



# **AGENDA**

## **Ordinary Council Meeting Monday, 20 June 2022**

**Date: Monday, 20 June 2022**

**Time: 2:00pm**

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

## Shire of Kellerberrin

### Ordinary Council Meeting 20<sup>th</sup> June 2022

#### NOTICE OF MEETING

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Kellerberrin will be held on Monday, 20<sup>th</sup> June 2022 in the Council Chamber, 110 Massingham Street, Kellerberrin WA 6410 commencing at 2:00pm.



Raymond Griffiths  
Chief Executive Officer  
Tuesday, 14 June 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 - MAY 2022**

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

Council wishes to encourage all members of the community to take part in the community consultation of the Strategic Community Plan. The survey notices have been published around town, on Councils website and Social Media as well as through emails.

Council encourages you to contact Codi Brindley-Mullen, Manager of Governance if you wish to have face to face consultation.

Well the recent rains have made it in the nick of time as the crops and the roads were drying out. With the good figures received the Gravel Rd Maintenance Program should be able to get some serious Kilometres completed under ideal conditions.

I note that town crew have been busy around town and I have had travellers in the store pass comment on the Main St in recent weeks.

The Kellerberrin Memorial Swimming Pool Stage two (2) is near completion and Stage three (3) tender closes 15<sup>th</sup> June 2022.

Some big decisions will be made by Council at the coming months meeting I wish the councillors well in their decision making.

Kind Regards



Scott O'Neill

**Shire President**

**STAFF RECOMMENDATION**

*That Council receive and note the Shire Presidents Reports for May 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 17 MAY 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 17 May 2022

#### **HEADING**

### **STAFF RECOMMENDATION**

That the Minutes of the Council Meeting held on 17 May 2022 be received as a true and accurate record.

**7 PRESENTATIONS**

**7.1 Petitions**

**7.2 Presentations**

**7.3 Deputations**

**8 REPORTS OF COMMITTEES**

Nil

## 9 CORPORATE SERVICES REPORTS

### 9.1 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.*

<b>9.2 COMMUNITY REQUESTS AND DISCUSSION ITEMS</b>
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**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.

May 2022 Council Meeting
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***No items were presented for actioning or review.***

April 2022 Council Meeting
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**MIN 044/22      MOTION - Moved Cr. Forsyth      Seconded Cr. Steber**

***That Council;***

- 1. Investigate the broken footpath on Corner of Leake & Spring Street, Doodlakine;***
- 2. Ensure that Management incorporates a regular schedule of works for the town crew at the Doodlakine town site;***
- 3. Acknowledge correspondence from Deb Ware regarding revegetation of George Street and request staff review opportunities for revegetating George Street; and***
- 4. In light of the new redevelopment on James Street, Council provide a costing for the draft 2022/2023 budget for incorporating a vegetated traffic island on Gregory Street as per James Street construction.***

**CARRIED 7/0**

March 2022 Council Meeting
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**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.

**STAFF COMMENT**

**May MIN 064/22**

NIL

**April MIN 044/22**

1. Team Leader has attended site and culvert requires a plate over the top to rectify the issue.
2. A fortnightly schedule has been issued to all Town Crew employees to complete all regular tasks.  
On receipt of the fortnightly schedules from all employees' a consolidated schedule for the Town Crew will be completed which will incorporate a fortnightly allocation to Doodlakine.
3. Noted
4. A quotation has been provided in Councils 2022/2023 Roadworks Budget for consideration.

**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-Bruce 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.

**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**

<b>File Ref:</b>	<b>Various</b>
<b>Author:</b>	<b>Codi Brindley-Mullen, Manager of Governance</b>
<b>Authoriser:</b>	<b>Raymond Griffiths, Chief Executive Officer</b>
<b>Attachments:</b>	<b>Nil</b>

**BACKGROUND**

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

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

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

**STAFF COMMENT**

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

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

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

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

**TEN YEAR FINANCIAL PLAN**

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

**FINANCIAL IMPLICATIONS**

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

**STATUTORY IMPLICATIONS**

Local Government Act 1995 (as amended)

Section 2.7. The role of the council

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

Section 2.8. The role of the mayor or president

- (1) The mayor or president —

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

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

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

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

#### Section 2.10. The role of councillors

A councillor —

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

#### 5.60. When person has an interest

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

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

has —

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

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

#### 5.60A. Financial interest

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

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

#### 5.60B. Proximity interest

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

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

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

#### 5.61. Indirect financial interests

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

#### 5.62. Closely associated persons

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



or

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

- (2) In subsection (1) —

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

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

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

#### 5.63. Some interests need not be disclosed

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

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

*[(e) deleted]*

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

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

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

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

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

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

(c) the proposed development of that land or any land adjacent to that land,

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

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

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

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

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

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

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

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

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

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

(1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest —

(a) in a written notice given to the CEO before the meeting; or

(b) at the meeting immediately before the matter is discussed.

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

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

(a) that he or she had an interest in the matter; or

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

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

**5.66. Meeting to be informed of disclosures**

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

(a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and

(b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

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

**5.67. Disclosing members not to participate in meetings**

A member who makes a disclosure under section 5.65 must not —

(a) preside at the part of the meeting relating to the matter; or

- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

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

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

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

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

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

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

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

5.69A. Minister may exempt committee members from disclosure requirements

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

- (2) An application under subsection (1) is to include —
  - (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
  - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.  
Penalty: \$10 000 or imprisonment for 2 years.  
*[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]*

#### 5.70. Employees to disclose interests relating to advice or reports

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

#### 5.71. Employees to disclose interests relating to delegated functions

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

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

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

### **STRATEGIC COMMUNITY PLAN**

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

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

## **COMMUNITY CONSULTATION**

The following consultation took place;

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

## **STAFF RECOMMENDATION**

*That Council receive the status report.*

**9.4 COMMON SEAL REGISTER AND REPORTING**

**File Ref:** ADM52  
**Author:** Codi Brindley-Mullen, Manager of Governance  
**Authoriser:** Raymond Griffiths, Chief Executive Officer  
**Attachments:** 1. Common Seal Register May 2022 (under separate cover)

**BACKGROUND**

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

**STAFF COMMENT**

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

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

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

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

**TEN YEAR FINANCIAL PLAN**

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

**FINANCIAL IMPLICATIONS**

There are no financial impacts.

**STATUTORY IMPLICATIONS**

Shire of Kellerberrin Standing Orders Local Law 2016

**Clause 19.1 The Council's Common Seal**

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

Penalty \$1,000

### **STRATEGIC 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;

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

### **STAFF RECOMMENDATION**

*That Council acknowledge that the Shire of Kellerberrin's Common Seal was not affixed to any documents in this quarter.*

**9.5 COUNCIL POLICY MANUAL REVIEW**

**File Ref:** Policies  
**Author:** Codi Brindley-Mullen, Manager of Governance  
**Authoriser:** Raymond Griffiths, Chief Executive Officer  
**Attachments:** 1. Policy Manual Review (O-Z) (under separate cover)

**BACKGROUND**

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

December Ordinary Council Meeting – 21 December 2021

**MIN 203/21 MOTION - Moved Cr. Steber Seconded Cr. Leake**

***That Council***

- 1. Adopts the Policies as presented;***
- 2. Endorse the removal of Policies from the Policy manual as presented;***
- 3. Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.***

**CARRIED 7/0**

November Ordinary Council Meeting – 16 November 2021

**MIN 184/21 MOTION - Moved Cr. Leake Seconded Cr. Gardiner**

***That Council;***

- 1. Adopts the Policies as presented;***
- 2. Endorse the removal of Policies from Policy manual as presented;***
- 3. Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.***

**CARRIED 7/0**

**STAFF COMMENT**

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

Council's staff continually review its Policy Manual to ensure its current with the operations of the day.

