



AGENDA

Ordinary Council Meeting Tuesday, 20 October 2020

Date: Tuesday, 20 October 2020

Time: 2:00pm

**Location: Council Chamber
110 Massingham Street
Kellerberrin WA 6410**

Shire of Kellerberrin

Ordinary Council Meeting 20th October 2020

NOTICE OF MEETING

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Kellerberrin will be held on Tuesday, 20th October 2020 in the Council Chamber, 110 Massingham Street, Kellerberrin WA 6410 commencing at 2:00pm.



Raymond Griffiths
Chief Executive Officer
Tuesday, 13 October 2020

Shire of Kellerberrin

Disclaimer

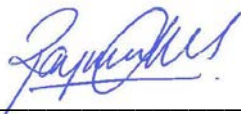
No responsibility whatsoever is implied or accepted by the Shire of Kellerberrin for any action, omission or statement or intimation occurring during Council or committee meetings.

The Shire of Kellerberrin disclaims any liability for any loss whatsoever and however caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or committee meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Shire of Kellerberrin during the course of any meeting is not intended to be and is not taken a notice of approval from the Shire of Kellerberrin.

The Shire of Kellerberrin warns that anyone who has any application lodged with the Shire of Kellerberrin must obtain and should only rely on **WRITTEN CONFIRMATION** of the outcome of the application, and any conditions attaching to the decision made by the Shire of Kellerberrin in respect of the application.



Signed _____
Chief Executive Officer

DECLARATION OF FINANCIAL INTEREST, PROXIMITY INTEREST AND/OR INTEREST AFFECTING IMPARTIALITY

Chief Executive Officer, Shire of Kellerberrin

In accordance with Section 5.60-5.65 of the *Local Government Act* and Regulation 34(B) and 34(C) of the *Local Government (Administration) Regulations*, I advise you that I declare a (appropriate box):

financial interest (Section 5.60A)

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.

proximity interest (Section 5.60B)

A person has a proximity interest in a matter if the matter concerns a proposed —

- (a) change to a planning scheme affecting land that adjoins the person's land;
- (b) change to the zoning or use of land that adjoins the person's land; or
- (c) development (as defined in section 5.63(5)) of land that adjoins the person's land.

interest affecting impartiality/closely associated persons (Regulation 24C). I disclose that I have an association with the applicant. As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.

An interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected but does not include a financial or proximity interest as referred to in section 5.60.

in the following Council / Committee Meetings to be held on _____

in Item number/s _____

the nature of the interest being _____

Further, that I wish to remain in the Chamber to participate in proceedings. As such, I declare the extent of my interest as being:

Yours faithfully

(Councillor's signature)

Councillor's Name

The *Local Government Act* provides that it is the member's obligation to declare the Nature of an interest if they believe that they have a financial interest, proximity interest, closely associated persons or an interest affecting impartiality in a matter being discussed by Council.

The Act provides that the Nature of the interest may be declared in writing to the Chief Executive Officer prior to the meeting or declared prior to discussion of the Agenda Item at the meeting. The Act further provides that the Extent of the interest needs to be declared if the member seeks to remain in the Chamber during the discussion, debate or voting on the item.

A Councillor declaring a financial or proximity interest must leave the meeting prior to the matter being discussed or voted on (including the question as to whether they are permitted to remain in the Chamber). Councillors remaining in the Chamber may resolve to allow the member to return to the meeting to participate in the proceedings.

The decision of whether to disclose a financial interest is yours and yours alone. Nobody can disclose for you and you can not be forced to make a disclosure.

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1 DECLARATION OF OPENING**2 ANNOUNCEMENT BY PRESIDING PERSON WITHOUT DISCUSSION****2.1 PRESIDENTS REPORT SEPTEMBER 2020**

File Number: ADMIN
Author: Rod Forsyth, Shire President
Authoriser: Rod Forsyth, Shire President
Attachments: Nil

A few issues have been brought to the attention of Shire staff and Elected members recently. These will be resolved by communication between all parties, which is the way Local Government should work.

The mild weather conditions experienced during the past month has enabled the crops to fill grain better than what would've been the case considering the lack of any meaningful rainfall within our Shire. However there will still be a hit to the grain yields, sheep feed and dam water is scarce.

Kind Regards



Rodney Forsyth

Shire President

STAFF RECOMMENDATION

That Council receive and note the Shire Presidents Reports for September 2020.

2.2 STANDING ORDERS

File Number: ADMIN
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

STAFF RECOMMENDATION

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

3 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE**4 DECLARATION OF INTEREST**

Note: Under Section 5.60 – 5.62 of the Local Government Act 1995, care should be exercised by all Councillors to ensure that a “financial interest” is declared and that they refrain from voting on any matters which are considered may come within the ambit of the Act.

A Member declaring a financial interest must leave the meeting prior to the matter being discussed or voted on (unless the members entitled to vote resolved to allow the member to be present). The member is not to take part whatsoever in the proceedings if allowed to stay.

5 PUBLIC QUESTION TIME

Council conducts open Council meetings. Members of the public are asked that if they wish to address the Council that they state their name and put the question as precisely as possible. A maximum of 15 minutes is allocated for public question time. The length of time an individual can speak will be determined at the President’s discretion.

5.1 Response to Previous Public Questions taken on Notice**5.2 Public Question Time**

6 CONFIRMATION OF PREVIOUS MEETINGS MINUTES

6.1 MINUTES OF THE COUNCIL MEETING HELD ON 15 SEPTEMBER 2020

File Ref: MIN
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Minutes of the Council Meeting held on 15 September 2020

HEADING

STAFF RECOMMENDATION

1. That the Minutes of the Council Meeting held on 15 September 2020 be received as a true and accurate record.

7 PRESENTATIONS

7.1 Petitions

7.2 Presentations

7.3 Deputations

8 REPORTS OF COMMITTEES

Nil

9 CORPORATE SERVICES REPORTS

9.1 WE-ROC SPECIAL COUNCIL MEETING MINUTES & RESOLUTION

File Ref: ORG10
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

BACKGROUND

The Minutes of the recent Council Meeting of the Wheatbelt East Regional Organisation of Councils (WE-ROC) held on Thursday 1st October 2020, via zoom conferencing, 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.

STAFF COMMENT

Attached to this agenda item is a copy of the last WE-ROC Council Meeting Minutes held on Thursday 1st October 2020, via zoom video conferencing.

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.

RESOLUTION: **Moved: Ms. Julie Flockart** **Seconded: Mr. Rod Forsyth**

That the Shire of Tammin's application to be admitted as a Member of the Wheatbelt East Regional Organisation of Councils Inc. be accepted.

CARRIED UNANIMOUSLY

RESOLUTION: **Moved: Ms. Karin Day** **Seconded: Mr. Darren Mollenoyux**

That:

1. **The current Constitution of the Wheatbelt East Regional Organisation of Councils (WEROC) Inc. be amended and the proposed changes to the rules outlined in the revised Constitution attached to the notice of the meeting, be adopted.**
2. **Upon passing resolution 1, the Board of WEROC Inc. adopts, by Special Resolution, the revised Constitution of WEROC Inc.**
3. **The Members authorise the Executive Officer to lodge a "Notice of Special Resolution to Change the Rules", with the Department of Mines, Industry Regulation and Safety.**
4. **That the following by-law, as recommended by the Department of Mines, Industry Regulation and Safety be adopted:**

"Should any Member of WEROC Inc. choose to leave the Association of their own accord, then no monies paid to WEROC Inc. will be refunded"

CARRIED UNANIMOUSLY

TEN YEAR FINANCIAL PLAN

Nil known at this time

FINANCIAL IMPLICATIONS

Nil known at this time

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

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.

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Shire President
- WE-ROC Member Councils
- Staff Information re Minutes and Agendas of WE-ROC

STAFF RECOMMENDATION

That Council receive the minutes of the Council Meeting of the Wheatbelt East Regional Organisation of Councils (WE-ROC) held on Thursday 1st October 2020.

9.2 COMMUNITY REQUESTS AND DISCUSSION ITEMS

File Number: Various
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

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.

