



AGENDA

Ordinary Council Meeting Tuesday, 15 November 2022

Date: Tuesday, 15 November 2022

Time: 2:00pm

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

Shire of Kellerberrin

Ordinary Council Meeting 15th November 2022

NOTICE OF MEETING

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Kellerberrin will be held on Tuesday, 15th November 2022 in the Council Chamber, 110 Massingham Street, Kellerberrin WA 6410 commencing at 2:00pm.



Raymond Griffiths
Chief Executive Officer
Tuesday, 8 November 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.

Order Of Business

1	Declaration of Opening	7
2	Announcement by Presiding Person Without Discussion.....	7
3	Record of Attendance / Apologies / Leave of Absence.....	7
4	Declaration of Interest.....	7
5	Public Question Time	7
5.1	Response to Previous Public Questions taken on Notice	7
5.2	Public Question Time	7
6	Confirmation of Previous Meetings Minutes.....	8
6.1	Minutes of the Council Meeting held on 18 October 2022	8
7	Presentations.....	9
7.1	Petitions	9
7.2	Presentations	9
7.3	Deputations.....	9
8	Reports of Committees	9
	Nil	
9	Corporate Services Reports.....	10
9.1	Standing Orders.....	10
9.2	Community Requests and Discussion Items	11
9.3	Status Report of Action Sheet	20
9.4	Fees and Charges Update	28
9.5	Building Reports October 2022	31
9.6	Direct Debit List and Visa Card Transactions - October 2022.....	33
9.7	Cheque List October 2022	36
9.8	Financial Activity Statement - October 2022.....	40
10	Development Services Reports	43
	Nil	
11	Works & Services Reports	44
11.1	70 Connelly Street - Front Fence Construction.....	44
11.2	Development Application - Outbuilding.....	52
12	Elected Members Motions of Which Previous Notice has been Given	60
	Nil	
13	New Business of an Urgent Nature Introduced by Decision of Meeting.....	60
14	Confidential Matters	61
14.1	Outstanding Rates - Recoverable on Sale - Kellerberrin	61
14.2	Outstanding Rates - Recoverable on Sale - Kellerberrin	61
14.3	Outstanding Rates - Recoverable on Sale - Kellerberrin	61
15	Closure of Meeting.....	62

- 1 DECLARATION OF OPENING**
- 2 ANNOUNCEMENT BY PRESIDING PERSON WITHOUT DISCUSSION**
- 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 18 OCTOBER 2022

File Ref: ADM00
Author: Codi Brindley-Mullen, Manager of Governance
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Minutes of the Council Meeting held on 18 October 2022

STAFF RECOMMENDATION

That the Minutes of the Council Meeting held on 18 October 2022 be received as a true and correct 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.

9.2 COMMUNITY REQUESTS AND DISCUSSION ITEMS

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

October 2022 Council Meeting

MIN 165/22 MOTION - Moved Cr. Forsyth Seconded Cr. Pryer
That Council investigate the purchase of instructional signage for Baandee Lake.
CARRIED 7/0

September 2022 Council Meeting

MIN 143/22 MOTION - Moved Cr. Ryan Seconded Cr. Leake
That Council receive the operational items raised at the Strategic Community Plan community forum held on Thursday, 15th September 2022 and request Council staff investigate and act at their earliest convenience.
CARRIED 7/0

August 2022 Council Meeting

MIN 121/22 MOTION - Moved Cr. Reid Seconded Cr. Gardiner
 That Council acknowledge the damaged sustained to Yelbeni Road. Currently no rectification works have been completed to date, as the Council administration were investigating an opportunity to have the problem rectified through 'Flood Damage' funding.
CARRIED 6/0

STAFF COMMENT

October MIN 165/22

Design and pricing being investigated

September MIN 143/22

An internal action sheet has been prepared that list all operational items provided to Councils Manager of Governance at the SCP workshops for management to work through.

August MIN 121/22

The Yelbeni Road Culvert works have been completed, however some damage has occurred to the seal works and the contractor has been contacted to attend site and rectify.

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.

STRATEGIC COMMUNITY PLAN

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

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

COMMUNITY CONSULTATION

The following consultation took place;

- Council Members
- Chief Executive Officer

STAFF RECOMMENDATION

That Council note any requests or ideas to be actioned.

9.3 STATUS REPORT OF ACTION SHEET

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

BACKGROUND

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

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

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

STAFF COMMENT

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

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

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

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

TEN YEAR FINANCIAL PLAN

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

FINANCIAL IMPLICATIONS

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

STATUTORY IMPLICATIONS

NIL know at this time.

STAFF COMMENT

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

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

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

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

TEN YEAR FINANCIAL PLAN

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

FINANCIAL IMPLICATIONS

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

STATUTORY IMPLICATIONS

Local Government Act 1995 (as amended)

Section 2.7. The role of the council

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

Section 2.8. The role of the mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act;
 - (b) provides leadership and guidance to the community in the district;
 - (c) carries out civic and ceremonial duties on behalf of the local government;
 - (d) speaks on behalf of the local government;
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.
- (2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

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

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

Section 2.10. The role of councillors

A councillor —

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

5.60. When person has an interest

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

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

has —

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

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

5.60A. Financial interest

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

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

5.60B. Proximity interest

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

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

5.61. Indirect financial interests

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

5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
 - (a) the person is in partnership with the relevant person; or
 - (b) the person is an employer of the relevant person; or
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or

- (ca) the person belongs to a class of persons that is prescribed; or
- (d) the person is a body corporate —
 - (i) of which the relevant person is a director, secretary or executive officer; or
 - (ii) in which the relevant person holds shares having a total value exceeding —
 - (I) the prescribed amount; or
 - (II) the prescribed percentage of the total value of the issued share capital of the company,
 whichever is less;
- or
- (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
- (ea) the relevant person is a council member and the person —
 - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;
- or
- (eb) the relevant person is a council member and since the relevant person was last elected the person —
 - (i) gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or
 - (ii) made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;
- or
- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

(2) In subsection (1) —

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

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

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

5.63. Some interests need not be disclosed

- (1) Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter —
 - (a) an interest common to a significant number of electors or ratepayers;
 - (b) an interest in the imposition of any rate, charge or fee by the local government;
 - (c) an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers;
 - (d) an interest relating to the pay, terms or conditions of an employee unless —
 - (i) the relevant person is the employee; or
 - (ii) either the relevant person's spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;
 - [(e) deleted]*

- (f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects;
 - (g) an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under this Act or any other written law; or
 - (h) a prescribed interest.
- (2) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —
- (a) any proposed change to a planning scheme for any area in the district;
 - (b) any proposed change to the zoning or use of land in the district; or
 - (c) the proposed development of land in the district,

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

- (3) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —
- (a) any proposed change to a planning scheme for that land or any land adjacent to that land;
 - (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
 - (c) the proposed development of that land or any land adjacent to that land,

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

- (4) If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —
- (a) any proposed change to a planning scheme for any area in the district;
 - (b) any proposed change to the zoning or use of land in the district; or
 - (c) the proposed development of land in the district,

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

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

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

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

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

- (1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest —
- (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.