Council's Management due to the complexity and size of the Policy Manual is taking a staged approach to the Policy Manual review to ensure that we have appropriate/efficient and effective Policies in place. The below policies have been reviewed and are provided to Council to adopt:

- Obtaining Legal Advice
- Occupational Health & Safety Specification
- Outbuilding Residential Areas
- Outbuilding Size Limit (Class 10)
- Public Service Days
- Private Works
- Procurement



- Records Management
- Relocation Expenses
- Road Construction
- Roadside Burning for Fire Protection
- Rostered Day Off – Inside Staff
- Sea Containers
- Shire President – Motor Vehicle Registration Number Plate
- Social Media
- Staff Rates Subsidy
- Superannuation Contributions
- Townsite Reserve 2913
- Veranda's over Footpaths

The below policies have been removed from the Policy Manual as Management feels they are no longer a required policy;

- Recognition of Employee Service
- Related Parties Disclosure – this is a statutory requirement therefore there is no longer a need for the policy as the Regulations stipulate what Council need to adhere to
- Retirement of a Councillor
- Road Damage - procedure
- Rubbish Removal – not applicable
- Second hand dwelling – no longer applicable
- Small Rural Landholdings – Fire Hazard Management
- Standard Issue for Elected Members - Procedure
- Subdivisions of Homestead lots – no longer applicable as it falls under State Planning 3.25
- Tenders – Preparation – no longer applicable
- Trees – policy to come under the Townscapes Verge Management Plan
- Wildflowers Picking - not allowed to pick wildflowers therefore Councils policy is not applicable

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

Nil (not applicable at this date and therefore unknown)

#### **FINANCIAL IMPLICATIONS**

Nil (not applicable at this date and therefore unknown)

#### **STATUTORY IMPLICATIONS**

Nil (not applicable at this date and therefore unknown)

#### **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

### **STAFF RECOMMENDATION**

That Council

1. *Adopts the Policies as presented;*
2. *Endorse the removal of Policies from the Policy manual as presented;*
3. *Instruct the Chief Executive Officer to ensure all staff are aware of the Policy Manual updates and provide copies if requested.*

**9.6 AUTHORISED & REGISTRATION OFFICERS**

**File Ref:** ENG01  
**Author:** Codi Brindley-Mullen, Manager of Governance  
**Authoriser:** Raymond Griffiths, Chief Executive Officer  
**Attachments:** 1. **Authorised Officers 2022 (under separate cover)**

**BACKGROUND**

To authorise employees to act on behalf of Council as an Authorised and/or Registration Officer of Council.

**STAFF COMMENT**

Council annually reviews the Authorised and Registration Officers for Council to act on behalf of Council under the provision of the provided Legislation.

**TEN YEAR FINANCIAL PLAN**

NIL

**FINANCIAL IMPLICATIONS**

Cost of advertising within the Government Gazette

**STATUTORY IMPLICATIONS**

The following legislation is referred to for Council's Authorised and Registration Officers;

- Caravan Park and Camping Ground Act 1995
- Shire of Kellerberrin Cemetery Local Law 2003
- Local Government Property Local Law 2006
- Local Government Act 1995
- Litter Act 1979
- Control of Vehicles (Off-Road Areas) Act 1978
- Bush Fires Act 1954
- Cat Act 2011
- Dog Act 1976
- Local Government (Miscellaneous Provisions) Act 1960
- Food Act 2008
- Building Act 2011

**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

## **STAFF RECOMMENDATION**

That Council;

1. revokes all previous Authorised and Registration Officer Schedules;
2. adopts the Authorised Officers Schedule as presented; and
3. adopts the Registration Officers Schedule as presented

**9.7 DELEGATED AUTHORITY REVIEW TO CEO**

**File Ref:** SAFE  
**Author:** Codi Brindley-Mullen, Manager of Governance  
**Authoriser:** Raymond Griffiths, Chief Executive Officer  
**Attachments:** 1. Delegated Authority to CEO (under separate cover)

**BACKGROUND**

The Local Government Act 1995 as amended, the associated Regulations and the Compliance Audit Return requires the Local Government to review its delegation of Powers/Authority to the Chief Executive Officer, at least once in every twelve (12) months and then for the Chief Executive Officer to review his Delegation of Authority to identified Senior Staff and Management Staff within the same review period.

June 2021 Council Meeting

**MIN108/21 MOTION - Moved Cr. McNeil                      Seconded Cr. O’Neill**

***That Council:***

- 1. in accordance with section 5.42 of the Local Government Act 1995 as amended;***
- 2. in accordance with sections 10, 14, 17, 48 and 50 of the Bush Fires Act 1954;***
- 3. adopts the defined delegations as per the attached Delegations Schedule to the Chief Executive Officer, be made to the Chief Executive Officer and remain in place until the next Delegations Review has been completed.***
- 4. Cancel all previous Delegations to the Chief Executive Officer.***

**CARRIED BY 7/0  
ABSOLUTE MAJORITY**

June 2020 Council Meeting

**MIN 086/20            MOTION - Moved Cr. McNeil            Seconded Cr. Ryan**

***That Council:***

- 1. in accordance with section 5.42 of the Local Government Act 1995 as amended;***
- 2. in accordance with sections 10, 14, 17, 48 and 50 of the Bush Fires Act 1954;***
- 3. adopts the defined delegations as per the attached Delegations Schedule to the Chief Executive Officer, be made to the Chief Executive Officer and remain in place until the next Delegations Review has been completed.***
- 4. Cancel all previous Delegations to the Chief Executive Officer***

**CARRIED 7/0  
BY ABSOLUTE MAJORITY**

June 2019 Council Meeting
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**MIN107/19****MOTION - Moved Cr. Reid****2<sup>nd</sup> Cr. McNeil*****That Council:***

- 1. in accordance with section 5.42 of the Local Government Act 1995 as amended***
- 2. in accordance with sections 10, 14, 17, 48 and 50 of the Bush Fires Act 1954,***
- 3. the defined delegations as per the attached Delegations Schedule to the Chief Executive Officer, be made to the Chief Executive Officer and remain in place until the next Delegations Review has been completed.***
- 4. Cancel all previous Delegations to the Chief Executive Officer.***

**CARRIED 6/0  
BY ABSOLUTE MAJORITY**

**STAFF COMMENT**

The proposed delegations are summarised as per the enclosed Delegations Schedule and has been presented on the basis of;

1. Statutory Requirement to do so under the Local Government Act 1995 associated Regulations of the Local Government Act 1995, the Bush Fires Act 1954 and the Compulsory Annual Compliance Audit Return.
2. For continued and efficient Management of daily Functions of the Staff to completing Business and Administrative requirements of the Council.
3. The proposed Delegations are in accordance with Local Government Industry Standards of a Local Government Operation of this size.
4. The attached Delegations Schedule has been amended to include Local Government Act changes and associated Regulations changes to keep the list at a minimum standard for efficient and effective management of Councils daily business requirements and in accordance with the statutory functions of the Council and that of the Chief Executive Officer.

The delegation register provided includes new delegations issued to the Manager of Governance under the current structure in operation. The delegation for a Deputy Chief Executive Officer remains in the register at this point and should the current structure remain in place as a permanent option this can be reviewed at the next Delegation review.

**TEN YEAR FINANCIAL PLAN**

NIL known at this time

**FINANCIAL IMPLICATIONS**

NIL known at this time

**STATUTORY IMPLICATIONS****Local Government Act 1995 (as amended)****5.41. Functions of CEO**

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the council so that informed decisions can be made;

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

#### 5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

*\* Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

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

#### 5.43. Limits on delegations to CEO

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

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

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

#### 5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
- (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
  - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,
- are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) —
- conditions** includes qualifications, limitations or exceptions.
- [Section 5.44 amended by No. 1 of 1998 s. 14(1).]*

#### 5.45. Other matters relevant to delegations under this Division

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

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

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

### Bush Fires Act 1954

#### 7. Interpretation

- (1) In this Act unless the context otherwise indicates or requires —
- adjoining**, when used with respect to 2 or more pieces of land, extends to pieces of land which are separated only by a road or roads or by a railway or by a water-course;
- authorised CALM Act officer** means a wildlife officer, forest officer, ranger or conservation and land management officer who is authorised for the purposes of section 45(3a) of the *Conservation and Land Management Act 1984*;
- Authority** means the Fire and Emergency Services Authority of Western Australia established by section 4 of the FESA Act;
- bush** includes trees, bushes, plants, stubble, scrub, and undergrowth of all kinds whatsoever whether alive or dead and whether standing or not standing and also a



part of a tree, bush, plant, or undergrowth, and whether severed therefrom or not so severed. The term does not include sawdust, and other waste timber resulting from the sawmilling of timber in a sawmill whilst the sawdust and other waste timber remains upon the premises of the sawmill in which the sawmilling is carried on;

**bush fire brigade** means a bush fire brigade for the time being registered in a register kept pursuant to section 41;

**CALM Act CEO** has the meaning given to “CEO” by section 3 of the *Conservation and Land Management Act 1984*;

**CALM Act Department** has the meaning given to “Department” by section 3 of the *Conservation and Land Management Act 1984*;

**Chief Executive Officer** means the person holding, acting in, or otherwise discharging the duties of, the office of chief executive officer of the Authority, as referred to in section 19 of the FESA Act;

**forest land** means State forest and timber reserves within the meaning of the *Conservation and Land Management Act 1984* and any land to which section 131 of that Act applies;

