more than 1m into the street setback area, and this projection is not subject to a compensating open area under clause 5.1.2 C2.1iii, provided that the total of such projections does not exceed 20 per cent of the frontage at any level (refer Figure 2b).</p>
<p>5.1.3 Lot boundary setback</p> <p>P3.1 Buildings set back from lot boundaries so as to:</p> <ul style="list-style-type: none"> • reduce impacts of building bulk on adjoining properties; • provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and • minimise the extent of overlooking and resultant loss of privacy on adjoining properties. <p>P3.2 Buildings built up to boundaries (other than the street boundary) where this:</p> <ul style="list-style-type: none"> • makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas; • does not compromise the design principle contained in clause 5.1.3 P3.1; • does not have any adverse impact on the amenity of the adjoining property; • ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and • positively contributes to the prevailing development context and streetscape. 	<p>C3.1 Buildings which are set back in accordance with the following provisions, subject to any additional measures in other elements of the R-Codes:</p> <ol style="list-style-type: none"> buildings set back from lot boundaries in accordance with Table 1, Tables 2a and 2b (refer to Figure Series 3 and 4); unenclosed areas accessible for use as outdoor living areas, elevated 0.5m or more above natural ground level, set back as though they were major openings to habitable rooms with a wall height of 2.4m above their floor level; separate single house, grouped or multiple dwelling buildings on the same site, or facing portions of the same multiple dwelling building, set back from each other as though there were a boundary between them; minor projections such as a chimney, other architectural feature or an eaves overhang not projecting more than 0.75m into a setback area; and the stated setback distances may be reduced by half the width of an adjoining right-of-way, pedestrian access way, communal street or battleaxe lot access leg, to a maximum reduction of 2m (refer to figures 2b and 4f).
<p>5.1.4 Open space</p> <p>P4 Development incorporates suitable open space for its context to:</p> <ul style="list-style-type: none"> • reflect the existing and/or desired streetscape character or as outlined under the local planning framework; • provide access to natural sunlight for the dwelling; • reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework; • provide an attractive setting for the buildings, landscape, vegetation and streetscape; • provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and 	<p>C4 Open space provided in accordance with Table 1 (refer Figure Series 6). The site of the grouped dwelling, for the purpose of calculating the open space requirement, shall include the area allocated for the exclusive use of that dwelling and the proportionate share of any associated common property.</p>

Table 1: General site requirements for all single house(s) and grouped dwellings; and multiple dwellings in areas coded less than R40

1 R-Code	2 Dwelling type	3 Minimum site area per dwelling (m ²) ◆	4 Minimum lot area/rear battleaxe (m ²) ▼	5 Minimum frontage (m) ▼	6 Open space		7 Minimum setbacks (m)		
					min total (% of site)	min outdoor living (m ²)	primary street	secondary street ●	other/rear
R2	Single house or grouped dwelling	Min 5000	-	50	80	-	20	10	10
R2.5	Single house or grouped dwelling	Min 4000	-	40	80	-	15	7.5	7.5
R5	Single house or grouped dwelling	Min 2000	-	30	70	-	12	6	*6
R10	Single house or grouped dwelling	Min 875	925	20	60	-	7.5	3	*6
	Multiple dwelling	Av 1000	-	-	60	-	7.5	3	*6
R12.5	Single house or grouped dwelling	Min 700	762.5	17	55	-	7.5	2	*6
	Multiple dwelling	Av 800	-	-	55	-	7.5	2	*6
R15	Single house or grouped dwelling	Min 580	655	12	50	-	6	1.5	*6
	Multiple dwelling	Av 666	-	-	50	-	6	1.5	*
R17.5	Single house or grouped dwelling	Min 500	587.5	12	50	36	6	1.5	*
	Multiple dwelling	Av 571	-	-	-	-	6	1.5	*
R20	Single house or grouped dwelling	Min 350	450	10	50	30	6	1.5	*
	Multiple dwelling	Av 450	-	-	50	-	6	1.5	*
R25	Single house or grouped dwelling	Min 300	425	8	50	30	6	1.5	*
	Multiple dwelling	Av 350	-	-	50	-	6	1.5	*
R30	Single house or grouped dwelling	Min 260	410	-	45	24	4	1.5	*
	Multiple dwelling	Av 300	-	-	45	-	4	1.5	*
R35	Single house or grouped dwelling	Min 220	395	-	45	24	4	1.5	*
	Multiple dwelling	Av 260	-	-	45	-	4	1.5	*
R40	Single house or grouped dwelling	Min 180	380	-	45	20	4	1	*
	Multiple dwelling	Av 220	-	-	45	-	4	1	*
R50	Single house or grouped dwelling	Min 160	380	-	40	16	2	1	*
R60	Single house or grouped dwelling	Min 120	380	-	40	16	2	1	*
	Multiple dwelling	Av 150	-	-	40	-	2	1	*
R80	Single house or grouped dwelling	Min 100	380	-	30	16	1	1	*
	Multiple dwelling	Av 120	-	-	30	-	1	1	*

