



AGENDA

Ordinary Council Meeting Tuesday, 12 April 2022

Date: Tuesday, 12 April 2022

Time: 2:00PM

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

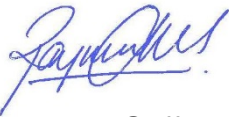
Shire of Kellerberrin

Ordinary Council Meeting 12th April 2022

NOTICE OF MEETING

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Kellerberrin will be held on Tuesday, 12th April 2022 in the Council Chamber, 110 Massingham Street, Kellerberrin WA 6410 commencing at 2:00PM.



Raymond Griffiths
Chief Executive Officer
Thursday, 7 April 2022

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 PRESIDENT REPORT - MARCH 2022**

File Ref: ADM
Author: Scott O'Neill, President
Authoriser: Scott O'Neill, President
Attachments: Nil

Whilst we welcome the rain events over the last two weeks they did cause some concern around the Shire.

A big thankyou to the crew that rolled in on Sunday, 27th March to clean up the North Eastern area of the Shire as there was extensive tree down and damage etc. The storm on the Wednesday which dropped a significant amount of rain in a very short time caused some flooding around town but the new drainage on Ripper Street held up well and even Scott St although it backed up it also cleared away very well.

Thanks to the crew for the works on James and Ripper St they have both progressed very well. The rain has also enabled the Graders to finally get out with suitable conditions for maintenance grading. With Seeding well and truly under way I wish everyone a safe seeding.

Kind Regards



Scott O'Neill
Shire President

STAFF RECOMMENDATION

That Council receive and note the Shire Presidents Reports for March 2022.

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 MARCH 2022**

File Ref: MIN
Author: Codi Brindley-Mullen, Manager of Governance
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Minutes of the Council Meeting held on 15 March 2022

HEADING**STAFF RECOMMENDATION**

1. That the Minutes of the Council Meeting held on 15 March 2022 be received as a true and accurate record.

6.2 MINUTES OF THE BUSHFIRE ADVISORY COMMITTEE MEETING HELD ON 22 MARCH 2022

File Ref: MIN

Author: Codi Brindley-Mullen, Manager of Governance

Authoriser: Raymond Griffiths, Chief Executive Officer

Attachments: 1. Minutes of the Bushfire Advisory Committee Meeting held on 22 March 2022

HEADING**STAFF RECOMMENDATION**

1. That the Minutes of the Bushfire Advisory Committee Meeting held on 22 March 2022 be received.

7 PRESENTATIONS

7.1 Petitions

7.2 Presentations

7.3 Deputations

8 REPORTS OF COMMITTEES

Nil

9 CORPORATE SERVICES REPORTS

9.1 STANDING ORDERS

File Ref: ADM
Author: Codi Brindley-Mullen, Manager of Governance
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.

9.2 COMMUNITY REQUESTS AND DISCUSSION ITEMS

File Ref: Various
Author: Codi Brindley-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.

March 2022 Council Meeting

MIN 028/22 MOTION - Moved Cr. Leake Seconded Cr. Steber

That Council;

- 1. Rescind MIN 004/22 Item 1;***
- 2. Provide additional seating to the grassed area east of the Public Toilets adjacent to the carpark.***
- 3. Adopt the following additional trees for the planting in James Street islands;***
 - a. Eucalyptus Spathulata; and***
 - b. Eucalyptus Victrix***
- 4. Write to Main Roads regarding the damaged bitumen of the corner of Scott Street & Great Eastern Highway.***
- 5. Receive and Support the plans from Kellerberrin Men's Shed for the proposed park at the western end of Lot 500 Leake Street, Kellerberrin (Centenary Park) and request that the Men's Shed work with Town Teams Committee to look at incorporating the proposed Dog Park into the design concept.***

CARRIED 7/0

REASON: Council rescinded Item 1 as there was seating already provided on the Western side of the toilet block and the owner has advised Council they don't wish to progress with the seat at the front of their property in the Main Street.

February 2022 Council Meeting

MIN 004/22 MOTION - Moved Cr. Gardiner Seconded Cr. Steber

That Council;

- 1. Acknowledge correspondence issued to business owners requesting feedback on seating down the main street and subsequent information received from business owners and adopt the following:***
- Provide seating to the front of the Kellerberrin Hotel portico as per request received; and***
 - Provide additional seating to the west of the Public Toilets adjacent to the carpark.***

2. Acknowledge correspondence issued to affected residents on Hammond Street between Sewell and Scott Street regarding the footpath on the south side that has the current tripping hazard and adopt the following; ○ Remove the asphalt footpath and compact gravel surface as the north side has sufficient footpath and ensures the current trees remain in situ.

3. Acknowledge correspondence received from various community members regarding species of vegetation for the planting in James Street islands and adopt the following; ○ Eucalyptus Leucoxylon;
○ **Eucalyptus Woodwardii;**
○ **Silver gimlet; and**
○ **Various ground covers.**

4. In reviewing the Australia Day Awards consider a category for Seniors.

5. Reviewed the suggestion of mulching green waste at the Kellerberrin Waste Transfer Station, though due to the unknown nature of the products/weeds/lawn etc. it is impractical.

CARRIED 7/0

December 2021 Council Meeting

MIN 199/21

MOTION - Moved Cr. Leake

Seconded Cr. Forsyth

That Council

- 1. Look into the white cockatoo population within the townsite;**
- 2. Acknowledge receipt of the REED correspondence and Council to further investigate alternative provider options for family day care or alternatives;**
- 3. Approve two smaller islands at the eastern and western ends of James Street (between Bedford & Moore St) to cater for all current driveway access;**
- 4. Acknowledge the correspondence received from Tony Downs regarding the request to have a Community Recognition award incorporated into the Australia Day Awards. Council will review the suggestion in 2022;**
- 5. Acknowledge correspondence from Professor Grose recommending Salmon Gum and Gimlets for the James Street islands. Council to seek additional advice from Mr Malcolm French and Chatfield's Tree Nursery to ensure full consultation has occurred.**

CARRIED 7/0

STAFF COMMENT

March MIN 028/22

1. No action required.
2. Information provided to Manager Works and Services for action.
3. Manager of Governance noted for incorporation into townscape plan and trees ordered. 4th April, Trees have been ordered and delivered.
4. Email has been issued to Main Roads to investigate the issue with Scott Street. On 4th April, a follow up email has been written to Main Roads WA regarding the intersection. Have also

touched base with Main Roads regarding the Doodlakine-Bruck Rock Road intersection with GEH sight lines again.

5. Email has been issued to both Richard Marek and Gareth Jacobson regarding the memorial park and dog park. Men's Shed is now working with the Town Teams to include a dog park. Council has emailed the Information required from PTA to obtain permission from them for the park proposal, no response to date and have followed up again with the Men's Shed. An email has been issued to the Men's Shed advising them of the requirements from the PTA to approve the Park. Mr Marek was sent a reminder about the information request, Mr Marek attended the office on 05/04/22 to seek clarification on a few items and will complete the information and forward to Council ASAP.