**member of the Authority** means a member of the board of management referred to in section 6 of the FESA Act;

**occupier of land** means, subject to subsection (2), a person residing on the land or having charge or control of it, whether the person is the owner or tenant or a bailiff, servant, caretaker, or other person residing or having charge or control of the land and includes a person who as mortgagee in possession has possession of the land, while the land is unoccupied, and also a person who has the charge or control of 2 or more separate parcels of land, although the person resides on only one of the parcels;

**prohibited burning times** means the times of the year during which it is declared by the Minister under section 17 to be unlawful to set fire to the bush within a zone of the State and, in relation to any land in such a zone —

- (a) includes any extension of those times made, or any further times imposed, under that section in respect of the whole of that zone or in respect of the part of that zone, or the district or part of a district, in which that land is situated; but
- (b) does not include any period by which those times are reduced, or for which those times are suspended, under that section in respect of the whole of that zone or in respect of the part of that zone, or the district or part of a district, in which that land is situated or in respect of that land in particular;

**restricted burning times** means the times of the year during which it is declared by the Authority under section 18 to be unlawful to set fire to the bush within a zone of the State except in accordance with a permit obtained under that section and with the conditions prescribed for the purposes of that section and, in relation to land in such a zone —

- (a) includes any extension of those times made, or any further times imposed, under that section in respect of the whole of that zone or in respect of the part of that zone, or the district or part of a district, in which that land is situated; but
- (b) does not include any period by which those times are reduced, or for which those times are suspended, under that section in respect of the whole of that zone or in respect of that part of that zone, or the district or part of a district, in which that land is situated;

**the FESA Act** means the *Fire and Emergency Services Authority of Western Australia Act 1998*.

- (2) Subject to section 33(9), a reference in this Act to an owner or occupier of land does not include a reference to a department of the Public Service that occupies land or a State agency or instrumentality that owns or occupies land.

#### 10. Powers of Authority

- (1) The Authority shall —
- (a) report to the Minister as often as it thinks expedient so to do on the best means to be taken for preventing or extinguishing bush fires;
  - (b) perform and undertake such powers and duties as may be entrusted to it by the Minister;
  - (c) subject to the general control of and direction by the Minister, be responsible for the administration of this Act;
  - (d) recommend to the Minister the prohibited burning times to be declared for the whole or any part of the State;
  - (e) carry out such fire prevention measures as it considers necessary;
  - (f) carry out research in connection with fire prevention and control and matters pertaining to fire prevention and control;
  - (g) conduct publicity campaigns for the purpose of improving fire prevention measures.
- (2) The Authority may —
- (a) recommend that the Chief Executive Officer appoint and employ such persons as the Authority considers necessary for carrying out the provisions of this Act;
  - (b) organise and conduct bush fire brigade demonstrations and competitions and provide prizes and certificates for presentation to bush fire brigades and competitors;
  - (c) pay the expenses of bush fire brigades attending bush fire brigade demonstrations.

*[Section 10 amended by No. 65 of 1977 s. 7; No. 42 of 1998 s. 8 and 16.]*

#### 12. Appointment of bush fire liaison officers

- (1) The Chief Executive Officer may, on the recommendation of the Authority and with the approval of the Minister, appoint persons under section 20 of the FESA Act to be bush fire liaison officers for the purposes of this Act.
- (2) Any person who was a bush fire warden immediately before the coming into operation of section 9 of the *Bush Fires Act Amendment Act 1977*<sup>1</sup> shall be deemed to have been appointed to be a bush fire liaison officer under subsection (1).

*[Section 12 inserted by No. 65 of 1977 s. 9; amended by No. 42 of 1998 s. 10.]*

#### 14. Members of the Authority and other persons may enter land or buildings for purposes of the Act

- (1) A member of the Authority, an officer who is authorised by the Authority so to do, a bush fire liaison officer and a bush fire control officer, appointed in accordance with the provisions of this Act, and, subject to the proviso to this section, a member of the Police Force, is empowered to enter any land or building at any time to —
- (a) examine a fire which he has reason to believe has been lit, or maintained, or used in contravention of this Act;
  - (b) examine a fire which he believes is not under proper control;
  - (c) examine fire-breaks on the land;
  - (d) examine anything which he considers to be a fire hazard existing on the land;

- (e) investigate the cause and origin of a fire which has been burning on the land or building;
- (f) inspect fire precaution measures taken on the land;
- (g) investigate and examine the equipment of a bush fire brigade;
- (h) do all things necessary for the purpose of giving effect to this Act.

Provided that a member of the Police Force is not empowered under this section to enter any land or building for any purpose other than those specified in paragraphs (a), (b) and (e).

- (2) A bush fire liaison officer or a member of the Police Force exercising the power conferred by subsection (1)(e) may remove from the land or building, and keep possession of, anything which may tend to prove the origin of the fire.

*[Section 14 amended by No. 11 of 1963 s. 5; No. 65 of 1977 s. 11 and 47; No. 60 of 1992 s. 8; No. 42 of 1998 s. 16; No. 38 of 2002 s. 20.]*

*[Divisions 3 and 4 (s. 15-16E) deleted by No. 42 of 1998 s. 11(1).]*

### **Part III — Prevention of bush fires**

*[Division 1 deleted by No. 65 of 1977 s. 12.]*

#### **Division 2 — Prohibited burning times**

##### **17. Prohibited burning times may be declared by Minister**

- (1) The Minister may, by declaration published in the *Gazette*, declare the times of the year during which it is unlawful to set fire to the bush within a zone of the State mentioned in the declaration and may, by subsequent declaration so published, vary that declaration or revoke that declaration either absolutely or for the purpose of substituting another declaration for the declaration so revoked.
- (2) Where by declaration made under subsection (1) prohibited burning times have been declared in respect of a zone of the State then, subject to such variations (if any) as are made under that subsection from time to time, those prohibited burning times shall have effect in respect of that zone in each year until that declaration is revoked.
- (3) A copy of the *Gazette* containing a declaration published under subsection (1) shall be received in all courts as evidence of the matters set out in the declaration.
- (4) Where the Authority considers that burning should be carried out on any land, the Authority may suspend the operation of a declaration made under subsection (1), so far as the declaration extends to that land, for such period as it thinks fit and specifies and subject to such conditions as may be prescribed or as it thinks fit and specifies.
- (5) The Authority may authorise a person appointed by it to regulate, permit or define the class of burning that may be carried out, and the times when and conditions under which a fire may be lit, on the land referred to in subsection (4) during the period of suspension granted under that subsection.
- (6) In any year in which the Authority considers that seasonal conditions warrant a variation of the prohibited burning times in a zone of the State the Authority may, by notice published in the *Gazette*, vary the prohibited burning times in respect of that year in the zone or a part of the zone by —
  - (a) shortening, extending, suspending or reimposing a period of prohibited burning times; or
  - (b) imposing a further period of prohibited burning times.
- (7)(a) Subject to paragraph (b), in any year in which a local government considers that seasonal conditions warrant a variation of the prohibited burning times in its district the local

government may, after consultation with an authorised CALM Act officer if forest land is situated in the district, vary the prohibited burning times in respect of that year in the district or a part of the district by —

- (i) shortening, extending, suspending or reimposing a period of prohibited burning times; or
  - (ii) imposing a further period of prohibited burning times.
- (b) A variation of prohibited burning times shall not be made under this subsection if that variation would have the effect of shortening or suspending those prohibited burning times by, or for, more than 14 successive days.
- (8) Where, under subsection (7), a local government makes a variation to the prohibited burning times in respect of its district or a part of its district the following provisions shall apply —
- (a) the local government —
    - (i) shall, by the quickest means available to it and not later than 2 days before the first day affected by the variation, give notice of the variation to any local government whose district adjoins that district;
    - (ii) shall, by the quickest means available to it, give particulars of the variation to the Authority and to any Government department or instrumentality which has land in that district under its care, control and management and which has requested the local government to notify it of all variations made from time to time by the local government under this section or section 18;
    - (iii) shall, as soon as is practicable publish particulars of the variation in that district;
  - (b) the Minister, on the recommendation of the Authority, may give notice in writing to the local government directing it —
    - (i) to rescind the variation; or
    - (ii) to modify the variation in such manner as is specified in the notice;
  - (c) on receipt of a notice given under paragraph (b) the local government shall forthwith —
    - (i) rescind or modify the variation as directed in the notice; and
    - (ii) publish in that district notice of the rescission or particulars of the modification, as the case may require.
- (9) For the purposes of subsections (7) and (8) **publish** means to publish in a newspaper circulating in the district of the local government, to broadcast from a radio broadcasting station that gives radio broadcasting coverage to that district, to place notices in prominent positions in that district, or to publish by such other method as the Authority may specify in writing.
- (10) A local government may by resolution delegate to its mayor, or president, and its Chief Bush Fire Control Officer, jointly its powers and duties under subsections (7) and (8).
- (11) A local government may by resolution revoke a delegation it has given under subsection (10) and no delegation so given prevents the exercise and discharge by the local government of its powers and duties under subsections (7) and (8).
- (12) Subject to this Act a person who sets fire to the bush on land within a zone of the State during the prohibited burning times for that zone is guilty of an offence.