September 2020 Council Meeting

MIN 144/20 MOTION - Moved Cr. Leake Seconded Cr. Steber***That Council;***

- 1. Acknowledge receipt of correspondence received from Mr Murray Clement regarding the access to his shed from the back lane off Scott Street, Kellerberrin after new works being completed;***
- 2. Acknowledge Councillors site visit to Mr Clements property to review issue an request Council's Works and Services staff remove the slight hump on parking bay three (3) and four (4) of Mr Clement shed (western end of shed) to reduce the possibility of any future issues with access as per site meeting and agreeance with Mr Clement.***
- 3. Acknowledge the presentation from Pauline and James Scott regarding the proposed sale and future zoning of "The Prev" and request an onsite visit at the October Council Meeting to view the upgrades that have been completed.***

August 2020 Council Meeting

MIN 126/20 MOTION - Moved Cr. Steber Seconded Cr. O'Neill

That Council acknowledge no requests or ideas have been requested/submitted.

July 2020 Council Meeting

MIN 106/20 MOTION - Moved Cr. McNeil Seconded Cr. Ryan***That Council;***

- 1. Correct the transition from 8m seal to 7m seal on the Kellerberrin Bencubbin Road;***
- 2. Research the extension of culvert on Smith Road as it is narrow in comparison to the new road construction;***
- 3. 110km signs on the Kellerberrin Bencubbin Road need to be cemented in as they are not stable enough;***
- 4. Improve the signage from the highway for the Kellerberrin Recreation Centre.***

STAFF COMMENT**September MIN 144/20**

1. Letter sent to Mr Murray Clement 16th September 2020.
3. Council attending The Prev on Tuesday 20th October before Council Meeting.

August MIN 126/20

NIL

July MIN 106/20

1. Road crew are currently looking into it.
2. Reported to Team Leader for programming
3. Sign has been stabilised
4. Mick Jones has requested a Quote for the Kellerberrin Recreation sign.

TEN YEAR FINANCIAL PLAN

This does not directly affect the long term financial plan.

FINANCIAL IMPLICATIONS

Financial implications will be applicable depending on requests and decision of council.

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 COMMUNITY PLAN

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

COMMUNITY CONSULTATION

The following consultation took place;

- Council Members
- Chief Executive Officer

STAFF RECOMMENDATION

That Council note any requests or ideas to be actioned.

9.3 STATUS REPORT OF ACTION SHEET

File Number: Various
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

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.

STAFF 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.

TEN YEAR FINANCIAL PLAN

There is no direct impact on the long term financial plan.

FINANCIAL IMPLICATIONS

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.

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 COMMUNITY PLAN

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer

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

STAFF RECOMMENDATION

That Council receive the Status Report.

9.4 AUSTRALIA DAY AWARDS POLICY
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File Number: ADM53
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Australia Day Award Policy

BACKGROUND

Council's August 2019 Ordinary Meeting of Council

MIN146/19 MOTION - Moved Cr. O'Neill 2nd Cr. Reid

That Council;

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

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

CARRIED 5/0

Council's December 2019 Ordinary Meeting of Council;

MIN 232/19 MOTION - Moved Cr. Reid 2nd Cr. O'Neill

The item lay on the table until the February Meeting.

CARRIED 6/0

REASON: Council wished to have additional time to review the document.

STAFF COMMENT

Council needed to review the Australia Day policy to reflect current practices.

TEN YEAR FINANCIAL PLAN

Nil known at this time

FINANCIAL IMPLICATIONS

Nil known at this time

STATUTORY IMPLICATIONS

Nil known at this time

STRATEGIC COMMUNITY PLAN

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Shire of Kellerberrin Administration Staff

STAFF RECOMMENDATION

That Council

1. *Adopts the Australia Day policy as presented.*
2. *Deletes the previous Australia Day Policy.*
3. *Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.*

9.5 ANNUAL CHRISTMAS/NEW YEAR OFFICE CLOSURE

File Ref: PUB02
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

BACKGROUND

Council's October 2018 Ordinary Meeting of Council

MIN179/19 MOTION - Moved Cr. O'Neill 2nd Cr. McNeil

That Council approve the closure of the Administration Office for the following inclusive dates over the Christmas/New Year Holiday period and that the local advertising be completed;

<i>Monday, 23rd December, 2019</i>	<i>RDO/Annual Leave</i>
<i>Tuesday, 24th December, 2019</i>	<i>Public Service Holiday</i>
<i>Wednesday, 25th December, 2019</i>	<i>Public Holiday (Christmas Day)</i>
<i>Thursday, 26th December, 2019</i>	<i>Public Holiday (Boxing Day)</i>
<i>Friday, 27th December, 2019</i>	<i>RDO/Annual Leave</i>
<i>Monday, 30th December, 2019</i>	<i>RDO/Annual Leave</i>
<i>Tuesday, 31st January, 2019</i>	<i>RDO/Annual Leave</i>
<i>Wednesday, 1st January, 2019</i>	<i>Public Holiday (New Years Days)</i>

CARRIED 6/0

Council's October 2018 Ordinary Meeting of Council

MIN 184/18 MOTION - Moved Cr. Leake 2nd Cr. O'Neill

That Council approve the closure of the Administration Office for the following inclusive dates over the Christmas/New Year Holiday period and that the local advertising be completed;

<i>Friday, 21st December, 2018</i>	<i>RDO/Annual Leave</i>
<i>Monday, 24th December, 2018</i>	<i>RDO/Annual Leave</i>
<i>Tuesday, 25th December, 2018</i>	<i>Public Holiday (Christmas Day)</i>
<i>Wednesday, 26th December, 2018</i>	<i>Public Holiday (Boxing Day)</i>
<i>Thursday, 27th December, 2018</i>	<i>RDO/Annual Leave</i>
<i>Friday, 28th December, 2018</i>	<i>RDO/Annual Leave</i>
<i>Monday, 31st December, 2018</i>	<i>Public Service Holiday</i>
<i>Tuesday, 1st January, 2019</i>	<i>Public Holiday (New Years Days)</i>

CARRIED 6/0

Council's October 2017 Ordinary Meeting of Council

MIN 180/17 MOTION - Moved Cr. White 2nd Cr. Leake

That Council approve the closure of the Administration Office for the following inclusive dates over the Christmas/New Year Holiday period and that local advertising be completed;

<i>Friday, 22nd December 2017</i>	<i>Public Service Day</i>
<i>Monday, 25th December 2017</i>	<i>Public Holiday (Christmas Day)</i>
<i>Tuesday, 26th December 2017</i>	<i>Public Holiday (Boxing Day)</i>

Wednesday, 27th December 2017	RDO/Annual Leave
Thursday, 28th December 2017	RDO/Annual Leave
Friday, 29th December 2017	RDO/Annual Leave
Monday, 1st January 2018	Public Holiday (New Year's Day)

CARRIED 7/0

Council has previously, kindly considered an application from staff to close the Administration Office during the Christmas/New Year period. This has been considered and approved by Council in consideration of the low level of business expected to be transacted and staff reducing any Time in Lieu provisions and Rostered Days Off entitlements for the month of December and/or January.

STAFF COMMENT

The Christmas/New Year period gazetted Public Holidays are as follows:

Christmas Day	Friday 25 th December 2020
Boxing Day	Saturday 26 th December 2020
Boxing Day Holiday	Monday 28 th December 2020
Service Holiday (in Lieu)	Thursday 24 th December 2020
New Year's Day	Thursday 1 st January 2020

The days in question, are the days in between Christmas Eve and New Year's i.e. Thursday 24th December 2020, Tuesday 29th December 2020 through to Thursday 31st December 2020. The additional holiday "in lieu", which Local Government employees are entitled to can be utilised on one of these four days, should Council approve the proposal. This decreases the "juggling" of rosters and staffing levels to provide for the additional days. The remaining three days can be taken as either, Rostered Day Off (RDO), Annual Leave or Time in Lieu entitlements.

The practice of closing the Office of Council is a common one for the small rural local governments and, given the expected low level or demand for Council Business to be conducted, it is a sincere request from the Staff to have the Office closed for travelling to families for the festive period.

In addition, should Council approve, extensive local advertising in local newsletters and a notice included with creditor payments will provide sufficient notice of the office closure, should Council approve the request. Emergency contacts for Council staff will be provided for the inclusion in all notices of local advertising.