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

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
 - (a) that he or she had an interest in the matter; or
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.
- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

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

- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

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

5.67. Disclosing members not to participate in meetings

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

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

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

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

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

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

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

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.

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

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

5.69A. Minister may exempt committee members from disclosure requirements

- (1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.
- (2) An application under subsection (1) is to include —
 - (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
Penalty: \$10 000 or imprisonment for 2 years.

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

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

5.71. Employees to disclose interests relating to delegated functions

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

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

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

STRATEGIC COMMUNITY PLAN

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

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

COMMUNITY CONSULTATION

The following consultation took place;

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

STAFF RECOMMENDATION

That Council receive the status report.

9.4 FEES AND CHARGES UPDATE

File Ref: FIN04
Author: Raymond Griffiths, Chief Executive Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

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 amended/additional Fees and Charges to apply from 1st December 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's 20th June 2022 – June Ordinary Meeting of Council

MIN 001/22 MOTION - Moved Cr. Steber Seconded Cr. Forsyth

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.***

**CARRIED 7/0
BY ABSOLUTE MAJORITY**

STAFF COMMENT

Council has been reviewing its fees and charges in line with operating costs for the following;

1. Depositing of Mattresses at the Waste Transfer Station;
2. Vacant Block Slashing; and
3. Animal Traps.

1. Currently Council charge \$10 per mattress at the Waste Transfer Station though to have these received at the Northam Waste Site Council is required to pay \$30 per mattress deposited plus travel to and from Northam.
2. Council doesn't currently have a minimum charge for undertaking vacant block slashing. Council issues letters every year for overgrown vegetation, where we are at times requested to complete the works. The works undertaken are coming at a cost to Council instead of the ratepayer.
3. Currently Council doesn't have a charge for the hire of the Animal Traps. Council at its previous review included an Animal Trap bond however we feel a fee should also be applicable.

Therefore, Council's Management feel the following should be included into Councils 2022/23 fees and charges;

1. \$55 per mattress;
2. \$150 minimum charge for vacant block slashing
3. \$5 minimum fee or \$5 per week (Payable on collection)

TEN YEAR FINANCIAL PLAN

Nil

FINANCIAL IMPLICATIONS

Shire of Kellerberrin 2022/2023 Budget will be affected minimally due to new 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

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

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

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Manager of Governance
- Council.

STAFF RECOMMENDATION

That Council;

1. *Adopts the amendment to Councils fees and charges for 2022/23 as per the following;*
 - a. *Mattress Drop Off – Increasing fee to \$55.00*
 - b. *Vacant Block Slashing – Adding a minimum fee of \$150.00.*
 - c. *Animal Trap Hire – Adding the following fees;*
 - i. *\$5 minimum fee; or*
 - ii. *\$5 per week payable on collection.*
2. *Incorporate the new fees and charges into the Fees and Charges 2022/2023 document.*
3. *Advertise the new charges on Council Website, Noticeboard, CRC, Ratepayers and all Social Media Platforms.*

9.5 BUILDING REPORTS OCTOBER 2022

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

BACKGROUND

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

STAFF COMMENT

1. There were three (3) applications received for a "Building Permit" during the October period.
2. There were two (2) "Building Permit" issued in the October period.

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 October 2022 period.*
- 2. Acknowledge the "Return of Building Permits Issued" for the October 2022 period.*

9.6 DIRECT DEBIT LIST AND VISA CARD TRANSACTIONS - OCTOBER 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 October 2022.

Municipal Direct Debit List

Date	Name	Details	\$	Amount
4/10/2022	Alleasing	Gym Equipment Lease		3075.84
6/10/2022	Shire of Kellerberrin	Creditors Payment		836839.00
7/10/2022	Department of Transport	Vehicle Inspection Fees		23.00
	Department of			
11/10/2022	Communities	Rent		420.00
13/10/2022	Shire of Kellerberrin	Precision Superannuation		11118.53
13/10/2022	Shire of Kellerberrin	Pay Run		62221.15
20/10/2022	Shire of Kellerberrin	Creditors Payment		292706.19
24/10/2022	Nayax Australia	Vending Machine Caravan Park		38.17
	Department of			
25/10/2022	Communities	Rent		420.00
27/10/2022	Shire of Kellerberrin	Precision Superannuation		11324.69
27/10/2022	Shire of Kellerberrin	Pay Run		62768.99
31/10/2022	NAB	B-Pay Fee		94.76
31/10/2022	NAB	Account Fees - Trust		12.40
31/10/2022	NAB	Account Fees		72.00
		TOTAL	\$	1,281,134.72

Trust Direct Debit List

Date	Name	Details	\$	Amount
31/10/2022	Department of Transport	Licensing Payments October 2022		41,096.20
		TOTAL	\$	41,096.20

Visa Transactions

Date	Name	Details	\$	Amount
13-Oct-22	Prince of Wales Hotel	Accommodation S. Beckham Traffic Course		660.00
13-Oct-22	Telstra	Prepaid Charge Waste Transfer Station Phone		30.00
17-Oct-22	Discount Party Shop	Glasses Night of Colour Ball		81.89
17-Oct-22	KMART	Tablecloth's Night of Colour Ball		80.00
17-Oct-22	KMART	Utensils Caravan Park		149.50
21-Oct-22	Prince of Wales Hotel	Meal S. Beckham Traffic Course		15.00
21-Oct-22	Department Mines	Copy of Incorporation Certificate		19.20
28-Oct-22	Shire of Kellerberrin	Licensing KE002		30.50
28-Oct-22	NAB	Card Fee		9.00
		TOTAL - CEO	\$	1,075.09