Penalty: \$10 000 or 12 months' imprisonment or both.

*[Section 17 inserted by No. 65 of 1977 s. 13; amended by No. 8 of 1987 s. 8; No. 14 of 1996 s. 4; No. 42 of 1998 s. 16; No. 38 of 2002 s. 21 and 40(1).]*

## Division 3 — Restricted burning times

## 18. Restricted burning times may be declared by Authority

- (1) Nothing contained in this section authorises the burning of bush during the prohibited burning times.
- (2) The Authority may, by notice published in the *Gazette*, declare the times of the year during which it is unlawful to set fire to the bush within a zone of the State mentioned in the notice except in accordance with a permit obtained under this section and with the conditions prescribed for the purposes of this section, and may, by subsequent notice so published, vary that declaration or revoke that declaration either wholly or for the purpose of substituting another declaration for the declaration so revoked.
- (3) Where by declaration made under subsection (2) restricted burning times have been declared in respect of a zone of the State then, subject to such variations (if any) as are made under that subsection from time to time, those restricted burning times shall have effect in respect of that zone in each year until that declaration is revoked.
- (4) A copy of the *Gazette* containing a declaration published under subsection (2) shall be received in all courts as evidence of the matters set out in the declaration.
- (4a) In any year in which the Authority considers that seasonal conditions warrant a variation of the restricted burning times in a zone, or part of a zone, of the State the Authority may, by notice published in the *Gazette*, vary the restricted burning times in respect of that year in the zone or part of the zone by —
  - (a) shortening, extending, suspending or reimposing a period of restricted burning times; or
  - (b) imposing a further period of restricted burning times.
- (5)(a) Subject to paragraph (b) in any year in which a local government considers that seasonal conditions so warrant the local government may, after consultation with an authorised CALM Act officer if forest land is situated in its district —
  - (i) vary the restricted burning times in respect of that year in the district or a part of the district by —
    - (A) shortening, extending, suspending or reimposing a period of restricted burning times; or
    - (B) imposing a further period of restricted burning times;
  - or
  - (ii) vary the prescribed conditions by modifying or suspending all or any of those conditions.
- (b) A variation shall not be made under this subsection if that variation would have the effect of —
  - (i) shortening the restricted burning times by; or
  - (ii) suspending the restricted burning times, or any prescribed condition, for, more than 14 successive days during a period that would, in the absence of the variation under this subsection, be part of the restricted burning times for that zone in that year.
- (c) The provisions of section 17(8), (9), (10) and (11), with the necessary adaptations and modifications, apply to and in relation to the variation of restricted burning times or prescribed conditions by a local government, as if those provisions were expressly incorporated in this section.
- (d) For the purposes of this subsection **prescribed condition** includes the requirement of subsection (6)(a).

- (6) Subject to this Act a person shall not set fire to the bush on land within a zone of the State during the restricted burning times for that zone of the State unless —
- (a) he has obtained a permit in writing to burn the bush from a bush fire control officer of the local government in whose district the land upon which the bush proposed to be burnt is situated, or from the chief executive officer of the local government if a bush fire control officer is not available; and
  - (b) the conditions prescribed for the purposes of this section are complied with in relation to the burning of the bush.
- (7) The person issuing a permit to burn under this section may, by endorsement on the permit —
- (a) incorporate therein any additional requirements and directions considered necessary by him relative to the burning; or
  - (b) modify or dispense with any of the conditions prescribed for the purposes of this section in so far as those conditions are applicable to the burning.
- (8) The holder of a permit to burn under this section —
- (a) shall observe and carry out any requirement or direction incorporated therein pursuant to subsection (7)(a);
  - (b) shall, where any prescribed condition is modified pursuant to subsection (5) or subsection (7)(b), comply with that condition as so modified;
  - (c) need not comply with any prescribed condition that is suspended or dispensed with pursuant to subsection (5) or (7)(b).
- (9) A permit issued under this section may authorise the owner or occupier of land to burn the bush on a road reserve adjoining that land.
- (10)(a) Subject to the regulations a local government may by resolution declare that within its district bush may be burnt only on such dates and by such persons as are prescribed by a schedule of burning times adopted by the local government.
- (b) A person desiring to set fire to bush within the district of the local government that has so resolved shall, by such date as may be determined by the local government, apply to the local government for permission to set fire to the bush, and the local government shall allocate a day or days on which the burning may take place.
  - (c) The burning shall be done only on the day or days and in the manner specified by the local government and subject to the conditions prescribed for the purposes of this section except that any prescribed period of notice may be varied by the local government in order to enable the schedule of burning times adopted by it to be given effect to.
- (11) Where a person starts a fire on land, if the fire escapes from the land or if the fire is in the opinion of a bush fire control officer or an officer of a bush fire brigade out of control on the land, the person shall be liable to pay to the local government on the request of and for recoup to its bush fire brigade, any expenses up to a maximum amount of \$10 000 incurred by it in preventing the extension of or extinguishing the fire, and such expenses may be recovered in any court of competent jurisdiction.
- (12) A person who commits a breach of this section other than subsection (11) is guilty of an offence.
- Penalty: For a first offence \$4 500.  
For a second or subsequent offence \$10 000.

*[Section 18 inserted by No. 65 of 1977 s. 14; amended by No. 8 of 1987 s. 8; No. 14 of 1996 s. 4; No. 42 of 1998 s. 16; No. 38 of 2002 s. 22, 39 and 40(1).]*

**Part V — Miscellaneous****48. Delegation by local governments**

- (1) A local government may, in writing, delegate to its chief executive officer the performance of any of its functions under this Act.
- (2) Performance by the chief executive officer of a local government of a function delegated under subsection (1) —
  - (a) is taken to be in accordance with the terms of a delegation under this section, unless the contrary is shown; and
  - (b) is to be treated as performance by the local government.
- (3) A delegation under this section does not include the power to subdelegate.
- (4) Nothing in this section is to be read as limiting the ability of a local government to act through its council, members of staff or agents in the normal course of business.

*[Section 48 inserted by No. 38 of 2002 s. 35.]*

**50. Records to be maintained by local governments**

- (1) A local government shall maintain records containing the following information —
  - (a) the names, addresses, and usual occupations of all the bush fire control officers and bush fire brigade officers appointed by or holding office under the local government;
  - (b) where a bush fire control officer holds office in respect of part only of the district of the local government, descriptive particulars of that part of the district in respect of which the bush fire control officer holds office;
  - (c) particulars of the nature, quantity, and quality of the bush fire fighting equipment and appliances which are generally available within the district of the local government for use in controlling and extinguishing bush fires.
- (2) The Governor may make regulations —
  - (a) requiring an owner or occupier of land to notify the local government in whose district the land is situated of the occurrence of any bush fire on the land;
  - (b) requiring a local government to send to the Authority particulars of losses caused by bush fires in its district;
  - (c) prescribing the times at or within which, and the manner in which, the requirements of the regulations shall be complied with;
  - (d) imposing a maximum penalty of \$1 000 for any breach of the regulations.

*[Section 50 amended by No. 113 of 1965 s. 8(1); No. 65 of 1977 s. 39; No. 14 of 1996 s. 4; No. 42 of 1998 s. 16; No. 38 of 2002 s. 39.]*

**Compliance Audit Report**

Annual endorsement and certification, that the process of Council and CEO has reviewed its delegated authority respectively.

**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

**STAFF RECOMMENDATION**

That *Council in accordance with section 5.42 of the Local Government Act 1995 as amended and sections 10, 14, 17, 48 and 50 of the Bush Fires Act 1954;*

1. *adopt the defined delegations as per the attached Delegations Schedule to the Chief Executive Officer,*
2. *the delegations remain in place until the next Delegations Review has been completed.*
3. *Cancel all previous Delegations to the Chief Executive Officer.*



**9.8 DRAFT FEES & CHARGES 2022/2023**

**File Ref:** FIN04  
**Author:** Codi Brindley-Mullen, Manager of Governance  
**Authoriser:** Raymond Griffiths, Chief Executive Officer  
**Attachments:** 1. Fees & Charges - Updated 2022 (under separate cover)

**BACKGROUND**

In accordance with Regulation 5(2) of the Local Government (Financial Management) Regulations, a local government is to undertake a review of its fees and charges regularly; and not less than once in every financial year. This report provides the council with a recommended Schedule of Fees and Charges to apply for the financial year commencing on 1<sup>st</sup> July 2022, for its consideration.