All standards for single house or grouped dwellings within R100, R160 and R-AC areas are as for the R80 Code

Legend

- ◆ subject to variations permitted under clause 5.1.1 C1.4
- ▼ only applies to single houses
- secondary street: includes communal street, private street, right-of-way as street
- indicated not applicable
- * see **Tables 2a** and **2b** and clause 5.1.3
- Av. average site area

Table 2b: Boundary setbacks - Walls with major openings

Wall height (m)	Wall length (m)													
	9 or less	10	11	12	13	14	15	16	17	18	19	20	25	Over 25
3.5 or less*	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5
4.0	1.8	2.0	2.2	2.4	2.5	2.7	2.8	3.0	3.1	3.3	3.4	3.6	4.5	5.0
4.5	2.0	2.2	2.4	2.6	2.8	3.0	3.1	3.2	3.4	3.7	3.8	4.0	4.8	5.4
5.0	2.3	2.5	2.6	2.8	3.0	3.2	3.3	3.5	3.7	3.9	4.0	4.2	5.1	5.7
5.5	2.5	2.7	2.9	3.1	3.3	3.5	3.6	3.7	3.9	4.2	4.4	4.6	5.5	6.0
6.0	2.8	3.0	3.1	3.3	3.5	3.8	3.9	4.0	4.2	4.5	4.7	4.9	5.7	6.3
6.5	3.0	3.2	3.4	3.6	3.8	4.0	4.1	4.2	4.4	4.7	4.9	5.2	6.1	6.6
7.0	3.3	3.5	3.7	3.8	4.1	4.3	4.4	4.6	4.8	5.0	5.2	5.5	6.4	7.0
7.5	3.5	3.7	3.9	4.2	4.4	4.6	4.7	4.9	5.1	5.3	5.5	5.7	6.6	7.3
8.0	3.8	4.0	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6	5.8	6.0	7.0	7.7
8.5	4.0	4.3	4.5	4.7	4.9	5.2	5.3	5.5	5.7	5.9	6.1	6.3	7.3	8.0
9.0	4.3	4.5	4.7	5.0	5.2	5.4	5.6	5.8	6.0	6.2	6.4	6.6	7.6	8.3
9.5	4.6	4.8	5.0	5.2	5.4	5.7	5.8	5.0	6.2	6.4	6.6	6.9	8.0	8.7
10.0	4.8	5.0	5.2	5.4	5.7	6.0	6.1	6.3	6.5	6.7	6.9	7.2	8.2	9.0

The proposed container satisfies the requirements of the R Codes including: open space and building setbacks.

Shire of Kellerberrin- Local Planning Policy 'Sea Containers'

Definition- "Sea Container" means a metal transportable structure designed for the storage and transport of goods from one location to another by road, rail and sea, or any other relocated 'box type' storage container or unit.

Policy Objectives

The objectives of this policy are:

- To provide guidelines for the placement, use, size and construction of sea containers and other similar structures;
- To maintain the rural character and landscape amenity of the Shire;
- To allow for the temporary controlled use of a sea container during building and construction; and
- To provide further clarity on the definition of a sea container.

5.0 POLICY STATEMENT

5.1 Exemptions from planning approval

Planning consent is not required for:

- a) the use of sea containers fully enclosed within a building.
- b) the loading or unloading of containers for shipping, provided that the container(s) does not remain on the lot for longer than seven (7) days.
- c) the use of up to two (2) containers on land in the General Agriculture or Industrial zones (per rate notice),

d) the temporary storage of equipment and materials during construction works (maximum of 12 months), where:

i. building approval has been issued for the construction works and remains valid; and

ii. the sea container has been removed from the site within a month of completing construction works.

5.2 General Requirements for Sea Containers

5.2.1 Unless exempt from planning approval requirements specified in Clause 5.1 above, Approval by the Shire is required for use of all sea containers.