TEN YEAR FINANCIAL PLAN

Nil known at this time

FINANCIAL IMPLICATIONS

Nil known at this time

STATUTORY IMPLICATIONS

Advertise the closure of normal council business during the described period.

STRATEGIC COMMUNITY PLAN

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

COMMUNITY CONSULTATION

The following consultation took place

- Chief Executive Officer
- Deputy Chief Executive Officer
- Administration Staff

STAFF RECOMMENDATION

That Council approves the closure of the Administration Office for the following inclusive dates over the Christmas / New Year holiday period and that local advertising be completed.

<i>Thursday, 24th December 2020</i>	<i>Public Service Day</i>
<i>Friday, 25th December, 2020</i>	<i>Public Holiday (Christmas Day)</i>
<i>Monday, 28th December, 2020</i>	<i>Public Holiday (Boxing Day Holiday)</i>
<i>Tuesday, 29th December, 2020</i>	<i>RDO/Annual Leave</i>
<i>Wednesday, 30th December, 2020</i>	<i>RDO/Annual Leave</i>
<i>Thursday, 31st December, 2020</i>	<i>RDO/Annual Leave</i>
<i>Friday, 1st January 2021</i>	<i>Public Holiday (New Year's Days)</i>

9.6 STAFF & COUNCIL CHRISTMAS PARTY FUNCTION

File Ref: PUB00
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

BACKGROUND

Previously Council has resolved the following in relation to its annual Christmas function:

2019 Christmas Party Function

MIN180/19 MOTION - Moved Cr. Leake 2nd Cr. Talbot

That Council host a Christmas Party Function at the ex-golf club clubhouse on Friday 20th December 2019 as a barbeque function commencing at 6.00pm

CARRIED 6/0

2018 Christmas Party Function

MIN 183/18 MOTION - Moved Cr. Steber 2nd Cr. Reid

That Council host its Christmas Party Function for Councillors, Staff and Families at the ex-golf club clubhouse on Thursday the 20th December 2018 as a barbeque function commencing at 6.00pm

CARRIED 6/0

2017 Christmas Party Function

MIN 182/17 MOTION - Moved Cr. Leake 2nd Cr. O'Neill

That Council:

- 1. Host a Christmas Party Function at the ex-golf club clubhouse on Thursday the 21st December 2017 as a barbeque function commencing at 6.00pm.*

CARRIED 7/0

2016 Christmas Party Function

MIN 166/16 MOTION - Moved Cr. O'Neill 2nd Cr. White

That Council hosts a Christmas Party Function for Staff, Councillors and Families, at the ex-golf club clubhouse on Thursday the 22nd December 2016 as a barbeque function commencing at 6.00pm.

CARRIED 6/0

2015 Christmas Party Function

MIN 169/15 MOTION - Moved Cr. Steber 2nd Cr. Reid

That Council

- 1. Host a Christmas Party Function at the Ex-Golf Club Clubhouse on Wednesday the 23rd December 2015 as a barbecue function commencing at 6.00pm.*

CARRIED 6/0

2014 Christmas Party Function

MIN 141/14 MOTION - Moved Cr. Steber 2nd Cr. Bee

That Council

1. **Host a Christmas Party Function at the Ex-Golf Club Clubhouse on Tuesday the 23rd December 2014 as a barbecue function commencing at 6.00pm.**
2. **Incorporates Mr Tom Applegate and Mr Trevor Galvin retirement function, within the same event.**

CARRIED 7/0

STAFF COMMENT

Whilst Council is under no obligation to do so, it has become traditional for Council to host a combined Christmas function that is enjoyed by elected members, staff and their families. In previous years a barbeque function be held at the ex-golf club clubhouse. The 2019 Christmas function Council sought catering from the local cafe for the salads while Councillors still cooked the barbeque.

Generally, a barbeque is well received, easy to cater and organise and extremely cost effective.

Council in addition last year at employees own cost attended Gloucester Park as a function for Staff and Councillors of which was well attended. Council was then to consider whether this was an option for alternative Christmas Functions going forward with Staff contributing to an end of year function with a contribution from Council.

TEN YEAR FINANCIAL PLAN

NIL known at this time

FINANCIAL IMPLICATIONS

Cost of Christmas Function for 2019/2020, approximately \$2,500 - \$2,700.

2020/2021 Budget Document

041051 Refreshments and Receptions – Budget Allocation \$18,000

\$8,000 for Council Meetings (including Committee & Community Meetings)

\$8,000 for Council Functions – Christmas Function, Citizenship Ceremonies.

\$2,000 for Other costs.

STATUTORY IMPLICATIONS

NIL known at this time.

STRATEGIC COMMUNITY PLAN

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Personal Assistant to Chief Executive Officer

STAFF RECOMMENDATION

That Council host a Christmas Party Function at the ex-golf club clubhouse on Wednesday 23rd December 2020 as a barbeque function commencing at 6:00pm.

OR

That Council:

1. Contribute \$_____ to a Christmas Party Function for Staff, Councillors and Families at _____ on _____.
2. Provide an afternoon BBQ for staff on Wednesday 23rd December 2020 to ensure all staff that don't attend the function still receive recognition for their efforts throughout the year.

9.7 COUNCIL MEETING DATES 2021 - PUBLIC NOTICE

File Ref: PUB02
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

BACKGROUND

In accordance with the *Local Government Act 1995 (as amended)* and the *Local Government (Administration) Regulations 1996*, Council is required to adopt a Schedule of its Ordinary Meeting date/s including Time, Place and Public Question Time.

Council's October 2019 Ordinary Meeting of Council

MIN181/19 MOTION - Moved Cr. Leake 2nd Cr. O'Neill

That Council adopts the following Schedule of Council Ordinary Meeting dates for 2020 incorporating meeting location/venue, meeting commencement time and Public Question Time.

Briefing Session: Councillors Briefing Session on Agenda 1:00 pm Time: Meeting Commencement time 2:00 pm.

Public Question Time: commencing at 2:15 pm and limited to 15 minutes. Place:

Council Chambers 110 Massingham Street Kellerberrin

Meeting Day: every third Tuesday of the month

January 2020 – No Meeting

Friday, 7 February 2020 – Kellerberrin Council Chambers

Tuesday, 18 March 2020 – Kellerberrin Council Chambers

Tuesday, 21 April 2020 – Kellerberrin Council Chambers

Tuesday, 19 May 2020 – Kellerberrin Council Chambers

Tuesday, 16 June 2020 – Kellerberrin Council Chambers

Tuesday, 21 July 2020 – Kellerberrin Council Chambers

Tuesday, 18 August 2020 – Kellerberrin Council Chambers

Tuesday, 15 September 2020 – Kellerberrin Council Chambers

Tuesday, 20 October 2020 – Kellerberrin Council Chambers

Tuesday, 17 November 2020 – Kellerberrin Council Chambers

Tuesday, 15 December 2020 – Kellerberrin Council Chambers

**CARRIED 6/0
BY ABSOLUTE MAJORITY**

Council's October 2018 Ordinary Meeting of Council

MIN 185/18 MOTION - Moved Cr. Reid 2nd Cr. Leake

That Council adopts the following Schedule of Council Ordinary Meeting dates for 2019 at Council Chambers 110 Massingham Street Kellerberrin with meeting commencement time and Public Question Time:

Briefing Session: Councillors Briefing Session on Agenda 1:00 pm

Meeting Commencement time 2:00 pm.

Public Question Time: commencing at 2:15 pm and limited to 15 minutes. Place:

Meeting Day: every third Tuesday of the month

January 2019 – No Meeting

Tuesday, 12th February 2019 – Kellerberrin Council Chambers
Tuesday, 19th March 2019 – Kellerberrin Council Chamber
Tuesday, 16th April 2019 – Kellerberrin Council Chambers
Tuesday, 21st May 2019 – Kellerberrin Council Chambers
Tuesday, 18th June 2019 – Kellerberrin Council Chambers
Tuesday, 16th July 2019 – Kellerberrin Council Chambers
Tuesday, 20th August 2019 – Kellerberrin Council Chambers
Tuesday, 17th September 2019 – Kellerberrin Council Chambers
Tuesday, 15th October 2019 – Kellerberrin Council Chambers
Tuesday, 19th November 2019 – Kellerberrin Council Chambers
Tuesday, 17th December 2019 – Kellerberrin Council Chambers

CARRIED 6/0

Council's October 2017 Ordinary Meeting of Council
--

MIN 181/17 MOTION - Moved Cr. Reid 2nd Cr. White

That Council adopts the following Schedule of Council Ordinary Meeting dates for 2018 incorporating meeting location/venue, meeting commencement time and Public Question Time.