February MIN 004/22

1. An email has been issued to Bruno at the Hotel to ensure he is happy with the location of the proposed seat.
2. An email has been sent to Team Leader Parks and Gardens to have this work placed on the board for completion.
3. A message was sent to Chatfields for obtaining the trees. Chatfields advised they cannot supply these species. An email has been issued to DKT to see if they can supply.
4. Item noted for review when Australia Day Awards process commences.
5. An email has been issued to Renza Bishop advising of Councils decision.

December MIN 199/21

1. Council engaged an external contractor to attend Kellerberrin to complete a cull which occurred 29th & 30th January 2022
2. Council wrote to REED and acknowledged their correspondence. Council also touched base with two Family Day Care providers to see if they had any people interested in operating a family day.

In addition Council advertised for expression of interest on behalf of Willy Wag Tails and within a day they had an interested party. Currently we are waiting for the Manager to get back to us with the opportunity.

3. Plans were redesigned and provided to the residents on James Street.
4. An email has been issued to Tony Downs acknowledging receipt of his correspondence.
5. Margaret Grose was advised of Councils decision acknowledging her correspondence and Council seeking additional advice from other locals.

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

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

Section 2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act; and
 - (b) provides leadership and guidance to the community in the district; and
 - (c) carries out civic and ceremonial duties on behalf of the local government; and
 - (d) speaks on behalf of the local government; and
 - (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; and
- (b) provides leadership and guidance to the community in the district; and
- (c) facilitates communication between the community and the council; and
- (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: 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: No. 64 of 1998 s. 30; amended: 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; or
 - (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; or
 - (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: 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 an electoral gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given an electoral gift to the relevant person since the relevant person was last elected;
 or
 - (eb) the relevant person is a council member and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last elected; or
 - (ec) the relevant person is a CEO and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last employed (or appointed to act) in the position of CEO; 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.
- (1A) Subsection (1)(eb) and (ec) apply to a gift if —
- (a) either —
 - (i) the amount of the gift exceeds the amount prescribed for the purposes of this subsection; or
 - (ii) the gift is 1 of 2 or more gifts made by 1 person to the relevant person at any time during a year and the sum of the amounts of those 2 or more gifts exceeds the amount prescribed for the purposes of this subsection;
 and
 - (b) the gift is not an excluded gift under subsection (1B).
- (1B) A gift is an excluded gift —
- (a) if —
 - (i) the gift is a ticket to, or otherwise relates to the relevant person's attendance at, an event as defined in section 5.90A(1); and
 - (ii) the local government approves, in accordance with the local government's policy under section 5.90A, the relevant person's attendance at the event;
 or
 - (b) if the gift is in a class of gifts prescribed for the purposes of this subsection.

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; or
 - (b) an interest in the imposition of any rate, charge or fee by the local government; or
 - (c) an interest relating to —
 - (i) 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; or
 - (ii) a gift permitted by section 5.100A; or
 - (iii) reimbursement of an expense that is the subject of regulations made under section 5.101A;

or

 - (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;

or

 - [(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; or
 - (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; or
 - (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; or
 - (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; or
 - (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: 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; No. 26 of 2016 s. 12.]

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.
- (1A) Subsection (1) does not apply if —
 - (a) the interest disclosed is an interest relating to a gift; and
 - (b) either —
 - (i) the amount of the gift exceeds the amount prescribed for the purposes of this subsection; or
 - (ii) the gift is 1 of 2 or more gifts made by 1 person to the disclosing member at any time during a year and the sum of the amounts of those 2 or more gifts exceeds the amount prescribed for the purposes of this subsection.
- (2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with —
 - (a) the extent of any participation allowed by the council or committee; and
 - (b) if the decision concerns an interest relating to a gift, the information prescribed for the purposes of this paragraph.
- (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.

[Section 5.68 amended: No. 16 of 2019 s. 30.]

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.
- (5) A decision under this section must be recorded in the minutes of the meeting relating to the matter.

[Section 5.69 amended: No. 49 of 2004 s. 53; No. 16 of 2019 s. 31.]

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: 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.
Penalty for this subsection: a fine of \$10 000 or imprisonment for 2 years.
- (2A) Subsection (2) applies to a CEO even if the advice or report is provided in accordance with a decision made under section 5.71B(2) or (6).
- (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 for this subsection: a fine of \$10 000 or imprisonment for 2 years.

[Section 5.70 amended: No. 16 of 2019 s. 32.]

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 Ref: Various
Author: Codi Brindley-Mullen, Manager of Governance
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

NIL known at this time.

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
- Manager of Governance
- Manager Works and Services
- Council Staff
- Council
- Community Members.

STAFF RECOMMENDATION

That Council receive the status report.

9.4 KEEPING OF THREE DOGS - 28 MOORE STREET

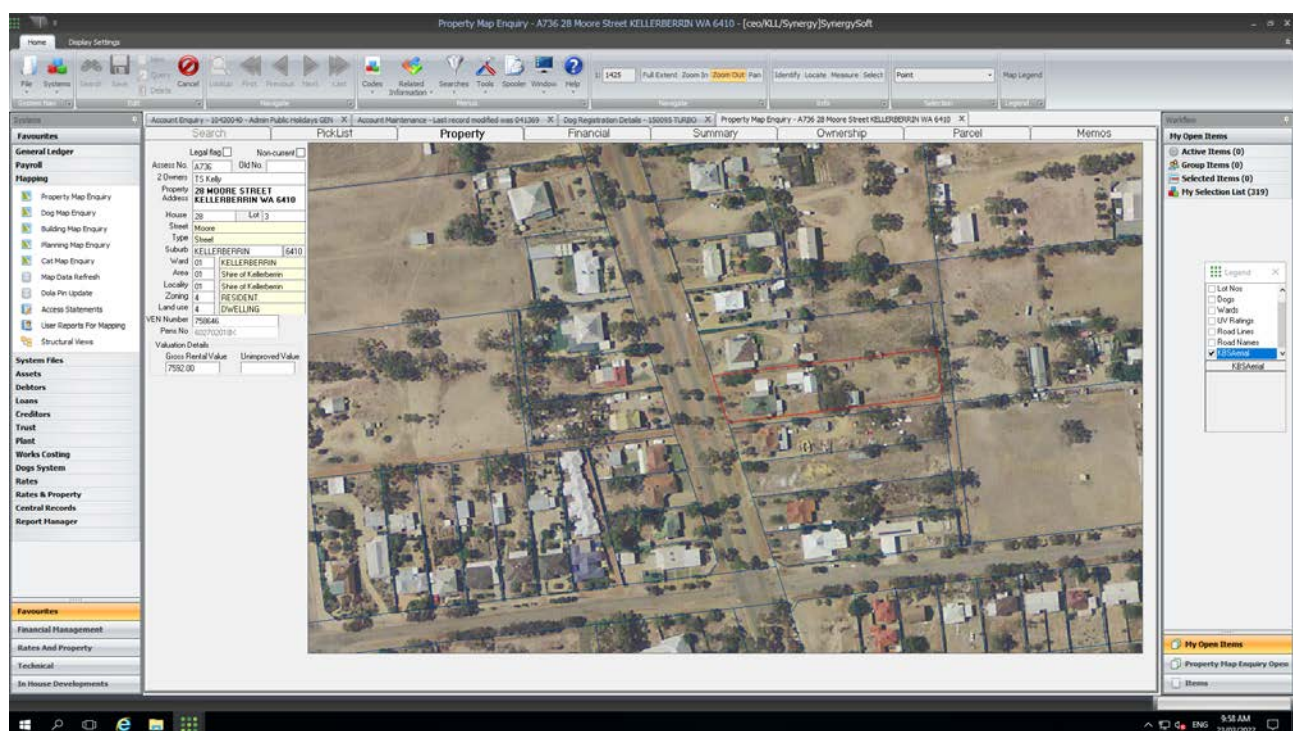
File Ref: A736, ICR222837
Author: Raymond Griffiths, Chief Executive Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. 28 Moore St, 3 Dog Letter request (under separate cover)