Sea containers shall:

- i. comply with the requirements of the Scheme;
- ii. comply with the criteria set out in Table 1 of this policy;
- I. be used as detached outbuildings and not as ancillary accommodation;
- II. be fitted with doors that can be opened from the inside to ensure safety of users;
- iii. be painted to match either the existing dwelling or other outbuildings on the lot;
- iv. be located a minimum of 1.8m from septic tanks, leach drains and utilities;
- v. be located to the rear of a the dwelling on the lot (as depicted in Schedule 1 of this Policy);
- vi. be suitably screened from road frontages, public space and neighbouring properties. Where a sea container is visible from a public space, the installation of screening to a minimum height of that of the sea container may be required; and
- vii. not be located on vacant land in the Residential, Rural Residential, Rural Townsite and Town Centre zones unless for the storage for building and construction purposes, as outlined in Clause 5.1 (d).**

Shire of Kellerberrin- "Outbuildings LPP"

9.0 USE OF OUTBUILDINGS

- 9.1.1 Outbuildings shall only be used for incidental uses associated with a residential use and/or rural purpose.
- 9.1.2 The Shire may grant approval for the use of an outbuilding to accommodate a caravan for the purposes of temporary accommodation for a period not exceeding twelve (12) months, where a building permit has been approved and work has substantially commenced on the development site.
- 9.1.3 The Shire may grant approval for the use of an outbuilding to accommodate a caravan for the purposes of temporary accommodation for a period not exceeding twelve (12) months, where a building permit has been approved and work has substantially commenced on the development site.

STATUTORY IMPLICATIONS

Local Planning Scheme No.4

3.2.3 Rural Townsite Zone

- (a) To allow for a wide range of land uses such as may be found in a small country town, but subject to preservation of local amenities

Storage- 'A' use in the Rural Townsite zone

'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.

Clause 64- ordinary and proper planning practices.

Planning Comment

The proposed application has been sent to Council due to the fact that the land is vacant therefore it is difficult to categorise the current use of the property. However the use of the container shall be considered 'storage'. An 'A' use requires Council approval under the Scheme. The applicant has ensured that the Sea Container is only temporary and will be removed within 12 months once the construction of an outbuilding on the lot has been completed. The application proposes no further issue as the developmental conditions can be used to control visual elements of the application.

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

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

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

COMMUNITY CONSULTATION:

Not required.

STAFF RECOMMENDATION

That Council grants temporary development approval for the use of one (1) 40ft Sea Container for storage purposes at Lot 207 Barr Street, Doodlakine with the following conditions;

GENERAL CONDITIONS

- 1. The Sea Container shall be removed from the property 12 months after the approval letter date, unless prior approval has been granted;*
- 2. The applicant pay the applicable planning fee;*
- 3. The applicant shall provide the Shire with photos of the Container prior to it being landed on the lot; and*
- 4. The endorsed approved plans shall not be altered without the prior written approval of the Shire;*
- 5. The approval isn't applicable until settlement of the property has been completed and ownership has been transferred to the applicant Mr Howe.*

Advice Notes: Planning approval is not considered as Building approval, this shall be gained separately through a Building Permit.

COUNCIL RESOLUTION

MIN 217/19 MOTION - Moved Cr. Leake

2nd Cr. O'Neill

That Council grants temporary development approval for the use of one (1) 40ft Sea Container for storage purposes at Lot 207 Barr Street, Doodlakine with the following conditions;

GENERAL CONDITIONS

- 1. The Sea Container shall be removed from the property 12 months after the approval letter date, unless prior approval has been granted;***
- 2. The applicant pay the applicable planning fee;***
- 3. The applicant shall provide the Shire with photos of the Container prior to it being landed on the lot; and***
- 4. The endorsed approved plans shall not be altered without the prior written approval of the Shire;***
- 5. The approval isn't applicable until settlement of the property has been completed and ownership has been transferred to the applicant Mr Howe.***

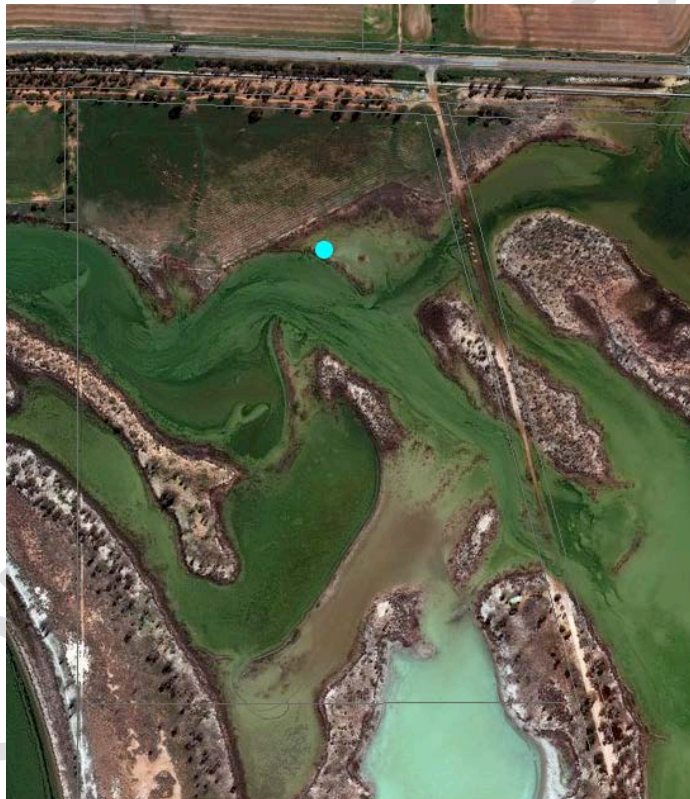
Advice Notes: Planning approval is not considered as Building approval, this shall be gained separately through a Building Permit.