Briefing Session: Councillors Briefing Session on Agenda 1:00 pm

Time: Meeting Commencement time 2:00 pm.

Public Question Time: commencing at 2:15 pm and limited to 15 minutes.

Place: Council Chambers 110 Massingham Street Kellerberrin

Meeting Day: every third Tuesday of the month

January 2018 – No Meeting

Tuesday, 20th February 2018 – Kellerberrin Council Chambers

Tuesday, 20th March 2018 – Kellerberrin Council Chambers

Tuesday, 17th April 2018 – Kellerberrin Council Chambers

Tuesday, 15th May 2018 – Kellerberrin Council Chambers

Tuesday, 19th June 2018 – Kellerberrin Council Chambers

Tuesday, 17th July 2018 – Kellerberrin Council Chambers

Tuesday, 21st August 2018 – Kellerberrin Council Chambers

Tuesday, 18th September 2018 – Kellerberrin Council Chambers

Tuesday, 16th October 2018 – Kellerberrin Council Chambers

Tuesday, 20th November 2018 – Kellerberrin Council Chambers

Tuesday, 18th December 2018 – Kellerberrin Council Chambers

CARRIED 7/0

STAFF COMMENT

Council is required under legislation, to advertise its meetings advising of the date, commencement time, public question time and location of the meeting once each year. It is generally this time of the year that Council should consider its schedule of Ordinary Meetings for the 2010 calendar year.

Council needs to remain mindful of continuing on with its meetings in an efficient and timely manner to complete required and presented business. Council meetings are conducted in a businesslike and professional manner which allows for more informal discussion to occur. This reduces the necessity to have special Council meetings for specific issues with these matters being included as part of the monthly agenda.

Special Council meetings can be called with little notice given if required however to deal with any items that requires a decisions out of Council meeting times.

Items for consideration when adopting times and dates for the upcoming year are but not limited to;

- Preferred Council Information/Briefing Sessions (time allowance and when)
- Luncheon arrangements, if commenced with at an earlier time
- Business commitments of individual Council Members (actual meeting start time)

- Time allocation for dealing with the business of the Council including the agenda items
- Allowance for Meeting guests/presentations/petitions etc. (preferred time and length of presentation)
- Desired format for information sessions, etc.

Council at any time though can decide to modify the commencement time of their meetings though appropriate notice to the community is required.

TEN YEAR FINANCIAL PLAN

NIL known at this time.

FINANCIAL IMPLICATIONS

2020/2021 Budget – expense account for statutory advertising and members travelling and meeting attendance fees.

Cost of local advertising of Council meeting times. Current budget general ledger expense account for advertising will be utilised.

STATUTORY IMPLICATIONS

Local Government Act (as amended) 1995

5.24. Question time for public

- (1) Time is to be allocated for questions to be raised by members of the public and responded to at —
 - (a) every ordinary meeting of a council; and
 - (b) such other meetings of councils or committees as may be prescribed.
- (2) Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.

Regulations about council and committee meetings and committees

- (3) Without limiting the generality of section 9.59, regulations may make provision in relation to —
 - (a) the matters to be dealt with at ordinary or at special meetings of councils;
 - (b) the functions of committees or types of committee;
 - (ba) the holding of council or committee meetings by telephone, video conference or other electronic means;
 - (c) the procedure to be followed at, and in respect of, council or committee meetings;
 - (d) methods of voting at council or committee meetings;
 - (e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made);
 - (f) the content and confirmation of minutes of council or committee meetings and the keeping and preserving of the minutes and any documents relating to meetings;
 - (g) the giving of public notice of the date and agenda for council or committee meetings;

- (h) the exclusion from meetings of persons whose conduct is not conducive to the proper conduct of the meetings and the steps to be taken in the event of persons refusing to leave meetings;
 - (i) the circumstances and time in which the unconfirmed minutes of council or committee meetings are to be made available for inspection by members of the public; and
 - (j) the circumstances and time in which notice papers and agenda relating to any council or committee meeting and reports and other documents which could be —
 - (i) tabled at a council or committee meeting; or
 - (ii) produced by the local government or a committee for presentation at a council or committee meeting,are to be made available for inspection by members of the public.
- (4) Regulations providing for meetings to be held by telephone, video conference or other electronic means may modify the application of this Act in relation to those meetings to the extent necessary or convenient to facilitate the holding of those meetings in that way.

[Section 5.25 amended by No. 64 of 1998 s. 28.]

Local Government (Administration) Regulations 1996

12. Public notice of council or committee meetings — s. 5.25(1)(g)

- (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —
 - (a) the ordinary council meetings; and
 - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public,are to be held in the next 12 months.
- (2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).
- (3) Subject to subregulation (4), if a special meeting of a council is to be open to members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting.
- (4) If a special meeting of a council is to be open to members of the public but, in the CEO's opinion, it is not practicable to give local public notice of the matters referred to in subregulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the CEO's opinion, is practicable.

Shire of Kellerberrin Standing Orders Local Law 2006

STRATEGIC COMMUNITY PLAN

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Deputy Chief Executive Officer
- Personal Assistant to Chief Executive Officer

STAFF RECOMMENDATION

1. That Council adopts the following schedule of Ordinary Council Meeting dates for 2021 incorporating meeting location/venue, meeting commencement time and public question time.

Briefing Session: Councillors briefing session on agenda at 1:00 pm.

Time: Meeting commencement time 2:00 pm.

Public Question Time: Commencing at 2:15 pm and limited to 15 minutes.

Place: Council Chambers 110 Massingham Street Kellerberrin.

Meeting Day: every third Tuesday of the month.

January 2021 – No Meeting

Tuesday, 16th February 2021 Kellerberrin Council Chambers

Tuesday, 16th March 2021 Kellerberrin Council Chambers

Tuesday, 20th April 2021 Kellerberrin Council Chambers

Tuesday, 18th May 2021 Kellerberrin Council Chambers

Tuesday, 15th June 2021 Kellerberrin Council Chambers

Tuesday, 20th July 2021 Kellerberrin Council Chambers

Tuesday, 17th August 2021 Kellerberrin Council Chambers

Tuesday, 21st September 2021 Kellerberrin Council Chambers

Tuesday, 19th October 2021 Kellerberrin Council Chambers

Tuesday, 16th November 2021 Kellerberrin Council Chambers

Tuesday, 21st December 2021 Kellerberrin Council Chambers

9.8 KELLERBERRIN MEN'S SHED - RATE EXEMPTION

File Ref: ORLG33 & ICR202587
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Rate Exemption Application
2. Kellerberrin Men's Shed Rules
3. Correspondence
4. Letter - Legal Advice

BACKGROUND

Council on the 29th September 2020 received correspondence from the Kellerberrin Men's Shed requesting information as per the following exert from their correspondence:

1. *The Kellerberrin Community Men's Shed (KCMS) pays Rates on Rateable Land thus being 132 Massingham Street, Kellerberrin WA 6410. This items requires clarity of which I ask from the Shire.*
2. *Under the Local Govern Act 1995, Part 6, Division 6, S6.26 Rateable Land Subparagraph (G) Page 251 in version 07-ro-01 dated 01 May 2020 of the act states:*
 - a. *Land used for exclusively for charitable purposes.*
3. *Presently the Kellerberrin Community Men's Shed is registered as a charity under Australian Charities for Non for Profit Commission (ACNC) guidelines since 2012.*
4. *Approved by Federal Parliament on 01 September 2020 and effective from 01 October 2020, the Kellerberrin Community Men's Shed will be registered under the new adopted rule for Deductable Gift Recipients (DGR) under the ATO Guidelines. Guidelines state we must be registered as a Charity under ACNC of which the Kellerberrin Community Men's Shed complies.*
5. *Council advice for the Kellerberrin Community Men's Shed of the following:*
 - a) *Our rights with respect to the payment of rates noting Para 2 and 3 above,*
 - b) *Noting the Kellerberrin Community Men's Shed was NOT aware and has NEVER been aware of such a rule noted at paragraph (a), can the KCMS seek reimbursement for rates since 2012-2013 fiscal year, and*
 - c) *Does Council require any additional paperwork or forms to be filled and lodged with respect to being a charity or to claim the exemption for the payment of rates?*

We extend thanks once again to the Shire of Kellerberrin for their ongoing support to our Shed.