BACKGROUND

Council on the 15th March 2022 received a hand delivered letter from Councils Shire President for the application to keep three (3) dogs at 28 Moore Street, Kellerberrin.

The property is register to James and Taryn Kelly.

STAFF COMMENT



A check of Councils Dog Register provided the following information:-

The two dogs that are currently located at 28 Moore Street are registered with the Shire of Kellerberrin as per below information.

Tag No	Name of Dog	Desc.	Colour Marking	Sex	Sterilised	Owner Other Name	Owner Surname	Microchip No
LT0816	Ivy	German Shepherd x Husky	Tan	Female	Yes	Taryn	Kelly	941000025760371
LT0187	Reg	Border Collie	Red and White	Male	Yes	James	Kelly	953010004890565

The Third dog that is being requested to be approved currently isn't registered with the Shire of Kellerberrin. Please find below the details of this dog

Tag No	Name of Dog	Desc.	Colour Marking	Sex	Sterilised	Owner Other Name	Owner Surname	Microchip No
N/A	Alby	Border Collie X	Black and White	Male	Yes	Taryn	Kelly	953010005670259

The Ranger has inspected the property on Thursday, 24th March 2022 and advised that the current fencing at the property is classified as a sufficient fence for the purpose of keeping dogs.

TEN YEAR FINANCIAL PLAN

Nil (not applicable at this date and therefore unknown)

FINANCIAL IMPLICATIONS

All adult dogs are required to be registered with the Council and an annual registration fee is payable, with two dogs currently registered as life registrations.

The third dog hasn't been registered or paid for at this time.

STATUTORY IMPLICATIONS**- Dog Act 1976 as amended****Part V — The keeping of dogs****26. Limitation as to numbers**

- (1) The provisions of this Part shall not operate to prevent the keeping on any premises of 2 dogs over the age of 3 months and the young of those dogs under that age.
- (2) Subject to subsection (1), a local government, pursuant to local laws, may limit the number of dogs over the age of 3 months, or the number of such dogs of any specified breed or kind, that may be kept on any premises situate in a specified area to which those local laws apply unless those premises are licensed as an approved kennel establishment or are exempt.
- (3) Where by a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption —
 - (a) may be made subject to conditions, including a condition that it applies only to the dogs specified therein;
 - (b) shall not operate to authorise the keeping of more than 6 dogs on those premises; and
 - (c) may be revoked or varied at any time.
- (4) Subject to the provisions of subsection (3), a person who keeps on any premises, not being premises licensed as an approved kennel establishment, dogs over the age of 3 months in numbers exceeding any limit imposed in relation to those dogs by a local law made under subsection (2) commits an offence.
Penalty: \$1 000 and a daily penalty of \$100.
- (5) Any person who is aggrieved —
 - (a) by the conditions imposed in relation to any exemption from the provisions of a local law placing a limitation on the number of dogs that may be kept on any premises; or
 - (b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption,

may apply to the State Administrative Tribunal for a review of the decision.

- (6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.

[Section 26 amended by No. 23 of 1987 s. 22; No. 14 of 1996 s. 4; No. 24 of 1996 s. 16; No. 55 of 2004 s. 256 and 268.]

Shire of Kellerberrin Dogs Local Law 2012**EXTRACT from "Dogs Local Laws"****PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS****3.1 Dogs to be confined**

(1) An occupier of premises on which a dog is kept must—

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
- (d) maintain the fence and all gates and doors in the fence in good order and condition; and
- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

Penalty: Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000.

3.2 Limitation on the number of dogs

(1) This clause does not apply to premises which have been—

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) granted an exemption under section 26(3) of the Act.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—

- (a) two dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; or
- (b) four dogs over the age of 3 months and the young of those dogs under that age if the premises is situated outside a townsite.

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 Community Consultation has been undertaken;

- Chief Executive Officer;
- Manager of Governance;
- Shire President;
- Shire Contract Ranger; and
- Taryn Kelly

STAFF RECOMMENDATION

That Council approves the keeping of three dogs at 28 Moore Street Kellerberrin subject to the following conditions:-

1. *Maintenance of suitable fencing to contain the dog;*
2. *The dogs not causing a nuisance. This includes barking, odours emanating from the yard or house due to accumulated faeces and or urine etcetera, intimidation of lawful passers-by by the demonstration of aggressive behaviour by the dogs either singly or in concert;*
3. *The approval becomes **void** if any “condition” is breached and the approval is not transferable to another property or persons; and*
4. *The approval does not entitle the holder to replace any of the existing dogs in the event of loss of any of the animals.*

9.5 FIRE CONTROL OFFICER APPOINTMENTS

File Ref: BUSH17.1
Author: Codi Brindley-Mullen, Manager of Governance
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

BACKGROUND

Bush Fire Advisory Committee Meeting - Tuesday 22nd March 2022

COMMITTEE RESOLUTION

MIN 003/22 **MOTION - Moved Member. Steber** **Seconded Member. McDonald**

That the Bushfire Advisory Committee recommend to Council that:

- *Matt Steber nominated Simon Tighe*
Geoff Ryan second the nomination.
Simon Tighe accepted
Simon Tighe be appointed as Chief Bushfire Control Officer and Daadenning Creek Fire Control Officer until April 2024;
- *Geoff Ryan nominated Matt Steber*
Murray McDonald second the nomination.
Matt Steber accepted
Matt Steber be appointed as Deputy Chief Bushfire Control Officer and Doodlakine Fire Control Officer until April 2024;
- *Matt Steber nominated Geoff Ryan*
Gavin Morgan second the nomination.
Geoff Ryan accepted
Geoff Ryan be appointed as Baandee - Fire Control Officer until April 2024;
- *Matt Steber nominated Murray McDonald*
Geoff Ryan second the nomination.
Geoff Ryan accepted
Geoff Ryan be appointed as Mt Caroline - Fire Control Officer until April 2024; and
- *Jason Syred nominated Gavin Morgan*
Murray McDonald second the nomination.
Gavin Morgan accepted
Gavin Morgan be appointed as North Kellerberrin - Fire Control Officer until April 2024

CARRIED 8/0

REASON: *No nomination for Central Fire Control Officer, Central to hold a Meeting.*

STAFF COMMENT

Council as per below legislation is required to appoint Fire Control Officers including its Chief Bush Fire Control Officer and Deputy Chief Bush Fire Control Officer.

The Bush Fire Advisory Committee are working on a rotational basis for the Chief and Deputy Chief Bush Fire Control Officer to ensure that the roll is shared for knowledge and assist members not being caught in the role for years on end which leads to members willing to complete the role for a two year period for each respective role.

Councils Chief Executive Officer since the Bush Fire Advisory meeting has been trying to find a new Fire Control Officer for the Central Brigade after receiving the resignation of Mr Kelvin Tiller. The task has been difficult with the little number of members for Central. Mr Tiller has been contacted again to see if he is happy to continue on a limited capacity of which Mr Tiller agreed. Mr Tiller will be Fire Control Officer for Central Brigade as per the following;

- October – February (Fire Control Officer, doing weather checks, control of fires in the Central Area etc)
- February – October (any permits being issued for burning is to be completed by the Shire, adjacent brigade or the Chief Bush Fire Control Officer.

TEN YEAR FINANCIAL PLAN

Nil known at this time.

FINANCIAL IMPLICATIONS

Nil known at this time.

STATUTORY IMPLICATIONS***Bush Fires Act 1954*****38. Local government may appoint bush fire control officer**

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

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

precedence over him in the order of seniority determined under paragraph (cb) is available and able to discharge those duties.

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

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

38A. Authority may appoint Chief Bush Fire Control Officer

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

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

39. Special powers of bush fire control officers

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

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

[(b) *deleted*]

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

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

- (1) On the outbreak of a bush fire at a place within or adjacent to the district of a local government, the bush fire control officers, bush fire brigade officers, or bush fire brigade members, of the local government, or as many of them as may be available may, subject to this Act, take charge of the operations for controlling and extinguishing the bush fire or for preventing the spread or extension of the fire.
- (2) Where a bush fire to which this section applies occurs, if a bush fire control officer, bush fire brigade officer, or member of a bush fire brigade, of the local government in whose district the bush fire is burning is not present at the fire, a bush fire control officer, a bush

fire brigade officer, or member of a bush fire brigade, of a local government whose district is adjoining or adjacent, may exercise in respect of the bush fire, all powers and authorities of a bush fire control officer of the local government in whose district the fire is burning.

- (3) This section applies only to bush fires which —
- have been lit or are maintained unlawfully;
 - have occurred accidentally;
 - have ceased to be under control or are not adequately controlled; or
 - are declared in the regulations to be bush fires to which this section applies.

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

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

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

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

STRATEGIC 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:

- Relationships that bring us tangible benefits (to the Shire and our community)
- Our lifestyle and strong sense of community
- 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
- Manager of Governance
- Bush Fire Advisory Committee

STAFF RECOMMENDATION

That Council appoint the following Fire Control Officers for a two year period to expire April 2024;

- Mr Simon Tighe, Chief Bush Fire Control Officer and Daadenning Creek Fire Control Officer;*
- Mr Matthew Steber, Deputy Bush Fire Control Officer and Doodlakine Fire Control Officer;*
- Mr Geoff Ryan, Baandee Fire Control Officer;*
- Mr Murray McDonald, Mt Caroline Bush Fire Control Officer; and*
- Mr Gavin Morgan, North Kellerberrin Bush Fire Control Officer*
- Mr Kelvin Tiller, Central Bush Fire Control Officer*

9.6 2022/23 ESL BUDGET ALLOCATION - ADDITIONAL PPE REQUEST

File Ref: BUSH 17.1
Author: Codi Brindley-Mullen, Manager of Governance
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. New 22-23 Budget Request (under separate cover)
2. Original offer for 22-23 ESL (under separate cover)

BACKGROUND

Bush Fire Advisory Committee Meeting – Tuesday 22nd March 2022

MIN 009/22 MOTION - Moved Member. Ryan Seconded Member. McDonald

That the Bush Fire Advisory Committee recommend to Council that further funding allocation be included in the 22/23 ESL Grant Application to supply the following items for each brigade vehicle;

- *3M™ FF-400 Series Full Face Respirators (Three for each brigade)*
- *Firewalker WCU Unlined Level 1 Glove (Three for each brigade)*
- *Bolle Backdraft Fire Goggle – Single Strap (Three for each brigade)*
- *Solberg FIRE-BRAKE Foam – Class A 20L (Two for each brigade)*

STAFF COMMENT

Council each year receives correspondence from DFES regarding the ESL operating grant allocation. Council has the capacity to accept the offer provided by DFES or request additional funding through a completing the operating grant application form.

The form requires documentation to prove up the proposed expenditure so DFES can review and either approve or decline the application.

Council has been allocated \$43,230 for the 2022/23 financial year for the operating grant. At the time of receipt in January 2022 this figure seemed suffice for what was required, however since attending the fire in Shackleton it was recognised the brigades could utilise additional PPE.

TEN YEAR FINANCIAL PLAN

Council has an allocation in the Ten Year Financial Plan for the operating income and expenditure for ESL.

FINANCIAL IMPLICATIONS

ESL Operating Income and Expenditure for the 2022/23 financial year. The intention of the grant is for the expenditure associated with Bush Fire Brigades to be equal to the operating grant provided by DFES.