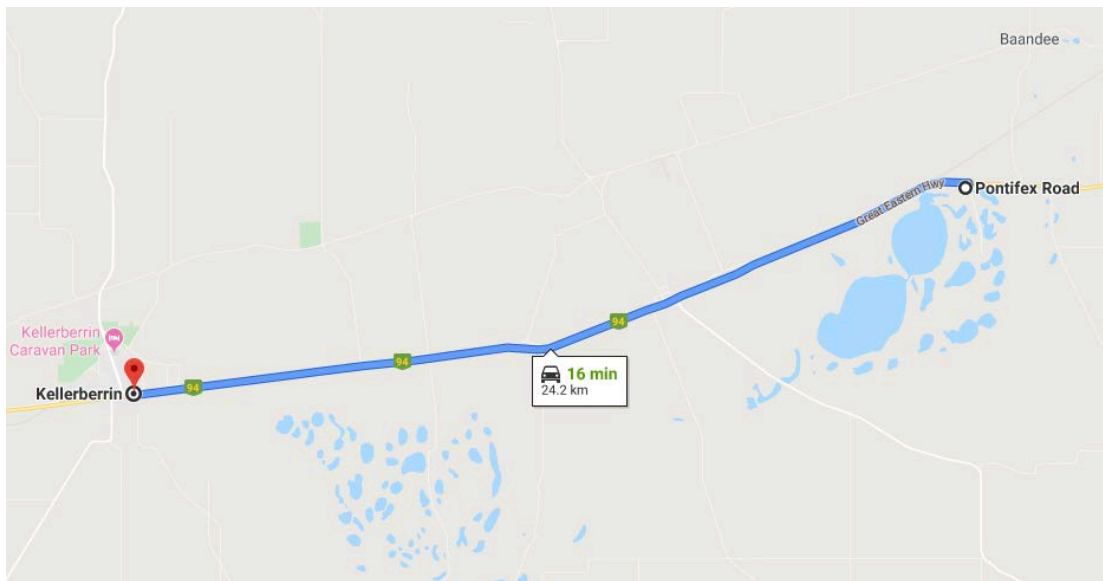
CARRIED 6/0

Agenda Reference:	11.2.4
Subject:	Development Application: House and Donga
Location:	13218 Pontifex Road, Kellerberrin
Applicant:	Mr. John Mizzi
File Ref:	A1505
Disclosure of Interest:	N/A
Date:	7 th November 2019
Author:	Mr Lewis York, Town Planner

BACKGROUND

A development application has been received from Mr. John Mizzi for the construction of a dwelling and an additional donga on his rural lot. The lot is part of the Baandee Lakes system and is prone to winter flooding, while the vegetation on the lot is mostly low laying shrub and saltbush. The primary dwelling will be located West of Pontifex Rd (647m) and 64m from the front road boundary. The Donga will be located to the east of the primary dwelling. The donga will be removed once construction is complete.





The lot is located 24km east of the Kellerberrin townsite. Once the construction of the house has been completed Mr. Mizzi intends to begin the second phase of his project, which will include tourist accommodation, however this will be achieved through a separate application.

FINANCIAL IMPLICATIONS (ANNUAL BUDGET)

Planning application fee of \$147.00 to be paid.

POLICY IMPLICATIONS

N/A

STATUTORY IMPLICATIONS

Local Planning Scheme No.4

Zoning: General Agriculture

3.2.6 General Agriculture Zone

(a) To ensure the continuation of broad-hectare farming as the principal land use in the District and encouraging where appropriate the retention and expansion of agricultural activities.

(b) To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment.

(c) To allow for facilities for tourists and travellers, and for recreation uses.

Coding: N/A

Use classification: **Grouped Dwelling**, 1 Mud House dwelling + Donga

TABLE 1 – ZONING TABLE

USE CLASSES	ZONES					
	RESIDENTIAL	TOWN CENTRE	INDUSTRIAL	GENERAL AGRICULTURE	RURAL TOWNSITE	RURAL RESIDENTIAL
RESIDENTIAL						
Aged or dependent persons dwelling	P	D	X	X	P	X
Caretaker's dwelling	X	D	D	D	P	X
Grouped dwelling	P	D	X	D	D	X

Grouped Dwelling- 'D' use

Definition- A dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property.