Date	Name	Details	\$	Amount
28/10/2022	NAB	Card Fee		9.00
		TOTAL - MOG		9.00

4/10/2022	Dome Warwick	Meals WSNF Officer		19.25
5/10/2022	Toodyay Bakery	Meals WSNF Officer		30.40
7/10/2022	Dome Warwick	Meals WSNF Officer		10.30

10/10/2022	Cactus Kitchen	Meals WSN Officer	12.90
10/10/2022	Regal Place Parking	Parking WSN Officer	7.07
18/10/2022	Officeworks	Stationery WSN Officer	267.00
24/10/2022	Dome Warwick	Meals WSN Officer	9.90
27/10/2022	Dome Warwick	Meals WSN Officer	9.90
28/10/2022	NAB	Card Fee	9.00
		TOTAL -WSFN OFFICER	375.72
		TOTAL VISA TRANSACTIONS	\$ 1,459.81

STAFF COMMENT

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

TEN YEAR FINANCIAL PLAN

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

FINANCIAL IMPLICATIONS

Financial Management of 2022/2023 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 October 2022 comprising of;

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

9.7 CHEQUE LIST OCTOBER 2022

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

BACKGROUND

Accounts for payment from 1st October 2022 to 31st October 2022.

TRUST

TRUST TOTAL	\$ 42,196.20
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MUNICIPAL FUND**Cheque Payments**

34975 - 34983	\$ 7,279.12
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EFT Payments

13958 - 14060	\$ 1,129,545.19
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Direct Debit Payments

	\$ 27,161.45
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TOTAL MUNICIPAL

	\$ 1,163,985.76
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STAFF COMMENT

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

Distinctive Pools	\$ 615,214.38
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Claim #2: Phase 3 - Swimming Pool redevelopment

LGIS Liability	\$ 138,295.53
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2nd Instalment for LGIS insurance

Youlie & Son Contracting	\$ 88,180.68
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Grader, truck & trailer hire for Yorkrakine Rock Rd., Ryan Rd., Benderine Nth Rd., Nanyanine Rd., Deep Well Rd, Marley Rd, Morley Rd. & Mission Rd – September 2022

Department of Transport - TRUST DIRECT DEBITS Licensing CRC	\$ 41,096.20
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Licencing payments October 2022

D.E.C Contracting Pty Ltd	\$ 39,666.00
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Hire of excavator & digga rotary for tree pruning for KBN-Bencubbin Rd. –October 2022

D.E.C Contracting Pty Ltd	\$ 23,540.00
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Excavator with grapple saw & tow behind chipper to cut/prune & chip trees KBN-Yoting Rd. – October 2022

Enviro Pipes Pty Ltd	\$ 21,020.78
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Purchase of various pipes for Yorkrakine Rock Rd., Goldfields Rd., Deep Well Rd., South Doodlakine Rd. & culvert maintenance

Rural Traffic Services	\$ 18,117.23
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Hire of traffic controllers & vehicle signs for KBN-Bencubbin Rd. & KBN-Yoting Rd. September-October 2022

United Card Services Pty Ltd	\$ 12,495.61
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Total supply October 2022

Local Pest Control General pest treatment & termite inspection for all Shire properties	\$ 11,600.50
Nova Corvus Consulting Pty Ltd Consultant services for WSFN Project Management September 2022	\$ 11,467.50
Beam Superannuation Superannuation Payrun 27/10/2022	\$ 11,324.69
Beam Superannuation Superannuation Payrun 13/10/2022	\$ 11,118.53
Avon Waste Domestic & commercial collections September 2022	\$ 10,619.48
Nova Corvus Consulting Pty Ltd WSFN Consultant services 26 September to 7 October 2022	\$ 9,921.01
Farmways Kellerberrin Pty Ltd Purchase of prolink XR briquettes or mossie control, grease & oils for Depot, TVs for Caravan Park & various items under \$200	\$ 8,875.54
Innes & Co Equipment hire for South Doodlakine Rd., Innes Rd., Nalyerine Rd. & Yorkrakine Rock Rd.	\$ 8,162.00
Rural Traffic Services Hire of traffic controllers & vehicle signs for KBN-Bencubbin Rd. & KBN-Yoting Rd.	\$ 7,137.17
Sapio Pty Ltd WSFN Monthly IT support August 2022, installation of WiFi for Depot & milestone annual renewal	\$ 5,958.18
Synergy Power charges various Shire properties August-October 2022	\$ 5,715.46
Fire And Emergency Services (WA) ESL payments for various Shire properties	\$ 5,462.11

TEN YEAR FINANCIAL PLAN

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

FINANCIAL IMPLICATIONS

Shire of Kellerberrin 2022/2023 Operating Budget

STATUTORY IMPLICATIONS

Local Government (Financial Management) Regulations 1996

11. Payment of accounts

- (1) A local government is to develop procedures for the authorisation of, and the payment of, accounts to ensure that there is effective security for, and properly authorised use of —
 - (a) cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services, money or other benefits may be obtained; and
 - (b) Petty cash systems.

- (2) A local government is to develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so.
- (3) Payments made by a local government —
 - (a) Subject to sub-regulation (4), are not to be made in cash; and
 - (b) Are to be made in a manner which allows identification of —
 - (i) The method of payment;
 - (ii) The authority for the payment; and
 - (iii) The identity of the person who authorised the payment.
- (4) Nothing in sub-regulation (3) (a) prevents a local government from making payments in cash from a petty cash system.

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

12. Payments from municipal fund or trust fund

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

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

13. Lists of accounts

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

STRATEGIC COMMUNITY PLAN

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

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Manager of Governance
- Finance Officer

STAFF RECOMMENDATION

That Council notes that during the month of October 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 \$ 1,163,985.76 on vouchers EFT , CHQ, Direct payments*
2. *Trust Fund payments totalling \$ 42,196.20 on vouchers EFT, CHQ, Direct payments*

9.8 FINANCIAL ACTIVITY STATEMENT - OCTOBER 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 2022 Ordinary Meeting of Council – 19th July 2022

MIN 109/22 MOTION - Moved Cr. Steber Seconded Cr. Reid
That Council:

PART G – MATERIAL VARIANCE REPORTING FOR 2022/2023

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 2022/2023 for reporting material variances shall be 10% or \$10,000, whichever is the greater.