STATUTORY IMPLICATIONS

Nil

STRATEGIC COMMUNITY PLAN

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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
- Manager of Governance
- Bush Fire Advisory Committee

STAFF RECOMMENDATION

That Council endorse the request from the Bush Fire Advisory Committee to purchase additional PPE for the Bush Fire Brigades as per the following;

- *3M™ FF-400 Series Full Face Respirators (Three for each brigade)*
- *Firewalker WCU Unlined Level 1 Glove (Three for each brigade)*
- *Bolle Backdraft Fire Goggle – Single Strap (Three for each brigade)*
- *Solberg FIRE-BRAKE Foam – Class A 20L (Two for each brigade)*

9.7 SET FIRE TO BUSH PERMIT - PRO-FORMA - FORM 3

File Ref: BUSH 17.1
Author: Codi Brindley-Mullen, Manager of Governance
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Demo Permit (under separate cover)

BACKGROUND

Bush Fire Advisory Committee Meeting – Tuesday 22nd March 2022

MIN 005/22 **MOTION - Moved Member. Steber** **Seconded Member. Morgan**

That the Bush Fire Advisory Committee recommend to Council the following amendments to the Demo permit as per Attachment 1 as the guide to complete all Permit to set fire to the bush, (form 3);

- *The location can stipulate the nearest crossroads to locate the fire; and*
- *Permits can be issues to a maximum of fourteen (14) days.*

STAFF COMMENT

Due to the recent Fires in Bruce Rock it is noted that all Bushfire Control Officer should have a refresher on filling out Permits to ensure these are completed correctly.

A Pro-forma Permit has been issued out to Bushfire Control Officers to illustrate how to complete the Permit correctly and give them guidance on what is a minimum requirement on these Permits. (Attachment 1).

The committee at the abovementioned Bushfire Advisory Committee meeting requested to modify two items on the Pro-forma.

TEN YEAR FINANCIAL PLAN

Nil known at this time.

FINANCIAL IMPLICATIONS

Nil known at this time.

STATUTORY IMPLICATIONS**Bush Fires Regulations 1954****Part IV — Burning during restricted times and prohibited times****15. Permits to burn under s. 18**

- (1) A local government or a bush fire control officer issuing a permit to burn under the provisions of section 18 of the Act shall do so in the Form 3 in the Appendix.
- (2) Where a person has applied to a bush fire control officer for a permit to burn and that officer has refused a permit or granted a permit which is subject to special conditions, the person shall not apply to another bush fire control officer for a permit to burn in relation to the same bush but he may apply to the local government or chief bush fire control officer in the district and the local government or chief bush fire control officer may grant a permit to burn or vary the special conditions of the permit.

[Regulation 15 amended in Gazette 24 Nov 1958 p. 3101; 22 Dec 1998 p. 6855, 6858.]

15A. Bush fire control officer to comply with directions of local government

Where a local government issues directions to a bush fire control officer as to the manner in which or the conditions under which permits to burn shall be issued by that officer, he shall comply with those directions.

[Regulation 15A inserted in Gazette 21 Jan 1957 p. 88; amended in Gazette 22 Dec 1998 p. 6858.]

15B. Obligations of permit holder

- (1) Subject to the Act a person who has obtained a permit to burn the bush under section 18 of the Act (in this regulation called **the permit holder**) shall comply with the conditions set out in this regulation in relation to the burning of the bush.
- (2) The permit holder shall give notice of his intention to burn the bush upon land, or upon a part of land, to —
 - (a) the chief executive officer or a bush fire control officer of the local government in whose district that land is situated;
 - (b) the owner or occupier of all land adjoining that land;
 - (c) a forest officer if the bush is situated within 3 kilometres of forest land; and
 - (d) an officer or employee of each notifiable authority (if any), being an officer or employee who is apparently authorised to accept that notice.
- (3) The period of notice required under subregulation (2) shall not be —
 - (a) more than 28 days; or
 - (b) less than 4 days unless the notice is given verbally in which case the minimum period of notice may be determined by mutual agreement.
- (4) Notice required to be given to an owner, occupier or other person under subregulation (2) may be given by any of the following methods —
 - (a) by verbal communication or in writing as will ensure (except in the case mentioned in paragraph (c)) that every owner, occupier or other person is made aware of the intention to burn and the date and time thereof; or
 - (b) by delivering it at the premises on which the person to whom notice is to be given lives or carries on business or by leaving it with a person who is apparently over the age of 16 years who resides or is employed on the premises; or
 - (c) in the case of an owner or occupier of adjoining land who is not at the time residing on the adjoining land by posting, not less than 8 days prior to the first day on which it is intended to burn the bush, the notice by prepaid letter addressed to the last known place of abode or business of the owner or occupier.
- (5) A notice given under subregulation (2) shall contain full particulars of the locality where the bush proposed to be burnt is situated.
- (6) Before setting fire to the bush the permit holder shall arrange for and provide, in order to assist in keeping the fire under control and preventing it from spreading beyond the land on which the burning is to take place, at least 3 able-bodied persons who shall be constantly in attendance at the fire from the time it is lit until no burning or smouldering fuel is within 30 metres of the perimeter of the firebreak surrounding the burnt area or, if there is no such firebreak, within 30 metres of the perimeter of the burnt area.
- (7) Where for any day, or any period of a day, specified in a notice given under subregulation (2) the fire danger forecast issued by the Bureau of Meteorology in Perth in respect of the locality where the bush proposed to be burnt is situated is either “catastrophic”, “extreme”, “severe” or “very high” the permit holder shall not burn the bush in the locality on that day or during that period but may burn the bush in the locality on the first day next following that day or that period on which the fire danger forecast issued by the Bureau of Meteorology is below “very high”.

- (8) The permit holder shall not light a fire to burn the bush on a Sunday if the burning of bush on Sundays is for the time being prohibited in the district in which the bush is situated pursuant to regulation 15C(1).
- (9) The permit holder shall not light a fire to burn the bush on a day that is a public holiday in the district in which the bush is situated if the burning of the bush on that day is for the time being prohibited in that district pursuant to regulation 15C(2).

[Regulation 15B inserted in Gazette 10 Mar 1978 p. 705-6; amended in Gazette 22 Dec 1998 p. 6856, 6858; 1 Dec 2009 p. 4831.]

15C. Local government may prohibit burning on certain days

- (1) A local government may by notice published in a newspaper circulating in its district prohibit the burning of the bush in that district on Sundays during the restricted burning times and may, by subsequent notice so published, revoke that notice.
- (2) A local government may by notice published in a newspaper circulating in its district specify days, being days that are public holidays in that district, on which the burning of the bush is prohibited in that district during the restricted burning times and may, by subsequent notice so published, revoke that notice either absolutely or for the purpose of substituting another notice in lieu thereof.
- (3) A notice published under subregulation (1) or (2) shall have effect during the restricted burning times in each year until it is revoked.

[Regulation 15C inserted in Gazette 10 Mar 1978 p. 706; amended in Gazette 22 Dec 1998 p. 6858.]

STRATEGIC COMMUNITY PLAN

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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
- Manager of Governance
- Bush Fire Advisory Committee

STAFF RECOMMENDATION

That Council endorse the Pro-forma permit as per Attachment 1 as the guide to complete all Permits to set fire to the bush, (form 3) with the following amendments;

1. *Enable the timeline for burning to incorporate maximum of 14 days; and*
2. *The location of the area to be burnt requested can list road names for ease of identification.*

9.8 DIRECT DEBIT LIST AND VISA CARD TRANSACTIONS - MARCH 2022

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 March 2022.