'D' means that the use is not permitted unless the local government has exercised its discretion by granting development approval;

4.11 RURAL DEVELOPMENT

4.11.1 Buildings within the General Agriculture zone shall comply with the following minimum lot boundary setbacks:

Front: 20.0 metres Rear: 15.0 metres Side: 5.0 metres

4.11.2 The local government will only support further subdivision of existing lots in the General Agricultural zone where:

- (a) the lots have already been physically divided by significant natural or man-made features which preclude the continued operation of a farming property as a single unit (unless adjoining land could similarly be subdivided and thereby, by the process of precedent, lead to an undesirable pattern of land use in the area or in lots too small for uses compatible with the prevailing use in the area or in ribbon development alongside roads);
- (b) the lots are for farm adjustment and the erection of dwellings is restricted by memorials on titles;
- (c) the lots are for specific uses such as recreation facilities and public utilities; or
- (d) the lots are required for the establishment of uses ancillary to the rural use of the land or are required for the travelling public and tourists (such as service stations and motels); or
- (e) otherwise in accordance with the local government's policy for Homestead Lots.

4.11.3 - Additional dwellings *AMD 3 GG 15/12/17*

In the General Agriculture zone, the local government may, at its discretion, approve the erection of one (1) additional dwelling provided that:

- (a) the total number of dwellings on the lot will not exceed three (3) dwellings;
- (b) the additional dwelling(s) complies with the setback requirements not less than those specified for the Residential Design Code 'R2';
- (c) the lot has an area of not less than 40 hectares;
- (d) it can be demonstrated that the additional dwelling(s) is for workers or family members employed for agricultural activities on that lot;

- (e) adequate provision of potable water for and disposal of sewage from the additional dwelling(s) can be demonstrated;
- (f) the additional dwelling(s) will not adversely detract from the rural character and amenity of the area or conflict with agricultural production on the subject lot or adjoining land;
- (g) access to the existing road network is to be provided for any additional dwelling(s) and shared with any existing dwelling(s) where practicable;
- (h) the existence of more than one dwelling on a lot in the General Agriculture zone shall not be considered by itself to be sufficient grounds for subdivision.

4.5. VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

- 2. 4.5.1. Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for development approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

Local Planning Policy

Additional Dwellings in GA Zone

This policy allows for an additional dwelling to be located within 300m of the primary dwelling. However the policy does not apply to Dongas and therefore considered under the Repurposed and Second Hand Dwelling Policy.

6.0 POLICY MEASURES

6.1 Planning Approval is required for the construction of an additional dwelling in the general agriculture zone

6.2 Council may permit the construction and occupation of one additional dwelling on a rural lot providing:

- a) the development complies with Part 5.18 of the Scheme (as seen below)
- b) a single house has already been established on the land or be intended to be established on the land at the same time as the additional dwelling; and**
- c) the development supports the maximum standards outlined in Table 1 (Clause 6.3).

6.3 Maximum standards for an additional dwelling in the General Agriculture zone are as follows;

* The maximum plot ratio (floor) area of an additional dwelling is calculated excluding verandahs, patios, carports, and garages and is measured to the external walls of the dwelling as defined in Clause 3.0.

**** An additional dwelling shall be located no closer than 15 metres from the main dwelling on the lot to avoid the possibility of the dwelling being utilized as ancillary accommodation. An additional dwelling shall be**

Located no further than 300 metres from the main dwelling on the lot to ensure joint utilization of

6.3 Maximum standards for an additional dwelling in the General Agriculture zone are as follows;

Table 1.

Minimum Lot Size (Area):	Maximum Plot ratio (floor) Area* (m ²):	Minimum allowable distance from main dwelling (m)**:	Maximum allowable distance from main dwelling (m)**:	Maximum number of dwellings allowed on a lot:	Living requirements maximums (bedrooms allowed):
40 ha	110m ²	15m	300m	3	2

services where possible.

6.4 Appearance and Design Elements

6.4.1 Additional dwellings where possible shall:

- i. be located behind the primary dwelling;
- ii. share the same services as the primary dwelling, including: road access, power and communication infrastructure;
- iii. consider the location of existing power transmission and distribution assets and ensure development is not under or within transition line easements and restriction zones*;
- iv. be located to minimise impact on the surrounding landscape and environment;
- v. be located in a location that minimises conflict with existing land uses (ie stables, intensive livestock operations and yards or chemical sheds); and
- vi. be complementary in style to the primary dwelling
- vii. Waste water systems are to be in accordance with the Department of Health Guidelines.

* Applications proposed in close proximity to network assets should be formally referred to Western Power prior to determination

6.5 Sub-Division of Rural lots

6.5.1 The grant of consent by Council for an additional dwelling does not, in any way, indicate that Council considers or will consider the subject land to be suitable for future subdivision. The Shire is not supportive of subdivisions on this basis and such an application is unlikely to receive approval from the Western Australian Planning Commission. Refer to the Shire's Policy Manual for further explanation regarding subdivision of homestead lots.