Council adopts fees and charges as part of its annual budget process, though fees and charges can be imposed or amended at any stage of the financial year provided the proposed changes are advertised accordingly (absolute majority required).

Council considers the annual schedule of fees and charges separately from the budget document to enable more time to contemplate each proposed charge for the forthcoming year.

Council's 17<sup>th</sup> May 2022 – Ordinary Meeting of Council

**MIN 066/22      MOTION - Moved Cr. Leake      Seconded Cr. Forsyth**

***That Council;***

- 1. Adopts the fees and charges for 2022/23 as presented with the following amendments;***
  - a. Increase Tree Planter to \$200.00 per day***
  - b. Gym per year to \$180.00***
    - i. Pensioner/Senior/Disability discount of 30% on all gym fees excluding bond.***
- 2. Include the fees and charges in the 2022/23 Draft Budget.***

**CARRIED 7/0**

**BY ABSOLUTE MAJORITY**

**REASON: Council increased Tree Planter and Gym charges to help cover the cost to operate both items.**

**Council's 15<sup>th</sup> February 2022 – Ordinary Meeting of Council****MIN 007/22      MOTION - Moved Cr. Forsyth      Seconded Cr. Gardiner*****That Council;***

- 1. Adopts the amendment to Councils fees and charges for 2021/22 as per the following;**
  - a. Centenary Park – Commercial Use – Adding a fee of \$33.00**
  - b. Caravan Park – Booking Fee – Adding a fee of \$1.8% to accommodation charges for the use of stripe. This only relates to online or bookings using stripe for payment.**
  - c. Exhibition Hall – Hire of Exhibition Hall Facility – Add wording Exhibition Hall courts to the fee and charge that already existing for outdoor Basketball/Netball/Tennis courts or Bowling Greens being \$115 per day.**
  - d. The water charges listed are to remain the same price, however become listed as GST free.**
- 2. Incorporate the new fees and charges into the Fees and Charges 2021/2022 document.**
- 3. Advertise the new charges on Council Website, Noticeboard, CRC, Ratepayers and all Social Media Platforms.**

**CARRIED 7/0  
BY ABSOLUTE MAJORITY****Council's 20<sup>th</sup> July 2021 – Ordinary Meeting of Council****MIN 121/21      MOTION - Moved Cr. O'Neill      Seconded Cr. McNeil*****That Council***

- 1. Adopts the fees and charges for 2021/22 as presented; and**
- 2. Include the fees and charges in the 2021/22 Annual Budget Document.**

**CARRIED 7/0  
BY ABSOLUTE MAJORITY****Council's 30<sup>th</sup> March 2020 – Special Meeting of Council****Moved: Cr Dennis Reid    Seconded: Cr Matt Steber*****That Council;***

- 1. Request the Chief Executive Officer prepare a DRAFT 2020/2021 Budget with the following considerations;**
  - (a) Zero percent (0%) rate increase, essentially a freeze on the rate in the dollar;**
    - i. Seek confirmation as to whether Council will be receiving a Rural Revaluation, as this may affect a change in rates per individual properties irrespective of rate increase freeze;**
  - (b) Zero percent (0%) increase in Councils fees and charges, (remain as per 2019/20);**
    - i. No Annual Food Licence Levies issued**
    - ii. No Alfresco Licence Levies Issued**
    - iii. No Lodging House Levies Issued.**

***(c) 2020/2021 Non-payment of rates penalty interest not apply until March 2021;***

***(d) No Instalment administration fees on all instalment options for 2020/2021***

***(e) No Instalment interest applied to all instalment options for 2020/2021***

- 2. Offers, upon request, a waiver of interest on outstanding rates for those business/individuals directly affected by the Commonwealth/State Government's decision to close various businesses between 23 March and 31 July 2020;***
- 3. Offers, upon request, a waiver of interest on outstanding rates for those businesses/individuals directly affected by the State Governments decision to close Western Australia's borders, between 23 March and 31 July 2020;***
- 4. Writes to and lobbies the State Government for urgent financial assistance that can be used to assist the community as a matter of urgency; and***
- 5. Writes to the Federal Government and the Western Australian Local Government Association requesting an increase to the Federal Assistance Grant Scheme funding for both the 2020/21 and 2021/22 financial years.***

**CARRIED 7/0  
BY ABSOLUTE MAJORITY**

## **STAFF COMMENT**

Council Management provided a review for majority of the Fees and Charges which was presented to the May 2022 Ordinary Meeting of Council for adoption as per above.

However at the time Councils Manager Works and Services was still working on collating data for the review of the Private Works charge out rates. The review being presented at this meeting has the following area modifications.

## **REMOVED**

The following fees & charges are no longer applicable;

- Cherry Picker (No longer own a cherry picker)

## **ADDED**

- Ablution Facility Fees and Charges for Recreation Centre – These charges have been added so that we can list on the hire forms to ensure that hirers tick all boxes of facilities that are required. This is to ensure we as Council inform the appropriate members of use for cleaning and setup etc.

## **INCREASE**

The following fees & Charges have been increased;

- Rubbish Charges have increased \$2 per services, this is due to the 7.6% increase in service costs that Avon Waste have charged; and
- Rent on 2 George Street & 7 Thornton Ave for non-employees.

## **Private Works**

- Wet Hire plant charges have been increased as per highlighted areas in attached document;
- Dry Hire plant charges have been increased as per highlighted areas in attached document; and

- Materials Charges have been increased as per highlighted areas in attached document

## TEN YEAR FINANCIAL PLAN

NIL

## FINANCIAL IMPLICATIONS

Shire of Kellerberrin 2022/2023 financial year with minimal impact due to minor increase in fees.

## STATUTORY IMPLICATIONS

*Local Government Act 1995 (as amended)*

### 6.16. **Imposition of fees and charges**

- (1) A local government may impose\* and recover a fee or charge for any goods or service it provides or proposes to provide, other than a service for which a service charge is imposed.

*\* Absolute majority required.*

- (2) A fee or charge may be imposed for the following —
  - (a) providing the use of, or allowing admission to, any property or facility wholly or partly owned, controlled, managed or maintained by the local government;
  - (b) supplying a service or carrying out work at the request of a person;
  - (c) subject to section 5.94, providing information from local government records;
  - (d) receiving an application for approval, granting an approval, making an inspection and issuing a licence, permit, authorisation or certificate;
  - (e) supplying goods;
  - (f) such other service as may be prescribed.

- (3) Fees and charges are to be imposed when adopting the annual budget but may be —
  - (a) imposed\* during a financial year; and
  - (b) amended\* from time to time during a financial year.

*\* Absolute majority required.*

### 6.17. **Setting level of fees and charges**

- (1) In determining the amount of a fee or charge for a service or for goods a local government is required to take into consideration the following factors —
  - (a) the cost to the local government of providing the service or goods;
  - (b) the importance of the service or goods to the community; and
  - (c) the price at which the service or goods could be provided by an alternative provider.
- (2) A higher fee or charge or additional fee or charge may be imposed for an expedited service or supply of goods if it is requested that the service or goods be provided urgently.
- (3) The basis for determining a fee or charge is not to be limited to the cost of providing the service or goods other than a service —
  - (a) under section 5.96;
  - (b) under section 6.16(2)(d); or
  - (c) prescribed under section 6.16(2)(f), where the regulation prescribing the service also specifies that such a limit is to apply to the fee or charge for the service.
- (4) Regulations may —

- (a) prohibit the imposition of a fee or charge in prescribed circumstances; or
- (b) limit the amount of a fee or charge in prescribed circumstances.

### **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
- Administration Staff
- Council

### **STAFF RECOMMENDATION**

That Council;

1. Adopts the fees and charges for 2022/23 as presented; and
2. Include the fees and charges in the 2022/23 Draft Budget.