Municipal Direct Debit List				
Date	Name	Details	\$	Amount
1-Mar-22	NAB	Merchant Fess - Trust		4.29
1-Mar-22	NAB	Merchant Fees - Caravan Park		51.90
1-Mar-22	NAB	Merchant Fees - Muni		84.54
1-Mar-22	Westnet	Internet Fees		103.99
1-Mar-22	NAB	Merchant Fees - CRC		230.47
1-Mar-22	Department of Communities	Rent		420.00
3-Mar-22	Shire of Kellerberrin	Precision Superannuation		11,295.47
3-Mar-22	Shire of Kellerberrin	Pay Run		62,327.76
7-Mar-22	Department of Transport	Vehicle Inspections		177.90
10-Mar-22	Shire of Kellerberrin	Creditors Payments		133,006.18
15-Mar-22	Department of Communities	Rent		420.00
17-Mar-22	Shire of Kellerberrin	Pay Run		63,371.31
18-Mar-22	Shire of Kellerberrin	Precision Superannuation		11,231.60
24-Mar-22	Nayax Australia	Vending Machine - Caravan Park		38.17
24-Mar-33	Shire of Kellerberrin	Creditors Payments		176,742.74
29-Mar-22	Department of Communities	Rent		420.00
		TOTAL	\$	459,926.32
Trust Direct Debit List				
Date	Name	Details	\$	Amount
31-Mar-22	Department of Transport	Licencing Payments March 2022		163,592.90
		TOTAL	\$	163,592.90
Visa Transactions				
Date	Name	Details	\$	Amount
09-Mar-22	Shire of Kellerberrin	Change of Plates KE 1		18.30
26-Mar-22	NAB	Bank Fees		9.00
		TOTAL - CEO	\$	27.30

Date	Name	Details	\$	Amount
16-Mar-22	Officeworks	Disposable Gloves COVID Volunteers		27.49
28-Mar-22	NAB	Bank Fees		9.00
		TOTAL -DCEO	\$	36.49
		TOTAL VISA TRANSACTIONS	\$	63.79

STAFF COMMENT

The Direct Debit List and Visa Card Transactions are presented for Council to note for the month of March 2022.

TEN YEAR FINANCIAL PLAN

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

FINANCIAL IMPLICATIONS

Financial Management of 2021/2022 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

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
- Senior Finance Officer

STAFF RECOMMENDATION

That Council note the direct debit list for the month of March 2022 comprising of;

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

9.9 CHEQUE LIST MARCH 2022

File Number: N/A
Author: Zene Arancon, Finance Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. March 2022 Payment List (under separate cover)

BACKGROUND

Accounts for payment from 1st March to 31st March 2022

TRUST

TRUST TOTAL	\$ 167,841.55
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MUNICIPAL FUND**Cheque Payments**

34935-34938	\$ 13,255.24
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EFT Payments

13255-13345	\$ 309,748.92
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Direct Debit Payments	\$ 35,872.92
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TOTAL MUNICIPAL	\$ 358,877.08
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STAFF COMMENT

During the month of March 2022, the Shire of Kellerberrin made the following significant purchases:

Department of Transport - TRUST DIRECT DEBITS Licensing CRC	\$ 163,592.90
Department of Transport transactions March 2022	
Pilbara Motor Group	\$ 69,015.36
Purchase of Toyota Prado for CEO (Private sale for previous vehicle)	
Western Australian Treasury Corporation	\$ 33,504.08
Loan No. 118 Interest & principal payments - Rec Centre Redevelopment	
Fire And Emergency Services (WA)	\$ 23,311.29
ESLB 3rd Quarter contribution 2021/2022	
R Munns Engineering Consulting Services	\$ 17,593.27
Consulting works for various Shire road constructions	
Tom's Tree Service	\$ 17,160.00
Power line tree pruning various Shire streets/roads	
United Card Services Pty Ltd	\$ 15,711.50
Total supply February 2022	
Synergy	\$ 13,212.32
Power charges various Shire properties February-March 2022	
Synergy	\$ 12,634.40
Power charges various Shire properties December 2021-February 2022	
Beam Superannuation	\$ 11,295.47
Superannuation for pay run 03/03/2022	
Beam Superannuation	\$ 11,231.60
Superannuation pay run 17/03/2022	
Beam Superannuation	\$ 10,795.19
Superannuation pay run	
Water Corporation	\$ 9,827.39
Water charges for various Shire properties December 2021-February 2022	

Avon Waste	\$ 8,704.66
Domestic & commercial collections February 2022	
Western Australian Local Government Association	\$ 8,030.00
Purchase of rapid antigen tests (RAT) self test	
Great Southern Fuel Supplies	\$ 7,017.09
Total supply February 2022	
Woodstock Electrical Services	\$ 5,039.59
Claim works for 6 Bedford St & music for Australia Day 2022	

TEN YEAR FINANCIAL PLAN

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

FINANCIAL IMPLICATIONS

Shire of Kellerberrin 2021/2022 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 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 of Governance
- Finance Officer

STAFF RECOMMENDATION

That Council notes that during the month of March 2022, 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 \$ **358,877.08** on vouchers EFT , CHQ, Direct payments*
2. *Trust Fund payments totalling \$ **167,841.55** on vouchers EFT, CHQ, Direct payments*

9.10 FINANCIAL ACTIVITY STATEMENT - MARCH 2022

File Number: FIN
Author: Brett Taylor, Senior Finance 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.

Council's July 2021 Ordinary Meeting of Council – 20th July 2021

MIN 001/21 MOTION - Moved Cr. Reid Seconded Cr. Steber

That Council:

PART G – MATERIAL VARIANCE REPORTING FOR 2021/2022

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 2021/2022 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 31st March 2022.

TEN YEAR FINANCIAL PLAN

Financial Management of 2021/2022 Budget.