STAFF COMMENT

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

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the Shire's financial performance on a year to date basis for the period ending 31st October 2022.

TEN YEAR FINANCIAL PLAN

Financial Management of 2022/2023 Budget.

FINANCIAL IMPLICATIONS

Financial Management of 2022/2023 Budget.

STATUTORY IMPLICATIONS

Local Government (Financial Management) Regulations 1996

34. Financial activity statement report — s. 6.4

(1A) In this regulation —

committed assets means revenue unspent but set aside under the annual budget for a specific purpose.

- (1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —
 - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - (b) budget estimates to the end of the month to which the statement relates;
 - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
 - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing —
 - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
 - (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity be shown —
 - (a) according to nature and type classification; or
 - (b) by program; or
 - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- (5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

STRATEGIC COMMUNITY PLAN

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 adopt the Financial Report for the month of October 2022 comprising;

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

10 DEVELOPMENT SERVICES REPORTS

Nil

11 WORKS & SERVICES REPORTS

11.1 70 CONNELLY STREET - FRONT FENCE CONSTRUCTION

File Ref: A823, IPA22142
Author: Lewis York, Town Planner
Authoriser: Raymond Griffiths, Chief Executive Officer
Applicant: Peter Langlois
Location: 70 Connelly Street, Kellerberrin
Attachments: 1. Development Application (under separate cover)

BACKGROUND

Councils October Ordinary Meeting of Council – 18th October 2022

Council at its October Ordinary meeting of Council, Cr Forsyth requested Council to reconsider the fence development application at its November Council meeting.

Councils September Ordinary Meeting of Council – 20th September 2022

Moved Cr. Leake **Seconded Cr. Gardiner**

That Council approve the construction of the front fence at 70 Connelly Street, Kellerberrin that exceeds the following R-Code prescription:

- **C4.1; front fence height 1.2m, by 0.4m (proposed 1.6m) with the following conditions;**

General Conditions

- Planning approval will expire if the development is not substantially commenced within two years of this approval;**
- The endorsed approved plans shall not be altered without prior written approval of the Shire; and**
- All gates in the front fence shall be visually permeable**

Advice Notes

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

LOST 0/7

REASON: The front fence exceeded the Fencing Local Law 2016 and R-Code prescription of 1.2m.

Below is the background information that was presented to the September Council meeting for the application.

A development application has been received from Mr. Peter Langlois for the retrospective approval of a rendered brick front fence that is 1.6m tall. Lot 371 (70) Connelly Street contains a single dwelling. The development requires approval because it exceeds the R-Code front fence height maximum of 1.2m (proposed 1.6m).

SITE

70 Connelly Street, Kellerberrin



Shire of Kellerberrin Local Planning Scheme

Zoned: Residential

Coded: R Code 10/40

Lot size: 1047m2

R-Codes
State Planning Policy 7.3 Residential Design Codes Volume 1

Part 5 – Design elements for all single house(s) and grouped dwellings; and multiple dwellings in areas coded less than R40 Page 25

Design principles	Deemed-to-comply
<i>Development demonstrates compliance with the following design principles (P)</i>	<i>Development satisfies the following deemed-to-comply requirements (C)</i>
<p>5.2.4 Street walls and fences</p> <p>P4 Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need:</p> <ul style="list-style-type: none"> • for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and • for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial. 	<p>C4.1 Front fences within the primary street setback area that are visually permeable above 1.2m of natural ground level, measured from the primary street side of the front fence (refer Figure 12).</p> <p>C4.2 Solid pillars that form part of front fences not more than 1.8m above natural ground level provided the horizontal dimension of the pillars is not greater than 400mm by 400mm and pillars are separated by visually permeable fencing in line with C4.1 (Refer Figure 12).</p>
<p>5.2.5 Sight lines</p> <p>P5 Unobstructed sight lines provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, rights-of-way, communal streets, crossovers, and footpaths.</p>	<p>C5 Walls, fences and other structures truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, or other structures adjoin:</p> <ol style="list-style-type: none"> i. a driveway that intersects a street, right-of-way or communal street; ii. a right-of-way or communal street that intersects a public street; and iii. two streets that intersect. (refer Figure 9a).

5.2. Streetscape requirements

R-Codes 2015

C4

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

Planning and Development (Local Planning Scheme) Regulations 2015**67. Matters to be considered by local government**

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

- a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;
- c) any approved State planning policy;
- d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);
- e) any policy of the Commission;
- f) any policy of the State;
- g) any local planning policy for the Scheme area;
- h) any structure plan, activity centre plan or local development plan that relates to the development;
- i) any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;
- j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- k) the built heritage conservation of any place that is of cultural significance;
- l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- n) the amenity of the locality including the following —
 - i. environmental impacts of the development;
 - ii. the character of the locality;
 - iii. social impacts of the development;
- o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;

- q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- r) the suitability of the land for the development taking into account the possible risk to human health or safety;
- s) the adequacy of —
 - i. the proposed means of access to and egress from the site; and
 - ii. arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- u) the availability and adequacy for the development of the following —
 - i. public transport services;
 - ii. public utility services;
 - iii. storage, management and collection of waste;
 - iv. access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
- v) access by older people and people with disability; the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- w) the history of the site where the development is to be located;
- x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- y) any submissions received on the application;
- za) the comments or submissions received from any authority consulted under clause 66;
- zb) any other planning consideration the local government considers appropriate.