**9.9 MANAGEMENT OF VOLUNTEER BUSH FIRE BRIGADES**

<b>File Ref:</b>	<b>BUSH00</b>
<b>Author:</b>	<b>Raymond Griffiths, Chief Executive Officer</b>
<b>Authoriser:</b>	<b>Raymond Griffiths, Chief Executive Officer</b>
<b>Attachments:</b>	<b>1. Furgeson Report (under separate cover)</b> <b>2. WHS Report (under separate cover)</b> <b>3. WALGA Advocacy Position (under separate cover)</b> <b>4. WALGA Infopage (under separate cover)</b>

**BACKGROUND**

The Shire of Kellerberrin on the 20<sup>th</sup> May 2022 received correspondence from the WALGA seeking Councils position on the arrangements for management of volunteer Bush Fire Brigades as per the following;

*Western Australian Local Governments have extensive roles and responsibilities embedded in the State Emergency Management Framework across the emergency management spectrum of prevention, preparedness, response, and recovery. Under the Bush Fires Act 1954, Local Governments have responsibility for bushfire and the management of volunteer Bush Fire Brigades (BFBs). 111 Local Governments manage 563 BFBs involving approximately 20,000 volunteers.*

*As part of WALGA's 2021 Emergency Management Survey, Local Government were asked about their level of satisfaction with current arrangements for managing BFBs. 92 Local Governments (69 of which manage BFBs) provided the following feedback:*

- 93% were not wholly satisfied with the current arrangements for the management of BFBs; and*
- 51% expressed that their Local Government does not support the requirements for Local Governments to manage BFBs.*

*The State Government is currently drafting the Consolidated Emergency Services Act (CES Act), which consolidates the Fire Brigades Act 1942, Bush Fires Act 1954 and Fire and Emergency Services Act 1998 into a single piece of legislation, anticipated to be released as a Green Bill for consultation in early 2023.*

*The introduction of the Work Health and Safety Act 2020 has also shone a spotlight on Local Government responsibilities for managing volunteer BFBs.*

**Work Health and Safety Act 2020**

In March 2022 the provisions of the new Work Health and Safety Act 2020 were fully transitioned. They clearly detail the standard of duty of care that entities responsible for volunteers now carry.

This standard has brought into focus the fact that local government is no longer the right entity to be discharging the duty of care and the duty of provision of extreme risk bush fire management services in Western Australia. Western Australia, while its health and safety legislation is now in alignment with the rest of Australia, is now at odds with the rest of Australia in terms of State Government responsibility for volunteer bush fire brigades.

Local government is clearly unable to meet the management and duty of care expectations enunciated in the Work, Health and Safety Act 2020 in the extreme risk area of bush firefighting. This new legislation exposes the gap between the extreme risk of bush fires and the capabilities of local governments to meet this risk. It has set up local government for failure if nothing is done to fix the fundamental question - what entity is best able to meet the responsibility for supporting volunteer bush fire brigades. This responsibility must be placed in the hands of a State Government department or agency with appropriate expertise, capabilities and resourcing under the emergency

services banner to adequately address and manage the risks associated with bush fires and support volunteers in this endeavour.

Key features of the WHS Act are provided in the following extract from the “Overview of Western Australia’s Work Health and Safety Act 2020” put out by the Department of Mines, Industry Regulation and Safety, and Worksafe (pg. 2):

- The primary duty holder is the ‘person conducting a business or undertaking’ (PCBU) which is intended to capture a broader range of contemporary workplace relationships.
- A primary duty of care requiring PCBUs to, so far as is reasonably practicable, ensure the health and safety of workers and others who may be affected by the carrying out of work.
- Duties of care for persons who influence the way work is carried out, as well as the integrity of products used for work, including the providers of WHS services.
- A requirement that ‘officers’ exercise ‘due diligence’ to ensure compliance.
- The new offence of industrial manslaughter, which provides substantial penalties for PCBUs where a failure to comply with a WHS duty causes the death of an individual, in circumstances where the PCBU knew the conduct could cause death or serious harm.
- The voiding of insurance coverage for WHS penalties, and imposition of penalties for providing or purchasing this insurance.
- The introduction of WHS undertakings, which are enforceable, as an alternative to prosecution.
- Reporting requirements for ‘notifiable incidents’ such as the serious illness, injury or death of persons and dangerous incidents arising out of the conduct of a business or undertaking.
- A framework to establish a general scheme for authorisations such as licences, permits and registrations (for example, for persons engaged in high-risk work or users of certain plant or substances), including provisions for automated authorisations.

Importantly, the WHS Act captures the duty of care requirements for bush fire brigades and volunteers.

#### Work Health and Safety Act 2020 Duty of Care Failure and Penalties

Hefty fines now apply to local governments and criminal charges may be imposed on executive staff should they fail in their duty of care under the new Work Health and Safety Act 2020. A sevenfold increase in the maximum fine is now applicable to executives along with a 20 year jail term. The local government body is now subject to an uninsurable fine up to \$10M, up 2.85 times from \$3.5M.

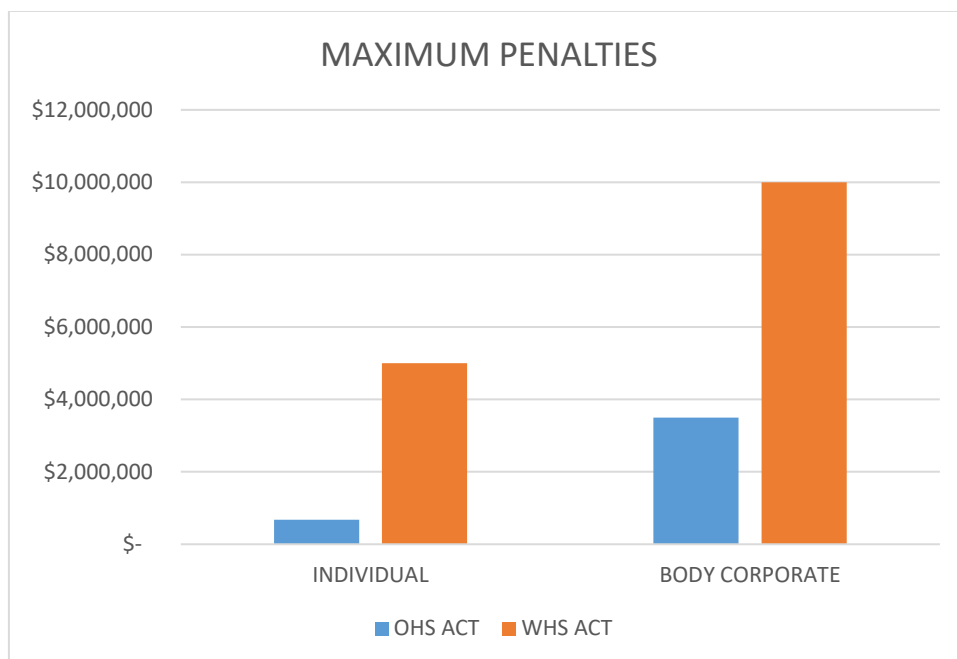


Figure 1. Maximum Individual and Body Corporate Penalties Comparison Between the Previous OHS Act (blue) and the WHS Act (orange)

### Maximum penalties for breach of health and safety duty offences

Offence	Duty holder		
	Body corporate	Individual as a PCBU or officer	Individual as worker or other
Industrial manslaughter	\$10 000 000	\$5 000 000, 20 years in jail	Not applicable
Category 1	\$3 500 000	\$680 000, 5 years in jail	\$340 000, 5 years in jail
Category 2	\$1 800 000	\$350 000	\$170 000
Category 3	\$570 000	\$120 000	\$55 000

Note: Where a penalty provides for a fine or term of imprisonment, the Court may impose a sentence that includes either or both penalties.

### Exceptions (section 34)

Volunteers are not liable for a failure to comply with a health and safety duty except in their capacity as a worker (section 28) or other person at a workplace (section 29).

Table 1. Maximum Penalties. Department of Mines, Industry Regulation and Safety, and Worksafe, “Overview of Western Australia’s Work Health and Safety Act 2020”, pg. 36.

LEVEL	INDIVIDUAL 1ST OFFENCE	INDIVIDUAL SUBSEQUENT OFFENCE	BODY CORPORATE 1ST OFFENCE	BODY CORPORATE SUBSEQUENT OFFENCE
1	\$ 100,000	\$ 120,000	\$ 450,000	\$ 570,000
2	\$ 250,000	\$ 350,000	\$1,500,000	\$1,800,000



3	\$ 400,000	\$ 500,000	\$2,000,000	\$2,500,000
4	\$ 550,000	\$ 680,000	\$2,700,000	\$3,500,000

Table 2. Maximum Penalties Under the Previous Occupational, Health and Safety Act 1984”, pg. 36.

The State Government has made crystal clear its overarching expectations regarding duty of care, including to volunteers. In doing so, however, it has raised a fundamental question about the appropriate provision of leadership and support for volunteer bush fire brigades in the extreme risk environment in which they operate.

**STAFF COMMENT**

Risk and WHS Act Implications

The new WHS Act safety mandate has brought into focus two related questions, and these questions must be rigorously and independently assessed and addressed, ahead of preference and historically affiliation, if a best practice, safe and compliant outcome is to be achieved. **Who is best placed to manage bush fire brigades, given the systems, expertise and control hierarchy needed to operate within the new WHS Act requirements? Secondly, is the current legislation, which provides for local governments to establish and run bush fire brigades, still appropriate, given these mandated safety management requirements?** Recommendation 15 of the Ferguson Report answers these questions.