Repurposed and Second Hand Dwellings Policy

“Donga”- means a transportable building typically utilised as worker accommodation throughout the mining industry and/or utilised as site offices and/or has the general appearance of mine site accommodation. A new donga which is designed as a dwelling shall be considered as a single house. A second hand donga will be considered either a repurposed or second hand dwelling.

6.1 General Requirements for the Residential, Rural Residential, Rural Townsite and Town Centre zones for:

6.1.1 Second Hand Dwelling(s)

General requirements for repurposed and second hand dwellings:

- Council will generally not support an application for the occupation and erection of a repurposed or second hand dwelling in the town centre zone.
- Council will only support an application for the erection and occupation of a repurposed or second hand dwelling in the Residential, Rural Residential, and Rural Townsite zones if:

a) the dwelling(s) is to be used for accommodating a workforce or for tourist accommodation purposes,

b) the repurposed or second hand dwelling is proposed on the same lot as an existing dwelling in the residential zone and complies with the requirements of the Scheme, Residential Design Codes (R-Codes) and provisions of this policy, and

Require the approval of the Council and;

a) Shall comply with provisions of the Scheme and satisfy the requirements of the R-Codes (where applicable);

b) Shall be designed to reflect the existing character of development surrounding the subject site;

c) Shall have cladding of materials to the satisfaction of the Council. Finishes such as brick vaneer, hardiplank sheets, spray render and factory painted steel are acceptable materials. Other finishes will require consideration by the Shire;

d) Where deemed necessary by the Council, verandah(s), carports and/or painting/recladding shall be undertaken to enhance the dwelling;

e) Where deemed necessary by the Council, landscaping shall be undertaken around the dwelling;

f) The Council will only permit donga type structures for uses other than residential uses where it considers the use or establishment of the structure will not be in conflict with the objectives of this policy; and

g) where a second hand dwelling(s) is proposed as a an additional (grouped) dwelling, the total floor area of the additional second hand dwelling(s) shall not exceed 110m².

Planning Comment

The proposal at this stage raises no significant planning issues. The application satisfies the requirements of the Scheme and Local Planning Policies. The aesthetics of the Donga can be manipulated through conditions of development, which is at Councils discretion.

The fact that the donga will be removed ensures that the visual aesthetics of the site will be kept to a strong standard in the long term and also ensure that the development is congruent with the natural environment. Mr. Mizzi's designs seek to ensure that the natural environment is a high priority.

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:

Chief Executive Officer
Town Planner

STAFF RECOMMENDATION

That Council grants development approval of one (1) primary dwelling and one (1) additional donga to be located at Lot 13218 Pontifex Road, Kellerberrin with the following conditions;

GENERAL CONDITIONS

1. *The approval will expire if the development is not substantially commenced within two years of the approval date;*
2. *The endorsed approved plans shall not be altered without the prior written approval of the Shire;*
3. *The Donga shall be removed after 12 months unless prior written approval of the Shire has been granted; and*
4. *Photos of the Donga shall be sent to the Shire before it is landed on the lot as per the LPP.*

Advice Note: Planning approval is not considered Building approval and shall be obtained through a building permit.

COUNCIL RESOLUTION

MIN 218/19 MOTION - Moved Cr. Reid 2nd Cr. O'Neill

That Council grants development approval of one (1) primary dwelling and one (1) additional donga to be located at Lot 13218 Pontifex Road, Kellerberrin with the following conditions;

GENERAL CONDITIONS

1. *The approval will expire if the development is not substantially commenced within two years of the approval date;*
2. *The endorsed approved plans shall not be altered without the prior written approval of the Shire;*
3. *The Donga shall be removed after 12 months unless prior written approval of the Shire has been granted; and*
4. *Photos of the Donga shall be sent to the Shire before it is landed on the lot as per the LPP.*

Advice Note: Planning approval is not considered Building approval and shall be obtained through a building permit.

NOT CONFIRMED

11.3 WORKS & SERVICES – AGENDA ITEMS

Nil

ELECTED MEMBERS OF MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

Nil

NOT CONFIRMED

Agenda Reference:	13.1.1
Subject:	Dual Fire Control Officers
Location:	Shire of Kellerberrin
Applicant:	Shire of Tammin
File Ref:	BUSH 00
Record Ref:	ICR192182
Disclosure of Interest:	N/A
Date:	14 th November 2019
Author:	Mr Raymond Griffiths, Chief Executive Officer

COUNCIL RESOLUTION

MIN 219/19 MOTION - Moved Cr. O'Neill 2nd Cr. Steber

That council accept item 13.1.1 as a late item.