Shire of Kellerberrin – Fencing Local Law 2016

PART 2—FENCES

Division 1—Sufficient fences

2.1 Sufficient fences

- (1) A person shall not erect a dividing fence or a boundary fence that is not a sufficient fence.
- (2) Pursuant to section 24 of the *Dividing Fences Act 1961* and subject to subclauses (3), (4) and (5), a sufficient fence—
 - (a) on a residential lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 2;
 - (b) on a town centre lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3;
 - (c) on an industrial lot is a dividing fence or a boundary fence constructed and maintained in accordance with the specifications and requirements of Schedule 3A;

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

2.7 Fences and sight lines

- (1) Where a front fence or a boundary fence is adjacent to a vehicle access point or a thoroughfare, the front fence or boundary fence is to have a sight line truncation or a reduction in height shall be provided at the property line to ensure adequate visibility, as follows—
 - (a) at an intersection of a driveway with a road or right-of-way a minimum sight line truncation of 1.5 meters x 1.5 meters, unless the local government approves otherwise, or as a minimum a sight line truncation of 1 metre x 1 metre for low and medium peak vehicle movements, and a sight line truncation of 3 metres x 3 metres where achievable, for high peak vehicle movements; and
 - (b) at an intersection of 2 roads a minimum sight line truncation of 3 metres x 3 metres. A sight line truncation is not required on the entry side of a driveway where it is clearly defined as “ENTRY ONLY” or where a driveway is not less than 6 metres wide, and where appropriate signage and line marking is provided.
- (2) Subclause (1) does not apply to a fence of open construction that does not obscure the lines of vision of a motorist using a vehicle access point or thoroughfare.
- (3) A person shall not erect or maintain a fence without the sight line or height reduction required under subclause (1).

2.9 General discretion of the local government

- (1) Notwithstanding the provisions of clause 2.1, the local government may approve the erection or repair of a dividing fence which is not a sufficient fence, where all of the owners of the lots to be separated by the dividing fence make an application for approval for that purpose.

- (2) In determining whether to grant its approval under subclause (1), the local government may consider whether the erection or repair of the fence would have an adverse effect on—
- (a) the safe or convenient use of any land;
 - (b) the safety or convenience of any person; or
 - (c) the visual amenity of the locality.

Schedule 2

RESIDENTIAL LOT

[Clause 2.1(2)(a)]

Specifications for a sufficient fence on a residential lot

1. Categories A,B,C,D,E & F in this Schedule, with minimum and maximum specifications as stated, is a sufficient fence on a residential lot.

2. An application must be made to the local government for grant of consent to any variation to the specifications in this Schedule.

(1) Height: 1,800 millimetres except with respect to the front or rear setbacks; minimum height: subject to requirements and standards of local planning scheme.

(A) Timber fence

A fully enclosed timber fence is to be built to manufacturer's specifications or in accordance with established construction techniques.

(B) Corrugated fence

A fence constructed of corrugated fibre-reinforced pressed cement or steel-sheeting constructed to manufacturer's specifications or which otherwise satisfies the following specifications—

- (a) length: minimum in-ground length of 25 per cent of the total length of the sheet; depth: minimum in-ground depth of 600 millimetres;
- (b) total height and depth of fence to consist of a single continuous fibre-reinforced cement or steel sheet;
- (c) corrugated sheets to be lapped and capped with extruded "snap-fit" type capping in accordance with the manufacturer's written instructions; and
- (d) height: 1,800 millimetres except with respect to the front setback area; minimum height: subject to requirements and standards of local planning schemes.

(C) Brick, stone or concrete fence

A fence constructed of brick, stone or concrete which satisfies the following requirements and specifications-

- (a) a site classification is to be provided by a professional engineer in accordance with AS2870-1996 as amended;
- (b) the footing is to be designed in accordance with AS2870-1996 as amended;
- (c) fences to be offset at a minimum of 200 millimetres and at maximum 3,000 millimetres centres; or 225 millimetres x 100 millimetres engaged piers to be provided at maximum 3,000 millimetres centres;
- (d) expansion joints in accordance with the manufacturer's written instructions; and
- (e) height of the fence to be 1,800 millimetres, except with respect to front, side and rear setback areas for which there is no minimum height but which is subject to requirements and standards of the local planning scheme.

(D) Composite fence

A composite fence which satisfies the following specifications for the brick

construction—

- (a) a site classification is to be provided by a professional engineer in accordance with AS2870-1996 as amended from time to time;
 - (b) the footing is to be designed in accordance with AS2870-1996 as amended from time to time;
 - (c) height: maximum overall height of 1,800 millimetres, except with respect to front, side and rear setback areas for which there is no minimum height but subject to requirements and standards of local planning scheme;
 - (d) brick fence of height not exceeding 1,200 millimetres shall have brick piers of a minimum of 230 millimetres x 230 millimetres x 1,800 millimetres centres; bonded to a maximum height base wall of 514 millimetres; or, brick fence of height exceeding 1,200 millimetres shall have brick piers of a minimum of 230 millimetres x 230 millimetres x 1,800 millimetres centres; bonded to a maximum height base wall of 514 millimetres;
 - (e) each pier shall be reinforced with, one R10 galvanised starting rod for 230 millimetres x 230 millimetres piers; and, two R10 galvanised starting rods for 345 millimetres x 345 millimetres x 345 millimetres piers, each rod being 1,500 millimetres high with a 250 millimetres horizontal leg bedded into the concrete footing; set 65 millimetres above the base of the footing and the top of the footing shall be 1 course (85 millimetres) below ground level;
 - (f) cavity to brick piers to be filled with 20MPA concrete;
 - (g) minimum ultimate strength of brickwork shall be 20 MPA, mortar shall be a mix of 1 part cement, 1 part lime and 6 parts sand;
 - (h) the ground under the footings is to be compacted to 7 blows per 300 millimetres and checked with a standard falling weight penetrometer; and
 - (i) control joints in brickwork shall be provided at piers at a maximum of 6 metre centres.
- (E) Brick fence with base wall
A brick fence which satisfies the following specifications for the brick construction—
- (a) height not exceeding 1,200 millimetres having brick piers of a minimum of 230 millimetres x 230 millimetres x 2,700 millimetres centres bonded to the base wall; and each pier shall be reinforced with one R10 galvanised starting rod as previously specified; or
 - (b) height exceeding 1,200 millimetres having brick piers of a minimum 345 millimetres x 345 millimetres x 2,700 millimetres centres bonded to base wall; and each pier shall be reinforced with two R10 galvanised starting rods as previously specified.
- (F) Brick fence with no base wall
A brick fence, which satisfies the following specifications for the brick construction—
- (a) height not exceeding 1,200 millimetres having brick piers with a minimum of 230 millimetres x 230 millimetres x 2,700 millimetres centres with no brick base wall; and, each pier shall be reinforced with one R10 galvanised starting rod as previously specified; or
 - (b) height exceeding 1,200 millimetres having brick piers with a minimum of 345 millimetres x 345 millimetres x 2,700 millimetres centres with no brick base wall; and, each pier shall be reinforced with two R10 galvanised starting rods as previously specified.