STAFF COMMENT

Council responded to the letter exert above with the following information:

With respect to your question noted as No 5 in your correspondence;

The Kellerberrin Men's Shed can make application to Council through the attached documentation for a review of your rateable status on 132 Massingham Street. Please note the property at 132 Massingham Street has two lots being;

- *Lot 508*
- *Lot 2*

As there is two lots for the property at 132 Massingham Street, each lot will require a separate application form to be completed.

Council would like to provide the below table giving the Kellerberrin Men's Shed an overview of what has occurred with your rates since the 12/13 financial year to demonstrate to contribution Council has made in respect to your rates.

Financial Year	Rates	ESL	Rubbish	TOTAL	Council Contribution	Men's Shed Payment
12/13	\$ 953.92	\$57.00	\$160.00	\$1,170.92	\$1,170.92	
13/14	\$1,015.92	\$60.00	\$165.00	\$1,240.92	\$1,240.92	
14/15	\$1,056.56	\$64.00	\$165.00	\$1,285.56	\$1,285.56	
15/16	\$1,104.10	\$68.00	\$175.00	\$1,347.10	\$1,347.10	
16/17	\$1,153.79	\$71.00	\$179.00	\$1,403.79	\$1,403.79	
17/18	\$1,489.47	\$75.00	\$185.00	\$1,749.47	\$1,551.88	\$ 260.00
18/19	\$1,564.37	\$82.00	\$200.00	\$1,846.37		\$1,862.80
19/20	\$1,634.64	\$84.00	\$203.00	\$1,921.64	\$1,500.00	\$ 421.61
20/21	\$1,634.61	\$84.00	\$203.00	\$1,921.64	\$1,500.00	\$ 421.61
	\$11,607.38	\$645.00	\$1,635.00	\$13,887.38	\$10,924.26	\$2,966.02

Please note where the Council contribution and the Men's Shed payment doesn't equate to the Total levied this is because we have omitted the Interest, Instalment fee and the like due to size restrictions on the table.

Please be advised that the charitable status on your application is only subject to the Rates portion of the charges therefore the ESL and Rubbish fees will require payment from the Men's Shed. It becomes very clear in the above table that out of \$11,607.38 in rates that you are requesting to be refunded should your application be successful Council has already contributed \$10,924.26. It must be said that the figure highlighted is a donation Council made to the Men's Shed that was used to pay rates.

Please note the above contribution from Council to the Men's Shed is rates only and doesn't incorporate the other donations that have occurred since 2010/2011 of \$8,050 in cash payment and the lease fee that was waived for the Restdown Estate property for the years to Kellerberrin Men's Shed had the land to generate cropping income.

On receipt of the information provided about Rate exemption paperwork was received over the counter on Thursday 1st October 2020. In researching all the requirements Codi spoke to Associations in regards to the constitution on Friday 2nd October 2020 and was advised that the Kellerberrin Men's Shed constitution was started back in April 2018 and was not submitted therefore they will need to operate under the 2010 rules of which has been provided as an attachment.

Council continuing in following up the application did a search of the ACNC website for registered Charities of which the Kellerberrin Men's Shed wasn't listed, this would be due to the requirement of a three year renewal requirement which may have been missed.

The three-year renewal requirement has now been removed as a requirement. In addition to the ACNC registration the Men's Shed are required to obtain a Western Australian Charitable Collectors Licence to enable fundraising and receive donations.

Council on the 7th October 2020 emailed the Kellerberrin Men's Shed to advise them of this requirement and that they are not currently registered as a Charitable Organisation as per below table.

The Kellerberrin Men's Shed have provided within the Statutory Declaration the following;

The property located at 132 Massingham Street is used by The Kellerberrin Community Men's Shed for the purposes of Special Recreation, Men's Health and Well being with the description of activities the property is used for being Woodwork, Metalwork, Tractor and vehicle restoration, Community Activities and Men's Wellbeing.

Council provided this reports to its Lawyers for review to ensure that the information provided and the recommendation are in line with legislation. Please find attached a copy of the full correspondence however the exert below provides some guidance for Council;

3. Whether the purpose of the use of the land is for a charitable purpose is a matter of fact. Also whether the land is used exclusively for the charitable purpose is also a matter of fact. I assume from the information provided that at some time there has been a recognition by the Tax Department and ACNC that the organisation is charitable, and the description of the use as being 'Special Recreation – Men's Health and Wellbeing' does tend to indicate a charitable purpose.

TEN YEAR FINANCIAL PLAN

The Shire of Kellerberrin has a projection of rates as per the Ten year financial plan and should this application be successful the plan will be affected by the amount of rates generated from this property each year effectively written off.

FINANCIAL IMPLICATIONS

Currently the rates for the property are \$1,634 therefore this is Council financial impact. In addition to the initial cost it will be for the further three years past this financial year should the application be successful.

STATUTORY IMPLICATIONS

Local Government Act 1995 – Part 3, Division 3

Local Government Act 1995 (as amended) (LGA)

LGA - 6.26. Rateable land

- (1) Except as provided in this section all land within a district is rateable land.
- (2) The following land is not rateable land-

- (a) land which is the property of the Crown and-
 - (i) is being used or held for a public purpose; or
 - (ii) is unoccupied, except-
 - I. where any person is, under paragraph (e) of the definition of “owner” in section 1.4, the owner of the land other than by reason of that person being the holder of a prospecting licence held under the *Mining Act 1978* in respect of land the area of which does not exceed 10 hectares or a miscellaneous licence held under that Act; or
 - II. where and to the extent and manner in which a person mentioned in paragraph (f) of the definition of “owner” in section 1.4 occupies or makes use of the land;
 - (b) land in the district of a local government while it is owned by the local government and is used for the purposes of that local government other than for purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the local government;
 - (c) land in a district while it is owned by a regional local government and is used for the purposes of that regional local government other than for the purposes of a trading undertaking (as that term is defined in and for the purpose of section 3.59) of the regional local government;
 - (d) land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood;
 - (e) land used exclusively by a religious body as a school for the religious instruction of children;
 - (f) land used exclusively as a non-government school within the meaning of the *School Education Act 1999*;
 - (g) land used exclusively for charitable purposes;
 - (h) land vested in trustees for agricultural or horticultural show purposes;
 - (i) land owned by Co-operative Bulk Handling Limited or leased from the Crown or a statutory authority (within the meaning of that term in the *Financial Administration and Audit Act 1985*) by that company and used solely for the storage of grain where that company has agreed in writing to make a contribution to the local government;
 - (j) land which is exempt from rates under any other written law; and
 - (k) land which is declared by the Minister to be exempt from rates.
- (3) If Co-operative Bulk Handling Limited and the relevant local government cannot reach an agreement under subsection (2)(i) either that company or the local government may refer

the matter to the Minister for determination of the terms of the agreement and the decision of the Minister is final.

- (4) The Minister may from time to time, under subsection (2)(k), declare that any land or part of any land is exempt from rates and by subsequent declaration cancel or vary the declaration.
- (5) Notice of any declaration made under subsection (4) is to be published in the *Gazette*.
- (6) Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.
[Section 6.26 amended by No. 36 of 1999 s. 247.]

LGA : s6.47 – Concessions

Subject to the *Rates and Charges (Rebates and Deferments) Act 1992*, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.