FINANCIAL IMPLICATIONS

Financial Management of 2021/2022 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
- Senior Finance Officer

STAFF RECOMMENDATION

That Council adopt the Financial Report for the month of March 2022 comprising;

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

9.11 BUILDING REPORTS MARCH 2022

File Ref:	BUILD06
Author:	Amanda Stewart, Administration Officer
Authoriser:	Raymond Griffiths, Chief Executive Officer
Attachments:	1. Building Applications Received - March 2022 (under separate cover) 2. Building Permits Issued - March 2022 (under separate cover)

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 were two (2) applications received for a "Building Permit" during the March period. A copy of the "Australian Bureau of Statistics appends".
2. There were two (2) "Building Permit" issued in the March 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 March 2022 period.*
2. *Acknowledge the "Return of Building Permits Issued" for the March 2022 period.*

10 DEVELOPMENT SERVICES REPORTS

Nil

11 WORKS & SERVICES REPORTS

11.1 DEVELOPMENT APPLICATION - CBH

File Ref: Ass
Author: Lewis York, Town Planner
Authoriser: Raymond Griffiths, Chief Executive Officer
Applicant: Public Transport Authority / Cooperative Bulk Handling
Location: Lot 52 Mather Road, Kellerberrin
Attachments: 1. Development Application & Plans (under separate cover)

BACKGROUND

An application has been received from Giselle Allix on behalf of Cooperative Bulk Handling for the works and use of a new amenity building at the Kellerberrin site, the building includes office space/meeting room and toilets. Existing on the lot are grain storage facilities as well as truck marshalling areas, out loading and staff facilities. The new amenity building will replace the existing building at the south end of the CBH site (near south east exit).





SITE

Shire of Kellerberrin Local Planning Scheme

Local Planning Scheme No.4

Zoned: **General Agriculture**

3.2. OBJECTIVES OF THE ZONES

3.2.6 General Agriculture Zone

- a) To ensure the continuation of broad-hectare farming as the principal land use in the District and encouraging where appropriate the retention and expansion of agricultural activities.
- b) To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment.

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

4.11 RURAL DEVELOPMENT

4.11.1 Buildings within the General Agriculture zone shall comply with the following minimum lot boundary setbacks: Front: 20.0 metres Rear: 15.0 metres Side: 5.0 metres

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

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

4.5. VARIATIONS TO SITE AND DEVELOPMENT STANDARDS AND REQUIREMENTS

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

4.5.2. In considering an application for development approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to –

- a) consult the affected parties by following one or more of the provisions for advertising uses under Clause 64 of the deemed provisions; and AMD 2 GG 12/09/17
- b) have regard to any expressed views prior to making its determination to grant the variation.

4.5.3 The power conferred by this clause may only be exercised if the local government is satisfied that –

- a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 67 of the deemed provisions; and AMD 2 GG 12/09/17
- b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.

STRATEGIC PLAN IMPLICATIONS

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COMMUNITY CONSULTATION

The following consultation took place:

- Town Planner

PLANNING ASSESSMENT

The proposal seeks to improve the amenities at the Kellerberrin CBH site. Whilst the majority of the CBH site is zoned industrial (Lot 311) Lot 52 is zoned General Agriculture. The general agriculture zone sets out prescribed setbacks are as follows:

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

It is noted that these setbacks would be overly restrictive for the narrow lot and proposed amenity building. It is therefore suggested that the amenity building be approved not subject to the setback requirements of the zone.

The lot is between the old Mather Road and the railway line which didn't get included in the Town Planning Scheme Amendment.

STAFF RECOMMENDATION

That Council

1. *Grants conditional development approval for the construction and use of an amenity building at Lot 52 Mather Road, Kellerberrin*

General Conditions

- i. *Planning approval will expire if the development is not substantially commenced within two years of this approval;*
- ii. *The endorsed approved plans shall not be altered without prior written approval of the Shire; and*
- iii. *The outbuilding shall not be used for human habitation at any given time, unless written approval has been granted by the shire.*

Advice Notes

Planning approval is not considered building approval. A building permit shall also be obtained.

11.2 DEVELOPMENT APPLICATION: FENCE

File Ref: A538
Author: Lewis York, Town Planner
Authoriser: Raymond Griffiths, Chief Executive Officer
Applicant: Mr Andrew Jeffery
Location: 16 Sewell Street, Kellerberrin
Attachments: 1. Development Application & Plan (under separate cover)

BACKGROUND**17th November 2020 Ordinary Council Meeting**

A development application has been received from Mr. Andrew Jeffery for the use and development of two (2) sea containers at 16 Sewell Street, Kellerberrin. The lot has been levelled with sand and the containers and a caravan have been installed. Mr. Jeffery has informed the shire that he intends to build a dwelling and an outbuilding on the lot. It is noted that the second container will be removed once building work has been completed.

One container was approved with a requirement for a pitched roof, while a second was approved for a 12 month period.

SITE

**Shire of Kellerberrin Local Planning Scheme**

Zoned: Residential

R10/40

Lot size: 1689m²

Local Planning Scheme No.4**3.2. OBJECTIVES OF THE ZONES**

The objectives of the zones are — 3.2.1 Residential Zone

- a) To retain the single dwelling as the predominant form of residential development in the Shire's townsites.
- b) To provide for lifestyle choice in and around the townsites with a range of residential densities.
- c) To allow for the establishment of non-residential uses subject to local amenities not being adversely affected.

INTERPRETATION OF THE ZONING TABLE

3.4.1. Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.

3.4.2. If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —

- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of Clause 64 of the deemed provisions in considering an application for development approval; or AMD 2 GG 12/09/17

- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted. 3.4.3 Clause 18(7) of the model provisions, to provide clarity to the interpretation of the zoning table.

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
- (j) Planning Schemes) Regulations 2015;
- (k) 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;
- (l) the built heritage conservation of any place that is of cultural significance;
- (m) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (n) 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; 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;
- (a) the comments or submissions received from any authority consulted under clause 66;
- (b) any other planning consideration the local government considers appropriate.

Residential Design Codes 2015

Part 5 – Design elements for all single house(s) and grouped dwellings; and multiple dwellings in areas coded less than R40

Page 25

Design principles <i>Development demonstrates compliance with the following design principles (P)</i>	Deemed-to-comply <i>Development satisfies the following deemed-to-comply requirements (C)</i>	5.2 Streetscape requirements
5.2.4 Street walls and fences P4 Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need: <ul style="list-style-type: none"> for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial. 	C4.1 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 (refer Figure 12). C4.2 Solid pillars that form part of front fences not more than 1.8m above natural ground level provided the horizontal dimension of the pillars is not greater than 400mm by 400mm and pillars are separated by visually permeable fencing in line with C4.1 (Refer Figure 12).	
5.2.5 Sight lines P5 Unobstructed sight lines provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, rights-of-way, communal streets , crossovers, and footpaths.	C5 Walls , fences and other structures truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, or other structures adjoin: <ol style="list-style-type: none"> a driveway that intersects a street, right-of-way or communal street; a right-of-way or communal street that intersects a public street; and two streets that intersect. (refer Figure 9a). 	
5.2.6 Appearance of retained dwelling P6 Dwellings retained as part of a grouped or multiple dwelling development , dwelling extension or redevelopment are to: <ul style="list-style-type: none"> enhance the streetscape appearance of the existing dwelling(s) retained; or complement established or future built form in the locality as specified within the relevant local planning framework. 	C6 Where an existing dwelling is retained as part of a grouped dwelling development , the appearance of the retained dwelling is upgraded externally to an equivalent maintenance standard of the new (or the rest of) the development.	