STRATEGIC PLAN IMPLICATIONS

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

1. Relationships that bring us tangible benefits (to the Shire and our community)

2. Our lifestyle and strong sense of community
3. We are prepared for opportunities and we are innovative to ensure our relevancy and destiny

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Shire of Kellerberrin - Town Planner
- Consulting Building Surveyor
- Land Owner

PLANNING ASSESSMENT

Please see below the original notes provided by Councils Town Planner.

The development application raises several planning concerns. Firstly the height of the front fence at 1.6m tall exceeds the R-Code requirement of 1.2m. This clause in the codes was introduced for the purpose of sightlines. High street walls are undesirable as they separate residents from their streetscape, furthermore, impacting upon visual surveillance. As the fence is partially completed, it creates a difficult decision for Council. It is recommended that the fence be approved, however the applicant should only install gates that a visually permeable.

Notes/Information from Councillor Forsyth

Cr Forsyth at the October 2022 Ordinary meeting of Council advised that the height of the newly constructed fence at 70 Connelly Street isn't any different to many other fences in town. The construction once complete with a full render will be aesthetically pleasing.

In discussion with an architect in Perth they have advised that many Councils in Perth permit front fences of 1.6m.

STAFF RECOMMENDATION

That Council approve the construction of the front fence at 70 Connelly Street, Kellerberrin, that exceeds the following R-Code prescription:

- C4.1; front fence height 1.2m, by 0.4m (proposed 1.6m) with the following conditions;

General Conditions

- i. Planning approval will expire if the development is not substantially commenced within two years of this approval;*
- ii. The endorsed approved plans shall not be altered without prior written approval of the Shire; and*
- iii. All gates in the front fence shall be visually permeable*

Advice Notes

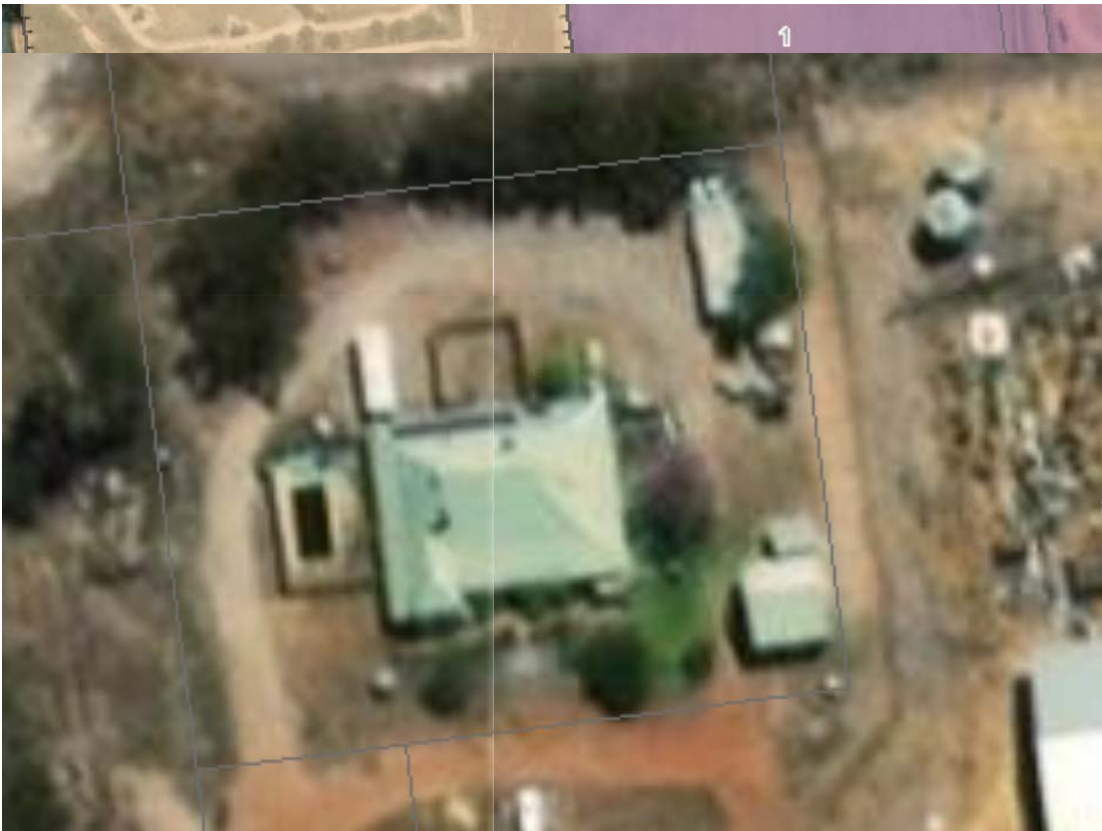
Planning approval is not considered building approval. A building permit shall also be obtained.