STRATEGIC COMMUNITY PLAN

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Kellerberrin Men's Shed Members

STAFF RECOMMENDATION

That Council:

1. Approve the Kellerberrin Community Men's Shed rate exemption application for both Lot 508 & Lot 2 being 132 Massingham Street as the land is deemed to be used exclusively for Charitable purposes in accordance with *Local Government Act 1995, Section 6.26,2,(g)* as of 1 July 2021 to be reviewed on 30 June 2024
2. Advise the Kellerberrin Community Men's Shed of Council's decision by completing the relevant forms;
3. Advises the Kellerberrin Men's Shed that in accordance with *Local Government Act 1995, Section 6.39 (2)* it has reviewed the rate record for the 5 years preceding the current financial year and determined that the payments/waivers and contributions to the Kellerberrin Men's Shed are adequate compensation for the rate relief for these financial years;
4. Request the Kellerberrin Men's Shed to advise Council of any changes of use for Lots 508 & 2 so Council can reassess the rate exemption approval.

9.9 APPLICATION FOR TEMPORARY OCCUPATION OF CARAVAN

File Ref: A538 & ICR202599
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Email seeking permission to occupy caravan

BACKGROUND

Council on the 6th October 2020 met with the owner of 16 Sewell Street to discuss the building proposal for the property. At the time the owner advised that he is currently residing on the property in a Caravan.

Council advised that this cannot occur without Council's express approval therefore a letter was requested seeking Council's permission.

STAFF COMMENT

Council on the 12th October 2020 received a formal request to occupy a caravan while they construct a house, shed and carport on site.

TEN YEAR FINANCIAL PLAN

NIL

FINANCIAL IMPLICATIONS

NIL

STATUTORY IMPLICATIONS***Caravan Parks and Camping Grounds Regulations 1997***

Section 2

8. [This Part subject to other written law](#)

If there is a conflict or inconsistency between this Part and any other written law other than a local law, the other written law prevails to the extent of the conflict or inconsistency.

8A. [Definition of "camp" in this Part](#)

In this Part —

camp when used as a verb, includes to camp in a vehicle.

[Regulation 8A inserted in Gazette 16 Jul 1999 p. 3202.]

9. [Park homes may only be occupied in caravan parks](#)

Despite anything else in this Part, a person may occupy a park home only in a caravan park licensed under the Act.

Penalty: \$3 000.

10. [Where a person may camp](#)

A person may camp only —

(a) at a site in a caravan park or camping ground, as appropriate, licensed under the Act; or

(b) in accordance with regulation 11.

Penalty: \$1 000.

11. Camping other than at a caravan park or camping ground

- (1) A person may camp —
- (a) for up to 3 nights in any period of 28 consecutive days on land which he or she owns or has a legal right to occupy, and may camp for longer than 3 nights on such land if he or she has written approval under subregulation (2) and is complying with that approval;
 - (b) for up to 24 consecutive hours in a caravan or other vehicle on a road side rest area;
 - (c) for up to 24 consecutive hours in a caravan or other vehicle on a road reserve in an emergency, unless to do so would cause a hazard to other road users or contravene any other written law with respect to the use of the road reserve;
 - (d) on any land which is —
 - (i) held by a State instrumentality in freehold or leasehold; or
 - (ii) dedicated, reserved, or set apart under the *Land Administration Act 1997* or any other written law, and placed under the care, control or management of a State instrumentality,in accordance with the permission of that instrumentality; or
 - (e) on any unallocated Crown land or unmanaged reserve, in accordance with the permission of the Minister within the meaning of the *Land Administration Act 1997*, or a person authorised by the Minister to give permission under this paragraph.
- (2) Written approval may be given for a person to camp on land referred to in subregulation (1)(a) for a period specified in the approval which is longer than 3 nights —
- (a) by the local government of the district where the land is situated, if such approval will not result in the land being camped on for longer than 3 months in any period of 12 months;
 - (b) by the Minister, if such approval will result in the land being camped on for longer than 3 months in any period of 12 months; or
 - (c) despite paragraph (b), by the local government of the district where the land is situated —
 - (i) if such approval will not result in the land being camped on for longer than 12 consecutive months; and
 - (ii) if the person owns or has a legal right to occupy the land and is to camp in a caravan on the land while a building licence issued to that person in respect of the land is in force.
- (3) In this regulation —
- building licence** means a building licence under section 374 of the *Local Government (Miscellaneous Provisions) Act 1960*;
- emergency** means a situation where to move the caravan or other vehicle to a more suitable area would constitute an immediate and serious hazard due to the condition of the caravan or other vehicle, or a vehicle towing the caravan, or of the driver, or passengers, of any such vehicle;
- road side rest area** means an area designated by a traffic sign erected in accordance with a written law, as an area which may be used for 24 hours for —
- (a) resting;
 - (b) stopping; or
 - (c) camping,
- in a vehicle;

State instrumentality has the same meaning as it has for the purposes of the *Land Administration Act 1997*;

unallocated Crown land has the same meaning as it has for the purposes of the *Land Administration Act 1997*;

unmanaged reserve has the same meaning as it has for the purposes of the *Land Administration Act 1997*.

[Regulation 11 amended in Gazette 16 Jul 1999 p. 3202-4; 25 Aug 2000 p. 4911.]

STRATEGIC COMMUNITY PLAN

Council's Vision – To welcome diversity, culture and industry; promote a safe and prosperous community with a rich, vibrant and sustainable lifestyle for all to enjoy.

Core Drivers - Core drivers identify what Council will be concentrating on as it works towards achieving Council's 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*

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Property Owner

STAFF RECOMMENDATION

That Council:

1. *Grants three months approval for camping 16 Sewell Street, Kellerberrin with the following conditions:*
 - a. *Any power connections are to be RCD protected.*
 - b. *Working smoke alarms*
 - c. *A Licenced plumber connection to the sewer system*
 - d. *Water Connection*
 - e. *Expires 15th January 2021*
2. *Delegates Authority to Council's Chief Executive Officer to approve a further 12 month permission on receipt of a conforming building permit*

9.10 CHEQUE LIST SEPTEMBER 2020

File Number: N/A
Author: Zene Arancon, Finance Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. September 2020 Payment List

BACKGROUND

Accounts for payment from 1st September to 30th September 2020

TRUST

TRUST TOTAL **\$ 60,995.94**

MUNICIPAL FUND

Cheque Payments
 34791-34801 **\$ 18,417.11**

EFT Payments
 11233-11336 **\$ 387,475.23**

Direct Debit Payments **\$ 44,045.41**

TOTAL MUNICIPAL **\$ 449,937.75**

STAFF COMMENT

During the month of September 2020, the Shire of Kellerberrin made the following significant purchases:

Auspan Group	\$ 104,028.32
Plan and steel procurement payment for new Exhibition Hall/Rec Centre	
Department of Transport - TRUST DIRECT DEBITS Licensing CRC	\$ 59,317.80
Licensing payments September 2020	
Western Australian Treasury Corporation	\$ 33,504.08
Loan No. 118 principal & interest payment - Rec Centre Redevelopment	
Youlie and Son Spreading Services	\$ 24,527.25
Equipment hire charges for various roads grading	
Deputy Commissioner Of Taxation	\$ 23,849.00
PAYG Tax	
Fire And Emergency Services (WA)	\$ 21,509.10
2020/2021 ESL Quarter 1 payment	
Brooks Hire Service Pty Ltd	\$ 16,567.65
Hire of grader August 2020 for various roads grading	
Smith Earthmoving Pty Ltd	\$ 16,445.00
Hire of semi tipper August-September 2020 for road construction & gravel sheeting	
AFGRI Equipment Australia Pty Ltd	\$ 15,563.17
Repairs including parts & labour for John Deer grader 672GD KE 03	
United Card Services Pty Ltd	\$ 10,238.37
Total supply August 2020	
Midway Ford	\$ 8,484.18
Purchase of Ford Ranger 2020 including trade-in for MWS	
Avon Waste	\$ 8,209.66
Domestic & commercial rubbish collection fees August 2020	

Water Corporation	\$ 7,858.21
Water charges for various Shire properties June-August 2020	
WestCoast Profilers	\$ 7,425.00
Mob/demob charges for road profiling	
WA Local Government Superannuation Plan Pty Ltd	\$ 7,228.47
Staff superannuation contributions & deductions	
WA Local Government Superannuation Plan Pty Ltd	\$ 7,110.27
Staff superannuation contributions & deductions	
Blackwell Plumbing Pty Ltd	\$ 6,741.70
Manhole replacement, welding & labour charges for Scott St. road construction	
Synergy	\$ 6,532.34
Power charges for various Shire properties June-August 2020	
EE & JM Newman	\$ 6,270.00
Land conservation agreement CSG19144	
Farmways Kellerberrin Pty Ltd	\$ 6,241.98
Purchase of gas bottles, hydraulic oils, high impact gloves \$ various under \$200	

TEN YEAR FINANCIAL PLAN

There is no direct impact on the Long Term Financial Plan.