Any fencing above 1.2m must be 'visually permeable'. The Residential Design Codes define this as:

- Continuous vertical or horizontal gaps of 50mm or greater width, occupying not less than one third of the total surface area
- Continuous vertical or horizontal gaps less than 50mm width, occupying at least one half of the total surface area in aggregate
- A surface offering equal or lesser obstruction to view

Vehicle sightlines

Front fences must be truncated or be no higher than 750mm within 1.5m of where fences and walls adjoin vehicle access points, where a driveway meets a public street or where two streets intersect (e.g. corner lot). Any fencing above 750mm in these areas must be visually permeable. Pillars within 1.5m of vehicle access points, or where two streets intersect are permitted to a height of 1.8m, with a maximum dimension of 350mm x 350mm.

5.2.1 Street walls and fences – Part 5 of R-Codes Volume 1 (Clause 5.2.4 of R-Codes Volume 1)

Fences (excluding pillars) higher than 1.2m should be [visually permeable](#) along all street types, including [communal streets](#) (refer to [Figure 12](#) in the R-Codes Volume 1). Where a [dwelling](#) fronts onto an arterial road carrying high traffic volumes, or where protection is needed from headlight glare from such a road, there may be a case to justify a high [wall](#) especially to provide privacy to an [outdoor living area](#). In these circumstances a solid wall of up to 1.8m high would be acceptable for a minimal proportion of the [frontage](#), on approval by the [decision-maker](#) and provided the remainder of the frontage provides for views to the street. [Design principles](#) are provided in the R-Codes Volume 1 to guide circumstances where a decision-maker could grant such approval.

Ideally, outdoor living areas should be located behind the [setback](#) line (R-Codes Volume 1 [clause 5.3.1](#)), however, in some circumstances the only possible location for an outdoor living area will be in the street setback area. Where a narrow lot faces north to the street, the street setback area may be the only possible area open to winter sun. In these cases, part of the area should be permitted to be screened from view for privacy. Where a private courtyard is unavoidable in the front setback area, [screening](#) with dense planting and/or a permeable fence that will provide reasonable privacy is appropriate (refer to figures 36 - 38).



Figure 36: Traditional and low fences are acceptable.



Figure 37: High walls are not acceptable unless in exceptional circumstances.

Shire of Kellerberrin- Fencing Local Law 2016

Fence- means any structure used or functioning as a barrier, irrespective of where it is located and includes any gate;

front boundary- means the boundary line between a lot and the thoroughfare upon which that lot abuts, or in the case of a lot abutting on more than one thoroughfare the boundary line between the lot and the primary thoroughfare;

front fence- means a fence erected on the front boundary of a lot or on a line adjacent to the front boundary;

front setback area- means the area between the building line of a lot and the front boundary of that lot;

2.1 Sufficient fences

(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.

2.2 Fences within front or rear setback areas

(1) Notwithstanding the provisions of clause 2.1, a person shall not erect a fence within the front or rear setback areas, including along the side boundaries, unless the fence complies with the provisions of the local planning scheme or the Residential Design Codes.

(2) Where there is inconsistency between the standards and requirements of the local planning scheme and those specified in the Residential Design Codes, the standards and requirements of the local planning scheme shall prevail to the extent of the inconsistency.

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.

Schedule 2**RESIDENTIAL LOT**

[Clause 2.1(2)(a)]

Specifications for a sufficient fence on a residential lot

1. Categories A,B,C,D,E & F in this Schedule, with minimum and maximum specifications as stated, is a sufficient fence on a residential lot.
2. An application must be made to the local government for grant of consent to any variation to the specifications in this Schedule.
 - (1) Height: 1,800 millimetres except with respect to the front or rear setbacks; minimum height: subject to requirements and standards of local planning scheme.
 - (A) Timber fence
A fully enclosed timber fence is to be built to manufacturer's specifications or in accordance with established construction techniques.
 - (B) Corrugated fence
A fence constructed of corrugated fibre-reinforced pressed cement or steel-sheeting constructed to manufacturer's specifications or which otherwise satisfies the following specifications—
 - (a) length: minimum in-ground length of 25 per cent of the total length of the sheet; depth: minimum in-ground depth of 600 millimetres;
 - (b) total height and depth of fence to consist of a single continuous fibre-reinforced cement or steel sheet;
 - (c) corrugated sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturer's written instructions; and
 - (d) height: 1,800 millimetres except with respect to the front setback area; minimum height: subject to requirements and standards of local planning schemes.
 - (C) Brick, stone or concrete fence
A fence constructed of brick, stone or concrete which satisfies the following requirements and specifications—
 - (a) a site classification is to be provided by a professional engineer in accordance with AS2870-1996 as amended;
 - (b) the footing is to be designed in accordance with AS2870-1996 as amended;
 - (c) fences to be offset at a minimum of 200 millimetres and at maximum 3,000 millimetres centres; or 225 millimetres x 100 millimetres engaged piers to be provided at maximum 3,000 millimetres centres;
 - (d) expansion joints in accordance with the manufacturer's written instructions; and
 - (e) height of the fence to be 1,800 millimetres, except with respect to front, side and rear setback areas for which there is no minimum height but which is subject to requirements and standards of the local planning scheme.

STRATEGIC PLAN IMPLICATIONS

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

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Town Planner
- Owner/Occupier

PLANNING ASSESSMENT

Mr. Jeffery has applied for the development approval of a front boundary fence. It is noted that a temporary fence was erected by the applicant which the Shire deemed to be insufficient and therefore to be taken down. However, this mesh fence is still standing as of April 2022. Mr. Jeffery has begun to erect a new navy blue colour bond style fence that is 2.1m high (300mm of visually permeable lattice). The new fence is setback 6m into the lot. Due to the fences height and setback it requires Council approval as per the Fencing Local Law 2016.

The proposed fence raises several inconsistencies with both the R-Codes and Fencing Local law. Firstly the fence exceeds the r-Codes 1.2m requirement, 1.8m is proposed before the applicants' fence becomes visually permeable. The setback proposed reduces the need for truncations as it is setback so far into the lot (6m). The setback proposed is inconsistent with the majority of fences within the towns residential area. Whilst some front fences do exceed the R-Code height requirements it is believed these were approved prior to the introduction of the codes. It is important that Council ensure consistency when approving or refusing applications of this nature as an approval could set an undesirable precedent. The excessive height of the fence and inconsistency it will create in the streetscape is of concern.

STAFF RECOMMENDATION

That Council Refuse the front fence as it is inconsistent with Cl 4.1 of the Residential Design Codes 2015- deemed to comply requirements and the Shire of Kellerberrin Fencing Local Law- 2016.

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- 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**
- Nil
- 15 CLOSURE OF MEETING**