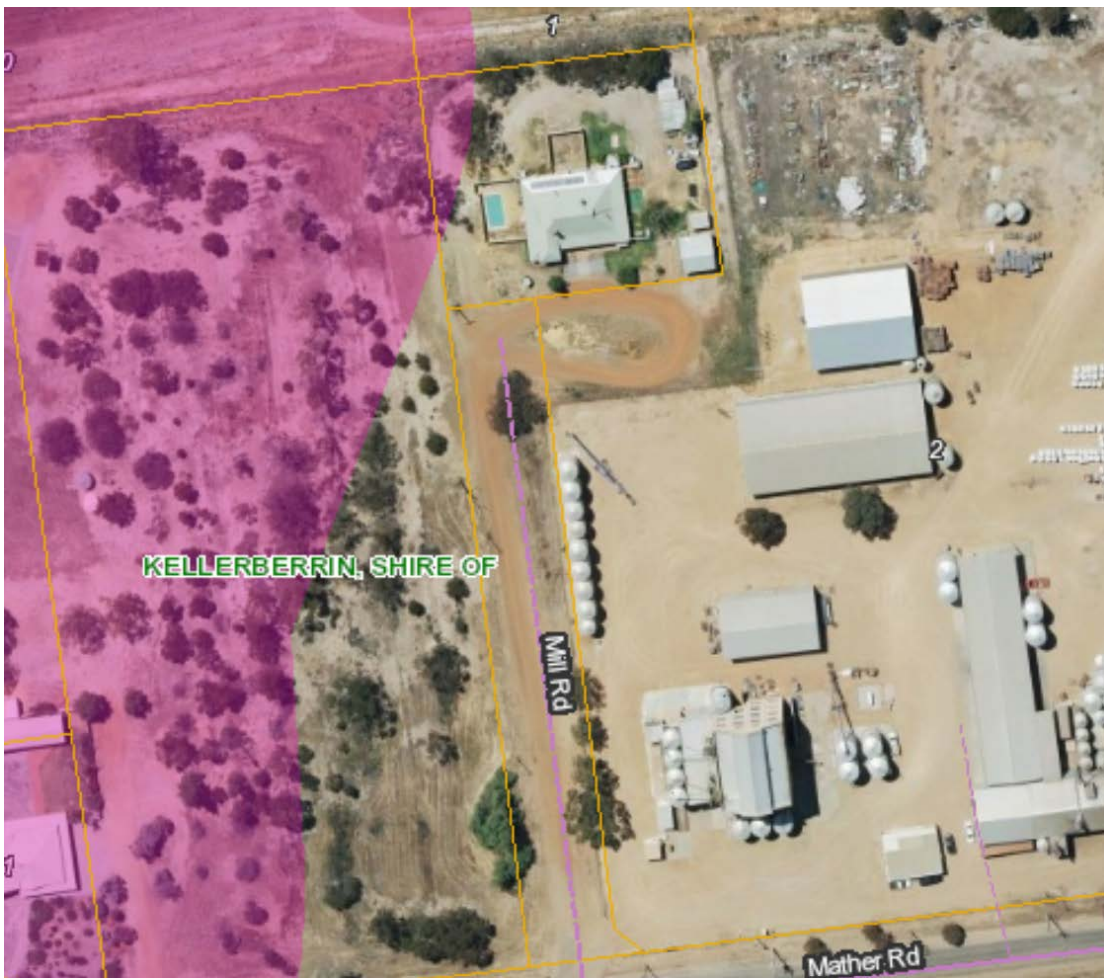
11.2 DEVELOPMENT APPLICATION - OUTBUILDING

File Ref: A493
Author: Lewis York, Town Planner
Authoriser: Raymond Griffiths, Chief Executive Officer
Applicant: Mr D Harvey
Location: 7 Mill Road, Kellerberrin
Attachments: 1. Development Application - 7 Mill St (under separate cover)

BACKGROUND

A development application has been received from Darren Harvey for the construction of a shed at 7 Mill Street, Kellerberrin. Existing on the lot is a dwelling and three smaller outbuildings. The proposed shed will be located in the north-west corner of the lot, on the boundary with the local reserve no. 6967. The lot is zoned industrial and is to be considered as a non-conforming use as the primary use of the land has been for residential purposes prior to the introduction of Planning Scheme No.4.





SITE

Shire of Kellerberrin Local Planning Scheme

Local Planning Scheme No.4

Lot 7, Mill Street, Kellerberrin

Zoned: Industrial

Coded: No Code

Lot size: 3281m²

Setbacks proposed: rear: 2m, side (west): 0m, the applicant proposes to build up to the lot boundary so the shed wall can be incorporated into a boundary fence.



Outbuilding size: 7.6x16m (121.6m²)

Height: 3.6m

Use Scheme determination: The land has been determined as a Non-Conforming as its use was ongoing before the introduction of the scheme and not adequately zoned. The lot is used purely for residential purposes. The property was zoned residential under LPS1, however was rezoned industrial under LPS2. As the dwelling existed through the changes in scheme, non-conforming use rights apply.

3.8. NON-CONFORMING USES

Except as otherwise provided in the Scheme, no provision of the Scheme is to be taken to prevent —

- a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorise the development to be carried out, were duly obtained and are current; or
- c) subject to Clause 80 of the deemed provisions, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date. AMD 2 GG 12/09/17

Note: “Land” has the same meaning as in the Planning and Development Act and includes houses, buildings and other works and structures.

3.9. EXTENSIONS AND CHANGES TO A NON-CONFORMING USE

3.9.1. A person must not —

- a) alter or extend a non-conforming use;
- b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or

- c) change the use of land from a non-conforming use to another non-conforming use, without first having applied for and obtained development approval under the Scheme.

3.9.2. An application for development approval under this clause is to be advertised in accordance with Clause 64 of the deemed provisions. AMD 2 GG 12/09/17

3.9.3. Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the local government is not to grant its development approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the local government, closer to the intended purpose of the zone

Planning and Development (Local Planning Scheme) Regulations 2015

67. Matters to be considered by local government

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

- a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;
- c) any approved State planning policy;
- d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);
- e) any policy of the Commission;
- f) any policy of the State;
- g) any local planning policy for the Scheme area;
- h) any structure plan, activity centre plan or local development plan that relates to the development;
- i) any report of the review of the local planning scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- k) the built heritage conservation of any place that is of cultural significance;
- l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- n) the amenity of the locality including the following —
 - i. environmental impacts of the development;
 - ii. the character of the locality;
 - iii. social impacts of the development;
- o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;

- r) the suitability of the land for the development taking into account the possible risk to human health or safety;
- s) the adequacy of —
 - i. the proposed means of access to and egress from the site; and
 - ii. arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- u) the availability and adequacy for the development of the following —
 - i. public transport services;
 - ii. public utility services;
 - iii. storage, management and collection of waste;
 - iv. access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
 - v. access by older people and people with disability;
- v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- w) the history of the site where the development is to be located;
- x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- y) any submissions received on the application;
- za) the comments or submissions received from any authority consulted under clause 66;
- zb) any other planning consideration the local government considers appropriate.

Bushfire Prone Areas Guidelines:

Some of the lot is in a designated bushfire prone area, however it is suggested that this be waived under the following regulation;

2.6 DISCRETIONARY DECISION-MAKING

Decision-makers can apply exemptions from the requirements of SPP 3.7 and these Guidelines where there is no intensification of land-use, and/or the proposal is not increasing the bushfire threat.

Intensification of land use and/or development may include planning proposals that:

- a) result in an increase of visitors, residents or employees; or
- b) involve the occupation of employees on site for more than three hours at a time for multiple periods during a week.