CARRIED 6/0

BACKGROUND

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

- Mr Haydn Dixon

COMMENT

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

FINANCIAL IMPLICATIONS - NIL

POLICY IMPLICATIONS

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

Purpose

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

Policy

Appointment:

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

- a) The Shire appointed Bushfire Advisory Committee shall at their March Annual Advisory Meeting consider and recommend to Council, the appointment of required Fire Control Officers including the Chief Bushfire Control Officer and the Deputy Chief Bushfire Control Officer.
- b) The Shire Bush Fire Advisory Committee shall undertake the following tasks at their two (2) annual Advisory Meetings in March and September of each year as follows;
 - (i) Fire Control Officer Appointments and recommendation - March
 - (ii) Firebreak Order Review and recommendation - March
 - (iii) Capital Equipment/Vehicle Replacement Budget (ESL) Planning and recommendation - March
 - (iv) Prohibited and Restricted Burning periods review and recommendation - March
 - (v) Communications Strategies including radios and repeater network review and recommendation – March or September
 - (vi) Bushfire Policy Review and recommend to the Council for consideration – March or September
 - (vii) Other Business – not included above and of a substantive nature – March or September

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

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

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

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

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

STATUTORY IMPLICATIONS

Bush Fires Act 1954

38. Local government may appoint bush fire control officer

- (1) A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.
- (2)(a) The local government shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district.
[(b) deleted]
- (c) The local government shall fill any vacancy occurring in the office of Chief Bush Fire Control Officer or Deputy Chief Bush Fire Control Officer within one month after the vacancy occurs and if the local government fails or neglects to do so within that time, the Authority may by notice in writing require the local government to appoint a person to the vacant office within one month after service on it of such notice.
- (d) Where a local government that has been served with a notice pursuant to paragraph (c) fails or neglects to comply with the requirements of that notice, the Authority may appoint a person to the vacant office.
- (e) A bush fire control officer appointed under the provisions of this section shall be issued with a certificate of appointment by the local government or, if he is appointed by the Authority, by the Authority.
- (3) The local government may, in respect to bush fire control officers appointed under the provisions of this section, exercise so far as they can be made applicable the same powers as it may exercise in respect to its other officers, under the provisions of the Acts under which those other officers are appointed.
- (4) A bush fire control officer appointed under the provisions of this section shall, subject to such directions as may be given by the local government, and subject to this Act take such measures as appear to him to be necessary or expedient and practicable for —
 - (a) carrying out normal brigade activities;*[(b) and (c) deleted]*
 - (d) exercising an authority or carrying out a duty conferred or imposed upon him by any of the provisions of Part III;
 - (e) procuring the due observance by all persons of the provision of Part III.
- (5)(a) A local government may issue directions to a bush fire control officer appointed by the local government, or to an officer of a bush fire brigade registered by the local government to burn, subject to the provisions of this Act, bush on, or at the margins of, streets, roads, and ways, under the care, control and management of the local government.
- (b) The bush fire control officer, or officer of the bush fire brigade, may by authority of any directions so issued carry out the directions but subject to the provisions of this Act.
- (c) The provisions of this subsection are not in derogation of those of subsection (4).
- (6)(a) In this section —

“approved local government” means a local government approved under paragraph (b) by the Authority.

- (b) If it appears to the Authority that the standard of efficiency of a local government in fire prevention and control justifies the Authority doing so, the Authority, by notice published in the *Government Gazette* —
 - (i) may approve the local government as one to which this subsection applies; and
 - (ii) may from time to time cancel or vary any previous approval given under this paragraph.
- (c) An approved local government may appoint to the office of fire weather officer such number of senior bush fire control officers as it thinks necessary.
- (ca) Where more than one fire weather officer is appointed by a local government the local government shall define a part of its district in which each fire weather officer shall have the exclusive right to exercise the power conferred by paragraph (h).
- (cb) An approved local government may appoint one or more persons, as it thinks necessary, to be the deputy or deputies, as the case may be, of a fire weather officer appointed by the local government and where 2 or more deputies are so appointed they shall have seniority in the order determined by the local government.
- (cc) Where the office of a fire weather officer is vacant or whilst the occupant is absent or unable to act in the discharge of the duties of the office, any deputy appointed in respect of that office under paragraph (cb) is, subject to paragraph (cd), entitled to act in the discharge of the duties of that office.
- (cd) A deputy who is one of 2 or more deputies of a fire weather officer is not entitled to act in the discharge of the duties of the office of that fire weather officer if a deputy who has precedence over him in the order of seniority determined under paragraph (cb) is available and able to discharge those duties.
- (d) The local government shall give notice of an appointment made under paragraph (c) or (cb) to the Authority and cause notice of the appointment to be published at least once in a newspaper circulating in its district and the Authority shall cause notice of the appointment to be published once in the *Government Gazette*.
- (e) An approved local government may appoint a committee for the purpose of advising and assisting a fire weather officer or any deputy of a fire weather officer acting in the place of that officer under this subsection.
- (f) Where a committee is appointed, a fire weather officer, or, as the case may be, a deputy of a fire weather officer while acting in the place of that officer, may exercise the authority conferred on him by paragraph (h), notwithstanding the advice and assistance tendered to him by the committee.
- (g) The provisions of this subsection are not in derogation of those of any other subsection of this section.
- (h) A fire weather officer of an approved local government, or a deputy of that fire weather officer while acting in the place of that officer, may authorise a person who has received a permit under section 18(6)(a), to burn the bush in the district of the local government notwithstanding that for any day, or any period of a day, specified in the notice the fire danger forecast issued by the Bureau of Meteorology in Perth, in respect to the locality where the bush proposed to be burnt is situated, is “extreme” or “very high”, and upon the authority being given the person, if he has otherwise complied with the conditions prescribed for the purposes of section 18, may burn the bush.