Local governments, and particularly those in executive level management, see a chasm between their risk management capabilities, expertise, control, financial support and the standards mandated in the new WHS Act for the extremely high-risk and complex activity of fighting bushfires. They also see that the State Government, through the Department of Fire and Emergence Services (DFES), which has the expertise, knowledge, systems, training support and control, is much more capable in fighting fires than local government as an entity will ever be. In fact, in all of these areas DFES currently provides support to the bush fire brigades, with local government effectively simply providing a legacy legislative platform for their existence, along with some administrative support, assets and land for VBFB facilities.

The disparate, disjointed management by individual local governments, may provide some tailored local focus, but it has no strategic, management expertise, operational expertise, coordination or cohesiveness, nor State Government consistent operational budget funding outside of grants; despite now carrying safety expectations well above local government primary expertise and risk management capabilities.

As an alternative way of viewing this issue, local governments would not be expected, or able, to competently manage the emergency services currently within DFES areas of responsibility. Nor would Local government manage ambulance services, and nor should they. These are matters outside of local government core business and expertise. As a risk response, government, agencies and departments must operate within their core business and competencies. With a new focus on health and safety it is no longer appropriate that local government be required to operate in a highly specialized extreme risk area, when suitable alternatives exist, or should exist, as stated in the Ferguson Report.

Australian Models for Management of Bush Fire Brigades

The WHS Act was ostensibly enacted, in part, to bring Western Australia in line with the rest of the Australian states, including responsibility for volunteers. Perhaps as an unintended consequence, this has highlighted a significant disparity across Australia, with every other state having their

volunteer bushfire brigades run by State Government agencies rather than local governments. Many in local government charged with management oversight of the VBFs, believe that a handover to the State Government is the necessary next step for Western Australia, if coming into line with the rest of Australia.

### **WALGA Infopage**

The development of the CES Act represents an important and timely opportunity for the Council and the sector to determine its position on the management of volunteer BFBs. WALGA are seeking input from all Council to provide an endorsed advocacy position which will guide the Association in its engagement with the State Government on this issue.

The proposed options for future management of BFBs are as follows;

1. Status quo – continue with the current arrangements for management of BFBs whereby the majority are managed by Local Government and transfer arrangement are negotiated on an ad hoc basis between DFES and Local Government (or their BFBs)
2. Improvements – continue with the current arrangements for Local Government Management of BFBs with additional support provided by the State Government with respect to increased funding and better access to training resources and other support
3. Hybrid Model – Local Government continues to manage BFBs where they have the capacity, capability and resources to do so; however where they do not have the capacity, capability and resources, responsibility for management of BFBs is transferred to DFES.
4. Transfer – Responsibility for management of all BFBs is transferred to the State Government, consistent with the arrangements in other States and Territories.

WALGA based on previous commentary provided is proposing the following Advocacy Position;

### **Management of Bush Fire Brigades**

1. The Association advocates that the State Government must provide for:
  - a. A clear pathway for Local Governments to transfer responsibility for the management of Bush Fire Brigades to the State Government when ongoing management is beyond the capacity, capability and resources of the Local Government;
  - b. The co-design of a suite of relevant guidelines and materials to assist those Local Governments that manage Bush Fire Brigades;
  - c. Mandatory and minimum training requirements for Bush Fire Brigade volunteers supported by a universally accessible training program managed by the Department of Fire and Emergency Services (DFES); and
  - d. The recognition of prior learning, experience and competency of Bush Fire Brigade volunteers.
2. That a Working Group comprising representatives of WALGA and DFES be established to develop
3. Where management of Bush Fire Brigades is transferred to DFES in accordance with 1(a), DFES should be resourced to undertake the additional responsibility.

The survey that WALGA has requested Councils complete asks the following questions;

1. Does your Local Government manage BFBs?
2. Does your Local Government support the proposed Advocacy Position on arrangements for the management of Bush Fire Brigades? Why or why not?
3. Does your Local Government have any further suggestions or changes to the proposed Advocacy position?

4. For Local Governments that manage BFBs, is your Local Government's preference to continue to manage BFBs or to transfer responsibility to the State Government?
5. Is your response endorsed by Council? If so please include the Council paper and resolution.
6. Do you have any further comments to make?

Below is the responses that Councils Management is proposing;

1. Yes, Council currently operates its Bushfire Brigades;
2. Yes, Councils Management believes that Councils that Western Australia should have the same system as the rest of the States and Territories and have the State Government run and oversee the Volunteer Bush Fire Brigades.
3. In recommendation 1 (b) insert the wording "elect to" between "that manage" and "as they have the capacity and capabilities internally" after wording "Brigades".
4. The Shire of Kellerberrin preference would be to transfer the responsibility to the State Government.

## TEN YEAR FINANCIAL PLAN

The operation of the Bush Fire Brigades is predominantly paid out of the Emergency Services Levy.

## FINANCIAL IMPLICATIONS

### Insurance

Up to \$10M in uninsurable organisational maximum penalties for the most serious failures to comply with the new WHS Act 2020.

WALGA Local Governments are responsible for providing compensation for injury caused to present and former BFB volunteers as a result of their duties. The commercial insurance market ceased writing injury insurance for volunteers in 2012, therefore a self-insurance mutual scheme was implemented to ensure that Local Governments continue to meet this obligation.

Since 2012, due to the high cost of claims, the aggregate limit of liability has increased from \$250,000 to \$750,000. In addition, the annual cost of insurance has nearly doubled (92%) from \$47.50 to \$91.20 per volunteer, and it is expected that this trend will continue.

### Volunteer Bush Fire Services Funding

The State Government has in place an Emergency Services Levy. This is a pre-existing and suitable funding mechanism for volunteer bush fire brigades services via an entity, under direct management of the State Government.

## STATUTORY IMPLICATIONS

In light of, *the Local Government Act of 1995: Division 3 — Executive functions of local governments, Subdivision 1 — Performing executive functions, s3.18. Performing executive functions: 3(b)*; as the WA Department of Fire and Emergency Services (DFES), is already providing a rural fire division (ref. 2), it could be considered that the further provision of Local Government controlled Fire & Emergency Services Brigades is an inappropriate duplication of "services or facilities provided by the ... State".

Work Health and Safety Act 2022, mandates the duty of care to volunteers by the person conducting a business undertaking. Senior Local Government officers with decision making and budget allocation control, have a duty of care to volunteer bush fire brigade members.

Bush Fires Act 1954, s36 and s41. Provides for local governments to establish, maintain and equip bush fire brigades.

### Emergency Services Review of Legislation

The Department of Emergency Services is currently reviewing the three emergency services Acts. This represents a one in a generation opportunity to consider the best and most competent delivery of volunteer bush fire brigade services. Ensuring that WALGA is at the table in this review is critical to good outcomes for local government.

### **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
- Bushfire Advisory Committee

### **STAFF RECOMMENDATION**

That Council requests:

1. WA Local Government Association (WALGA) to advocate for the:
  - a. Modernization of Western Australian emergency services legislation, including alignment of the WA Bush Fires Act 1954 with the rest of Australia by removing the legislative requirement for WA Local Governments to manage Volunteer Bush Fire Brigades (VBFB); and
  - b. Provision of a legislated State Government department or agency to do so, fully implementing recommendation 15 of the "Reframing Rural Fire Management" Report of the Special Inquiry Into the January 2016 Waroona Fire (Ferguson Report), which states;

*"The State Government to create a Rural Fire Service to enhance the capability for rural fire management and bushfire risk management at a State, regional and local level. The proposed Rural Fire Service will:*

- *be established as a separate entity from the Department of Fire and Emergency Services or, alternatively, be established as a sub-department of the Department of Fire and Emergency Services;*
- *have an independent budget;*
- *be able to employ staff;*
- *have a leadership structure which, to the greatest degree possible, is regionally based and runs the entity;*
- *be led by a Chief Officer who reports to the responsible Minister on policy and administrative matters; and to the Commissioner for Fire and Emergency Services during operational and emergency response;*
- *have responsibilities and powers relating to bushfire prevention, preparedness and response; and*
- *operate collaboratively with the Department of Fire and Emergency Services, the Department of Parks and Wildlife, Local Government and volunteer Bush Fire Brigades.*

*“In creating the Rural Fire Service, the State Government to consider whether back office and corporate support services could be effectively provided by an existing Department, such as the Department of Fire and Emergency Services or the Department of Parks and Wildlife.*

*“The State Government to review the creation of the Rural Fire Service two years after its establishment, to assess whether its structure and operations are achieving the intended outcome.*

2. WALGA to support, in the review of the emergency services legislation, a comprehensive plan by the Department of Fire and Emergency Services and the State Government for;
  - a. Full engagement with the VBFs, local governments and WALGA to understand their successes, challenges, ideas and hopes for this service;
  - b. Inclusion of a review of the history and past performance of the volunteer bush fire brigades in Western Australia, including all previous studies and findings, with volunteer safety as a key theme;
  - c. A best practice assessment of volunteer bush fire brigades departmental/agency structures and legislative underpinnings across Australia; and
  - d. A legislative outcome goal that ensures that organisational structures, expertise, strategy, management and control, best meet the health and safety mandates of the WHS Act 2020;
  
3. WALGA to support Option 4 of its “Arrangements for Management of Volunteer Bush Fire Brigades: Proposed Advocacy Position” paper, being, *“Transfer - Responsibility for management of all BFBs is transferred to the State Government, consistent with the arrangements in other States and Territories”*.