FINANCIAL IMPLICATIONS

Shire of Kellerberrin 2020/2021 Operating Budget

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

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 (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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Deputy Chief Executive Officer
- Finance Officer

STAFF RECOMMENDATION

That Council notes that during the month of September 2020, 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 \$ **449,937.75** on vouchers EFT , CHQ, Direct payments*
2. *Trust Fund payments totalling \$ **60,995.94** on vouchers EFT, CHQ, Direct payments*

9.11 DIRECT DEBIT LIST AND VISA CARD TRANSACTIONS - SEPTEMBER 2020

File Number: N/A
Author: Brett Taylor, Senior Finance Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

BACKGROUND

Please see below the Direct Debit List and Visa Card Transactions for the month of September 2020.

Municipal Direct Debit List				
Date	Name	Details	\$	Amount
1/09/2020	Westnet	Internet Fees		4.99
1/09/2020	NAB	Merchant Fees - Trust		5.77
1/09/2020	NAB	Merchant Fees - Caravan Park		57.49
1/09/2020	NAB	Merchant Fees - Shire		320.51
1/09/2020	NAB	Merchant Fees - CRC		458.74
1/09/2020	Department of Communities	Rent		420.00
3/09/2020	Shire of Kellerberrin	Super Choice		9234.90
3/09/2020	Shire of Kellerberrin	Pay Run		54057.44
7/09/2020	Department of Transport	Vehicle Inspections		133.90
10/09/2020	Shire of Kellerberrin	Creditors		180673.91
15/09/2020	Department of Communities	Rent		420.00
16/09/2020	ATO	BAS August		23849.00
17/09/2020	Shire of Kellerberrin	Pay Run		53883.85
17/09/2020	Shire of Kellerberrin	Super Choice		9136.60
24/09/2020	Shire of Kellerberrin	Creditors		206801.32
28/09/2020	NAB	Bank Fees - NAB Connect		48.23
29/09/2020	Department of Communities	Rent		420.00
30/09/2020	NAB	Bank Fees		10.00
30/09/2020	NAB	Bank Fees - B Pay		57.96
		TOTAL	\$	539,994.61
Trust Direct Debit List				
Date	Name	Details	\$	Amount
30/09/2020	Department of Transport	Licencing September 2020		59317.80
		TOTAL	\$	59,317.80

Visa Transactions				
Date	Name	Details	\$	Amount
1/09/2020	Subway Merredin	Lunch - LG Pro Meeting Kellerberrin		105.00
11/09/2020	Puma Fuel	Fuel KE 1		78.75
28/09/2020	NAB	Card Fee		9.00
		TOTAL - CEO	\$	192.75
Date	Name	Details	\$	Amount
8/09/2020	Royal Life Saving WA	Pool Manager Course		159.00
24/09/2020	Shire of Kellerberrin	Licencing Plate Transfer BFB Truck Doodlakine		34.60
28/09/2020	NAB	Card Fee		9.00
		TOTAL -DCEO		202.60
		TOTAL VISA TRANSACTIONS	\$	395.35

STAFF COMMENT

The Direct Debit List and Visa Card Transactions are presented for Council to note for the month of September 2020.

TEN YEAR FINANCIAL PLAN

There are no direct implication on the Long Term Financial Plan.

FINANCIAL IMPLICATIONS

Financial Management of 2020/2021 Budget.

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 sub regulation (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 COMMUNITY PLAN

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COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Deputy Chief Executive Officer
- Senior Finance Officer

STAFF RECOMMENDATION

That Council note the direct debit list for the month of September 2020 comprising of;

- (a) Municipal Fund – Direct Debit List*
- (b) Trust Fund – Direct Debit List*
- (c) Visa Card Transactions*

9.12 FINANCIAL ACTIVITY STATEMENT - SEPTEMBER 2020

File Number: FIN
Author: Lenin Pervan, Deputy Chief Executive Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

BACKGROUND

The Regulations detail the form and manner in which financial activity statements are to be presented to the Council on a monthly basis, and are to include the following:

- Annual budget estimates
- Budget estimates to the end of the month in which the statement relates
- Actual amounts of revenue and expenditure to the end of the month in which the statement relates
- Material variances between budget estimates and actual revenue/expenditure (including an explanation of any material variances)
- The net current assets at the end of the month to which the statement relates (including an explanation of the composition of the net current position)

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year.

At its meeting on 23rd July 2019, the Council adopted (MIN128/19) the following material variance reporting threshold for the 2019/20 financial year:

“PART F – MATERIAL VARIANCE REPORTING FOR 201Y/201Z

In accordance with regulation 34(5) of the *Local Government (Financial Management) Regulations 1996*, and *AASB 1031 Materiality*, the level to be used in statements of financial activity in 2019/2020 for reporting material variances shall be 10% or \$10,000, whichever is the greater.”

STAFF COMMENT

Pursuant to Section 6.4 of the Local Government Act 1995 (the Act) and Regulation 34(4) of the Local Government (Financial Management) Regulations 1996 (the Regulations), a local government is to prepare, on a monthly basis, a statement of financial activity that reports on the Shire’s financial performance in relation to its adopted / amended budget.

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the Shire’s financial performance on a year to date basis for the period ending 31 March 2020.

TEN YEAR FINANCIAL PLAN

Financial Management of 2020/2021 Budget.

FINANCIAL IMPLICATIONS

Financial Management of 2020/2021 Budget.

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 COMMUNITY PLAN

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COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Deputy Chief Executive Officer

STAFF RECOMMENDATION

That Council adopt the Financial Report for the month of September 2020 comprising;

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

9.13 BUILDING REPORTS SEPTEMBER 2020

File Number: BUILD06
Author: Codi Mullen, Personal Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Building application received
2. Building permits issued

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.

STAFF COMMENT

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

TEN YEAR FINANCIAL PLAN

There is no direct impact on the Long Term Financial Plan.

FINANCIAL IMPLICATIONS

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)

STATUTORY IMPLICATIONS

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

STRATEGIC COMMUNITY PLAN

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COMMUNITY CONSULTATION

The following consultation took place:

- Building Surveyor
- Owners
- Building Contractors

- Chief Executive Officer

STAFF RECOMMENDATION

That Council

1. *Acknowledge the "Return of Proposed Building Operations" for the September 2020 period.*
2. *Acknowledge the "Return of Building Permits Issued" for the September 2020 period.*

10 DEVELOPMENT SERVICES REPORTS

Nil

11 WORKS & SERVICES REPORTS

11.1 DEVELOPMENT APPLICATION; FRONT FENCE

File Ref: IPA
Author: Lewis York, Town Planner
Authoriser: Raymond Griffiths, Chief Executive Officer
Applicant: Mr. Tim England
Location: 20 Gregory Street, Kellerberrin
Attachments: Nil

BACKGROUND

Council's September 2020 Ordinary Meeting of Council – 15th September 2020

MIN 001/20 **MOTION - Moved Cr. McNeil** **Seconded Cr. Reid**

That Council approve the construction of a front fence at 20 Gregory street, Kellerberrin;

- 1. The approval will expire if the development is not substantially commenced within two years of the approval date;***
- 2. Development is to be undertaken in accordance with the endorsed approved plans;***
- 3. The use of second hand building materials shall only be those approved in the development plans;***
- 4. The gate shall have the ability to open in to the lot;***
- 5. The fence shall not exceed 1.2m in height;***
- 6. That a letter be provided from Council by the owner of the property approving the construction of the fence as per approved plans submitted;***
- 7. Ensure the Fencing Local Laws are adhered to for corner blocks, this being a truncated connection from the front fence to the eastern side fence.***

Advice Notes

Planning approval is not considered as building approval and a building permit shall be obtained separately.