- (i) This subsection does not authorise the burning of bush during the prohibited burning times or within the defined area during a bush fire emergency period.

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

38A. Authority may appoint Chief Bush Fire Control Officer

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

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

39. Special powers of bush fire control officers

- (1) Subject to the provisions of this Act a bush fire control officer appointed under this Act by a local government may, in the exercise of his functions and the performance of his duties under this Act, do all or any of the following things —
 - (a) exercise any of the appropriate powers of the Director of Operations under the *Fire Brigades Act 1942*, in so far as the same may be necessary or expedient, for extinguishing a bush fire or for preventing the spread or extension of the fire;
 - (b) enter any land or building, whether private property or not;
 - (c) pull down, cut, and remove fences on land, whether private property or not, if in his opinion it is necessary or expedient so to do for the purpose of taking effective measures for extinguishing a bush fire, or for preventing the spread or extension of the fire;
 - (d) cause fire-breaks to be ploughed or cleared on land, whether private land or not, and take such other appropriate measures on the land as he may deem necessary for the purpose of controlling or extinguishing a bush fire or for preventing the spread or extension of the fire;
 - (e) take and use water, other than that for use at a school or the domestic supply of an occupier contained in a tank at his dwelling-house, and other fire extinguishing material from any source whatever on land, whether private property or not;
 - (f) take charge of and give directions to any bush fire brigade present at a bush fire with respect to its operations or activities in connection with the extinguishment or control of the bush fire, or the prevention of the spread or extension of the fire;
 - (g) any other thing which in his opinion is incidental to the exercise of any of the foregoing powers;
 - (h) employ a person or use the voluntary services of a person to assist him, subject to his directions in the exercise of any of the foregoing powers; and

- (i) either alone or with others under his command or direction enter a building which he believes to be on fire and take such steps as he considers necessary to extinguish the fire or prevent it from spreading, but except as arranged with or requested by an officer in charge of a fire brigade under the *Fire Brigades Act 1942*, this power shall not be exercised in a townsite in an area which has been declared a fire district under that Act or in a townsite in which there is a fire brigade or volunteer fire brigade formed under the provisions of that Act.

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

[(b) *deleted*]

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

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

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

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

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

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

[Section 40 amended by No. 14 of 1996 s. 4.]

STRATEGIC PLAN IMPLICATIONS

Nil

FUTURE PLAN IMPLICATIONS

Nil

COMMUNITY CONSULTATION

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

STAFF RECOMMENDATION

1. *That Council appoints the following Shire of Tammin Fire Control Officer as a Dual Fire Control Officer for the Shire of Kellerberrin and Shire of Tammin;*
 - i. Mr Haydn Dixon
2. *That the appointment of the above officers excludes the ability of issuing permits to landholders without prior consent from the Shire of Kellerberrin in writing.*

COUNCIL RESOLUTION

MIN 220/19 MOTION - Moved Cr. Talbot

2nd Cr. Leake

1. ***That Council appoints the following Shire of Tammin Fire Control Officer as a Dual Fire Control Officer for the Shire of Kellerberrin and Shire of Tammin;***
 - i. Mr Haydn Dixon
2. ***That the appointment of the above officers excludes the ability of issuing permits to landholders without prior consent from the Shire of Kellerberrin in writing.***

CARRIED 6/0

7.13pm At this time the Presiding Member adjourned the meeting.

7.55pm At this time the Presiding Member reopened the meeting.

CLOSURE OF MEETING

The Presiding Member closed the meeting at 8.09pm.

NEXT MEETING DATES

Ordinary Council Meeting, Tuesday, 17th December 2019

NOT CONFIRMED