**9.10 BUILDING REPORTS MAY 2022**

<b>File Ref:</b>	<b>BUILD06</b>
<b>Author:</b>	<b>Amanda Stewart, Administration Officer</b>
<b>Authoriser:</b>	<b>Raymond Griffiths, Chief Executive Officer</b>
<b>Attachments:</b>	<b>1. Return of Building Permits Issued May 2022 (under separate cover)</b> <b>2. Return of Building Applications Received May 2022 (under separate cover)</b>

**BACKGROUND**

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

**STAFF COMMENT**

1. There was one (1) applications received for a "Building Permit" during the May period. A copy of the "Australian Bureau of Statistics appends".
2. There was one (1) "Building Permit" issued in the May 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**

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:

- Building Surveyor
- Owners
- Building Contractors
- Chief Executive Officer

## **STAFF RECOMMENDATION**

*That Council*

1. *Acknowledge the "Return of Proposed Building Operations" for the May 2022 period.*
2. *Acknowledge the "Return of Building Permits Issued" for the May 2022 period.*

**9.11 DIRECT DEBIT LIST AND VISA CARD TRANSACTIONS - MAY 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 May 2022.

Municipal Direct Debit List				
Date	Name	Details	\$	Amount
2-May-22	NAB	Merchant Fees - Trust		3.42
2-May-22	NAB	Merchant Fees - Caravan Park		51.90
2-May-22	NAB	Merchant Fees - Admin Office		96.47
2-May-22	NAB	Merchant Fees - CRC		186.19
2-May-22	Westnet	Internet Fees		4.99
5-May-22	Shire of Kellerberrin	Creditors Pay Run		167,263.67
6-May-22	Department of Transport	Vehicle Inspection Fees		113.10
10-May-22	Department of Communities	of Rent		420.00
12-May-22	Shire of Kellerberrin	Pay Run		63,623.15
13-May-22	ATO	April BAS Payment		9,019.00
16-May-22	Shire of Kellerberrin	Precision Superannuation		30.46
16-May-22	Shire of Kellerberrin	Precision Superannuation		11,154.11
19-May-22	Shire of Kellerberrin	Creditors Pay Run		218,059.56
20-May-22	Nayax Australia	Vending Machine Caravan Park		38.17
24-May-22	Department of Communities	of Rent		420.00
26-May-22	Shire of Kellerberrin	Precision Superannuation		10,544.56
26-May-22	Shire of Kellerberrin	Pay Run		62,591.37
31-May-22	NAB	Bpay Charge		23.00
31-May-22	NAB	Bank Fees - Trust		16.60
31-May-22	NAB	Bank Fees - Muni		43.60
31-May-22	NAB	NAB Connect Fees		44.24
		<b>TOTAL</b>	<b>\$</b>	<b>543,747.56</b>
Trust Direct Debit List				
Date	Name	Details	\$	Amount
31-May-22	Department of Transport	Licencing Payments May 2022		\$49,003.10
		<b>TOTAL</b>	<b>\$</b>	<b>49,003.10</b>



Visa Transactions				
Date	Name	Details	\$	Amount
02-May-22	Department of Health	Chlorine Permit 3855 Pool & Dam		127.00
11-May-22	United Petroleum	Phone Charger and Cable		60.99
16-May-22	SP Dezigna	Wrist Bands Reconciliation Week		153.00
20-May-22	Beaurepaires Northam	Repair Plant P6 Low Loader		326.52
23-May-22	Star Car Wash	Detailing of KE 002		80.80
23-May-22	Star Car Wash	Detailing of KE 002		399.00
23-May-22	United Petroleum	Fuel KE1		145.40
27-May-22	NAB	Card Fee		9.00
		<b>TOTAL - CEO</b>	<b>\$</b>	<b>1,301.71</b>
Date	Name	Details	\$	Amount
05-May-22	Mister Magnet	Magnets Road Safety Week		294.00
12-May-22	The Print Shop	Bumper Stickers Road Safety Week		290.40
16-May-22	Bruno Greci	Farewell Lunch DCEO		107.50
27-May-22	NAB	Card Fee		9.00
		<b>TOTAL - Manager of Governance</b>		<b>700.90</b>
		<b>TOTAL VISA TRANSACTIONS</b>	<b>\$</b>	<b>2,002.61</b>

## STAFF COMMENT

The Direct Debit List and Visa Card Transactions are presented for Council to note for the month of May 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
- Manager of Governance
- Senior Finance Officer

### **STAFF RECOMMENDATION**

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

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

**9.12 CHEQUE LIST MAY 2022**

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

**BACKGROUND**

Accounts for payment from 1<sup>st</sup> May to 31<sup>st</sup> May 2022

**TRUST**

**TRUST TOTAL** **\$ 50,464.75**

**MUNICIPAL FUND****Cheque Payments**

34942-34948 **\$ 5,819.60**

**EFT Payments**

13427-13512 **\$ 380,472.23**

**Direct Debit Payments**

**\$ 36,136.52**

**TOTAL MUNICIPAL**

**\$ 422,428.35**

**STAFF COMMENT**

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

**Donovan Payne Architects** **\$ 99,935.00**  
 Consultant fee for Swimming Pool Stage 2 & 3

**Fire And Emergency Services (WA)** **\$ 68,763.00**  
 Recoup unspent funds 2020-2021 BRMP LG Grant Agreement

**Department of Transport - TRUST DIRECT DEBITS Licensing CRC** **\$ 49,003.10**  
 Licencing receipts May 2022

**Pilbara Motor Group** **\$ 37,195.94**  
 Purchase of Toyota Camry for MOG

**Synergy** **\$ 15,311.87**  
 Power charges various Shire properties & buildings February-April 2022

**United Card Services Pty Ltd** **\$ 14,949.59**  
 Total supply April 2022

**Beam Superannuation** **\$ 11,154.11**  
 Superannuation Payrun 12/05/2022

**Western Australian Treasury Corporation** **\$ 11,140.49**  
 Loan No. 119 Interest & principal payments - Construction CEACA Senior Units  
 Hammond St.

**Synergy** **\$ 11,073.06**  
 Power charges various Shire properties & buildings February-April 2022

<b>Beam Superannuation</b> Superannuation 26/05/2022	<b>\$ 10,544.56</b>
<b>Avon Waste</b> Domestic & commercial collections April 2022	<b>\$ 9,682.96</b>
<b>Kellerberrin Community Resource Centre</b> Licencing commissions November 2021-March 2022	<b>\$ 9,165.55</b>
<b>Youlie and Son Contracting</b> Equipment hire April 2022 various road grading works	<b>\$ 9,075.00</b>
<b>Deputy Commissioner Of Taxation</b> GST Debtors	<b>\$ 9,019.00</b>
<b>Bucher Municipal Pty Ltd</b> Repair of auxiliary engine for KE 06 including parts & labour	<b>\$ 7,646.14</b>
<b>Greenlite Electrical Contractors P/L</b> Carry out focus, lux testing & investigation of existing hocky field lighting	<b>\$ 5,582.72</b>
<b>Merredin Refrigeration &amp; Gas</b> Pre-season AC services various Shire properties & buildings	<b>\$ 5,433.56</b>

## 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.

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**COMMUNITY CONSULTATION**

The following consultation took place;

- Chief Executive Officer
- Manager of Governance
- Finance Officer

**STAFF RECOMMENDATION**

*That Council notes that during the month of May 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 \$ 422,428.35 on vouchers EFT , CHQ, Direct payments*
2. *Trust Fund payments totalling \$ 50,464.75 on vouchers EFT, CHQ, Direct payments*

**9.13 FINANCIAL ACTIVITY STATEMENT - MAY 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 – 20<sup>th</sup> 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 31<sup>st</sup> May 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.

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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
- Deputy Chief Executive Officer
- Senior Finance Officer

**STAFF RECOMMENDATION**

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

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

**10 DEVELOPMENT SERVICES REPORTS**

Nil

**11 WORKS & SERVICES REPORTS**

Nil

**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**