CARRIED 7/0

COMMENTS

The application from Mr. Tim England was for the construction of a front boundary fence at 20 Gregory Street, Kellerberrin. The proposal required planning approval due to the proposed use of secondhand materials. The fence will use secondhand bricks rendered to create a wall that will also include wooden pickets. The fence proposal is to be 1.2m in height. The application however didn't include the side fence.

Mr. England on receipt of correspondence from Council advising of Council's decision above has applied for his development application to be amended to delete the condition for a truncation in his front and side fence.

Mr England has provided a site plant indicating that the side boundary is 10.2m from McCulloch Street therefore sight lines for the intersection of McCulloch and Gregory Street wouldn't be affected

by a 1.2m right angled fence from front to side boundary. Please see attached letter and site plan for further information.

SITE



Shire of Kellerberrin Local Planning Scheme

Planning and Development (Local Planning Scheme) Regulations 2015

67. Matters to be considered by local government

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

(b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;

(c) any approved State planning policy;

(d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);

- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any local planning policy for the Scheme area;
- (h) any structure plan, activity centre plan or local development plan that relates to the development;
- (i) any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;
- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- (k) the built heritage conservation of any place that is of cultural significance;
- (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (n) the amenity of the locality including the following —
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;
- (s) the adequacy of —
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (u) the availability and adequacy for the development of the following —
 - (i) public transport services;
 - (ii) public utility services;
 - (iii) storage, management and collection of waste;
 - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
 - (v) access by older people and people with disability;
- (v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- (w) the history of the site where the development is to be located;

- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (za) the comments or submissions received from any authority consulted under clause 66;
- (zb) any other planning consideration the local government considers appropriate.

Fencing Local Law 2016

PART 2—FENCES Division 1—Sufficient fences 2.1 Sufficient fences (1)

A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.

- 2) Pursuant to section 24 of the Dividing Fences Act 1961 and subject to subclauses (3), (4) and (5), a sufficient fence—
 - a. on a residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
 - b. on a town centre lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
 - c. on an industrial lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3A;
 - d. on a general agriculture lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4; and
 - e. on a rural residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 4A.
- 3) Where a fence is erected on or near the boundary between a residential lot and a town centre lot, industrial lot, general agriculture lot or a rural residential lot, a sufficient fence is a dividing fence constructed and maintained in accordance with the specifications and requirements of Schedule 2.
- 4) Unless an authorised person determines otherwise, a sufficient fence on a boundary between lots other than those specified in subclauses (2) and (3) is a dividing fence constructed in accordance with the specifications and requirements of Schedule 2.
- 5) Notwithstanding any other provisions in this local law, a dividing fence or boundary fence constructed of masonry, stone or concrete shall be a sufficient fence only if it is designed by a suitably qualified structural engineer and constructed in accordance with that design where—
 - a. it is greater than 1,800 millimetres in height; or
 - b. the Building Surveyor so requires. (6) Notwithstanding any other provision in this local law, a dividing fence or boundary fence shall not exceed 1,800 millimetres in height unless the approval of the local government has been obtained to such a fence

2.9 General discretion of the local government

(1) Notwithstanding the provisions of clause 2.1, the local government may approve

the erection or repair of a dividing fence which is not a sufficient fence, where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.

(2) In determining whether to grant its approval under subclause (1), the local

government may consider whether the erection or repair of the fence would have an adverse effect on—

- (a) the safe or convenient use of any land;
- (b) the safety or convenience of any person; or
- (c) the visual amenity of the locality

Division 3—Fencing Materials

2.10 Pre-used fencing materials

- (1) Notwithstanding clause 2.1, a person shall not construct a fence on a residential lot, a town centre lot or an industrial lot from pre-used materials without the approval of the local government.
- (2) Where the local government approves the use of preused materials in the construction of a fence under subclause (1) that approval shall be conditional on the applicant painting or treating the pre-used material as stated in or attached to the form of approval issued by the local government under clause 3.2.

(D) Composite fence

A composite fence which satisfies the following specifications for the brick construction—

- (a) a site classification is to be provided by a professional engineer in accordance with AS2870-1996 as amended from time to time;
- (b) the footing is to be designed in accordance with AS2870-1996 as amended from time to time;
- (c) height: maximum overall height of 1,800 millimetres, except with respect to front, side and rear setback areas for which there is no minimum height but subject to requirements and standards of local planning scheme;
- (d) brick fence of height not exceeding 1,200 millimetres shall have brick piers of a minimum of 230 millimetres x 230 millimetres x 1,800 millimetres centres; bonded to a maximum height base wall of 514 millimetres; or, brick fence of height exceeding 1,200 millimetres shall have brick piers of a minimum of 230 millimetres x 230 millimetres x 1,800 millimetres centres; bonded to a maximum height base wall of 514 millimetres;
- (e) each pier shall be reinforced with, one R10 galvanised starting rod for 230 millimetres x 230 millimetres piers; and, two R10 galvanised starting rods for 345 millimetres x 345 millimetres x 345 millimetres piers, each rod being 1,500 millimetres high with a 250 millimetres horizontal leg bedded into the concrete footing; set 65 millimetres above the base of the footing and the top of the footing shall be 1 course (85 millimetres) below ground level;
- (f) cavity to brick piers to be filled with 20MPA concrete;
- (g) minimum ultimate strength of brickwork shall be 20 MPA, mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
- (h) the ground under the footings is to be compacted to 7 blows per 300 millimetres and checked with a standard falling weight penetrometer; and
- (i) control joints in brickwork shall be provided at piers at a maximum of 6 metre centres.

R-Codes 2015

C4

Front fences within the primary street setback area that are visually permeable above 1.2m of natural ground level, measured from the primary street side of the front fence.

STRATEGIC PLAN IMPLICATIONS

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COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Council's Town Planner

PLANNING ASSESSMENT

“7. Ensure the Fencing Local Laws are adhered to for corner blocks, this being a truncated connection from the front fence to the eastern side fence.”

Condition no.7 requires Mr. England to truncate his fence at the intersection of Gregory and McCulloch street as per clause 2.7.1 (b) of the shires Fencing Local Law (2016) which states;

“at an intersection of 2 roads a minimum sight line truncation of 3 metres x 3 metres. A sight line truncation is not required on the entry side of a driveway where it is clearly defined as “ENTRY ONLY” or where a driveway is not less than 6 metres wide, and where appropriate signage and line marking is provided.”

Mr. England raised the following points regarding the truncation:

- the fence proposed with no truncation will have minimal impact upon sightlines because of the large area of kerb on the eastern side of the property (10m) and front setback area (7m); and
- the fence will only be 1.2m high on the eastern boundary for 11m, allowing sufficient visibility, the fence will then transition to the standard 1.8m

When visiting the site it was apparent that the large setback areas at the front and side of the property does provide adequate sightlines for cars turning right off Gregory and left off McCulloch street.

The CEO and myself discussed the possibility that allowing Mr. England to not truncate his fence could create a precedent within the townsite. However, upon review it is determined that the layout of 20 Gregory street provides no safety concerns for vehicles, while the proposed fence will improve visual amenity of the streetscape. It is also noted that several corner blocks throughout the townsite are not correctly truncated to the 3x3m prescription.

It is recommended that research is undertaken into potential policies that incorporate the size of kerb in relation to required fencing truncations on corner lots. A number of shires have policies which provide reduced truncations for large kerb areas as seen in this application.

STAFF RECOMMENDATION

That Council:

- 1) *rescinds condition no.7 MIN 153/20, and replace with following condition;*
- 2) *The eastern boundary fence shall continue at 1.2m high for 8.5m where it intersects with the front boundary fence without a truncation due to the adjacent road being 10.2m from boundary.*

12 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

14 CONFIDENTIAL MATTERS**RECOMMENDATION**

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 5.23(2) of the Local Government Act 1995:

14.1 Write Off Duplicated Superannuation Payment

This matter is considered to be confidential under Section 5.23(2) - b of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with the personal affairs of any person.

14.2 RFQ 03/20 Concrete Slab Services

This matter is considered to be confidential under Section 5.23(2) - c of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with 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.

15 CLOSURE OF MEETING