Examples of when exemptions may be considered by a decision-maker include, but are not limited to:

- A subdivision application where there is no increase in the development potential and therefore no intensification of land use, such as a boundary realignment that does not restrict the ability to establish or maintain an asset protection zone; and does not restrict vehicular access/egress to any existing or future habitable building.
- A development application for minor renovations, alterations, improvements or repair of a building, and incidental uses, including, but not limited to outbuildings, unenclosed swimming pools, fences, unenclosed carports and patios, and storage sheds.

- A development application for an extension where the proposal does not result in an increase in residents or employees onsite, and where there is no increase in the bushfire risk. For example, an extension to an existing habitable building which does not result in the development being closer to the bushfire hazard and does not restrict or limit compliance with vehicular access or the provision of water.
- A development application for an existing land use previously considered by SPP 3.7, where the material considerations have not changed, but requires renewal on a recurring basis.
- A development application for an extractive industry where the extraction is undertaken in an open cleared area (for example, quarries and open cut mining) and no habitable buildings are proposed.
- A development application for a home occupation or home office that will be located in an existing habitable building, in accordance with the definition contained within the LPS Regulations 2015.

A BAL assessment may still be required for certain developments under clause 78B, Part 10A of the LPS Regulations 2015.

It is not believed that the development result in an increase of residents.

Planning and Development (Local Planning Schemes) Regulations 2015**Deemed provisions for local planning schemes****Schedule 2****Applications for development approval Part 8 64. Advertising applications**

1. The local government —
 - a. must advertise a complex application for development approval in accordance with subclause (3); and
 - b. must advertise an application for development approval in accordance with subclause (4) if the application is not a complex application and —
 - i. relates to development that is a class A use in relation to the zone in which the development is located; or
 - ii. relates to the extension of a non-conforming use; or
 - iii. relates to development that does not comply with the requirements of this Scheme; or
 - iv. relates to development for which the local government requires a heritage assessment to be carried out under clause 11(1); or
 - v. is of a kind identified elsewhere in this Scheme as an application that is required to be advertised; and
 - c. may advertise any other application for development approval in accordance with subclause (4).
2. Subclause (1)(b)(iii) does not apply if the local government is satisfied that the non-compliance with the requirements of this Scheme is of a minor nature.
3. For the purposes of subclause (1)(a), a complex application is advertised by doing all of the following —
 - a. publishing in accordance with clause 87 —
 - i. a notice of the proposed development in the form set out in clause 86(3); and
 - ii. the application for development approval; and
 - iii. any accompanying material in relation to the application that the local government considers should be published;
 - b. giving notice of the proposed development —
 - i. to the owners and occupiers of every property that is within 200 m of the proposed development; and
 - ii. to any other owners and occupiers of properties in the vicinity of the proposed development who, in the opinion of the local government, are likely to be affected by the granting of development approval;
 - c. erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 86(3).

Note for this subclause: Under clause 88, the Commission may approve varied requirements that apply if it is not practicable for the local government to comply with subclause (3)(b) or (c).

4. For the purposes of subclause (1)(b) or (c), an application that is not a complex application is advertised by doing any or all of the following, as determined by the local government —

- a. publishing in accordance with clause 87 —
 - i. a notice of the proposed development in the form set out in clause 86(3); and
 - ii. the application for development approval; and
 - iii. any accompanying material in relation to the application that the local government considers should be published;
 - b. giving notice of the proposed development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the local government, are likely to be affected by the granting of development approval;
 - c. erecting, in the manner and form approved by the Commission, a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed development in the form set out in clause 86(3).
5. A notice published or given, or on a sign erected, in accordance with subclause (3) or (4) in relation to an application for development approval must specify —
- a. the manner and form in which submissions may be made; and
 - b. the applicable period under subclause (6) or (7) for making submissions and the last day of that period.
6. The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (3) in relation to a complex application is —
- a. the period of 28 days after the day on which the notice of the application is first published under subclause (3)(a); or
 - b. a longer period agreed in writing between the applicant and the local government.
7. The period to be specified in a notice published or given, or on a sign erected, in accordance with subclause (4) in relation to an application that is not a complex application is —
- a. the period of 14 days after the day on which the notice of the application is first published or given, or the sign is first erected, as the case requires; or
 - b. a longer period agreed in writing between the applicant and the local government.

Local Planning Policy- Outbuildings

It is recommend that the provisions of this policy be disregarded for the abovementioned application as it is has been deemed non-conforming use under LPS4.

STRATEGIC PLAN IMPLICATIONS

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

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Town Planner

- WA Planning Commission
- Mr. D Harvey

PLANNING ASSESSMENT

The proposal triggers the need for Council approval as the lot is considered a non-conforming use under LPS4. As the proposed development proposes no change to the current use of the site it raises no major concerns from a use perspective. While the size of the shed is substantial, the shire has previously approved outbuildings of this size in the residential zone. The only major concern with the development is that no setback is proposed on the eastern lot boundary. Council normally require a minimum of 1m on side boundaries for outbuildings in the residential zone and 5m in the industrial zone. The landowner is seeking to reduce costs of the boundary fence and therefore seeks to incorporate the shed in the boundary fence.

Council is required to advertise the proposal, however it is recommend that the application for development be approved by the CEO if no major submissions are received from advertising. As no surrounding landowners will be impacted, only part of this process will need to be completed.

STAFF RECOMMENDATION

That Council provide conditional approval for the development of an outbuilding at 7 Mill Street, Kellerberrin that exceeds the following prescriptions;

1. Exceeds the total Outbuildings of 375m²
2. Reduction of Side and Rear setbacks to 0m to enable the outbuilding to be used as a Boundary Fence.

General Conditions

- i. The Development Application be advertised in accordance with Deemed Provisions Clause 64.*
- ii. That subject to no submissions received against the development Council delegate the Chief Executive Officer to approve the development.*
- iii. The endorsed approved plans shall not be altered without prior written approval of the Shire;*
- iv. Use of the building shall be for domestic purposes only; and*
- v. The outbuilding shall not be used for human habitation at any given time, unless written approval has been granted by the shire.*

Advice Notes

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

12 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

14 CONFIDENTIAL MATTERS**RECOMMENDATION**

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

14.1 Outstanding Rates - Recoverable on Sale - Kellerberrin

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

14.2 Outstanding Rates - Recoverable on Sale - Kellerberrin

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

14.3 Outstanding Rates - Recoverable on Sale - Kellerberrin

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

15 CLOSURE OF MEETING