



AGENDA

Ordinary Council Meeting Tuesday, 17 September 2024

Date: Tuesday, 17 September 2024

Time: 4:00pm

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

Shire of Kellerberrin

Ordinary Council Meeting 17th September 2024

NOTICE OF MEETING

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Kellerberrin will be held on Tuesday, 17th September 2024 in the Council Chamber, 110 Massingham Street, Kellerberrin WA 6410 commencing at 4:00pm.

Raymond Griffiths
Chief Executive Officer
Thursday, 12 September 2024

Shire of Kellerberrin

Disclaimer

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

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

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

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

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

Signed _____
Chief Executive Officer

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

Chief Executive Officer, Shire of Kellerberrin

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

financial interest (Section 5.60A)

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

proximity interest (Section 5.60B)

A person has a proximity interest in a matter if the matter concerns a proposed —
(a) change to a planning scheme affecting land that adjoins the person’s land;
(b) change to the zoning or use of land that adjoins the person’s land; or
(c) development (as defined in section 5.63(5)) of land that adjoins the person’s land.

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

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

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

in Item number/s _____

the *nature* of the interest being _____

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

Yours faithfully

(Councillor’s signature)

Councillor’s Name

The *Local Government Act* provides that it is the member’s obligation to declare the Nature of an interest if they believe that they have a financial interest, proximity interest, closely associated persons or an interest affecting impartiality in a matter being discussed by Council.
The Act provides that the Nature of the interest may be declared in writing to the Chief Executive Officer prior to the meeting or declared prior to discussion of the Agenda Item at the meeting. The Act further provides that the Extent of the interest needs to be declared if the member seeks to remain in the Chamber during the discussion, debate or voting on the item.
A Councillor declaring a financial or proximity interest must leave the meeting prior to the matter being discussed or voted on (including the question as to whether they are permitted to remain in the Chamber). Councillors remaining in the Chamber may resolve to allow the member to return to the meeting to participate in the proceedings.
The decision of whether to disclose a financial interest is yours and yours alone. Nobody can disclose for you and you can not be forced to make a disclosure.

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1 DECLARATION OF OPENING**2 ACKNOWLEDGEMENT OF COUNTRY**

We begin today by acknowledging the Ballardong Noongar people as traditional custodians of the land and skies on which we gather, and we pay our respects to their elders, past, present and emerging.

3 ANNOUNCEMENT BY PRESIDING PERSON WITHOUT DISCUSSION**4 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE****5 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.

6 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.

6.1 Response to Previous Public Questions taken on Notice**6.2 Public Question Time**

7 CONFIRMATION OF PREVIOUS MEETINGS MINUTES

7.1 MINUTES OF THE COUNCIL MEETING HELD ON 20 AUGUST 2024

File Ref: MIN
Author: Michelle Wilson, Executive Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Minutes of the Council Meeting held on 20 August 2024

STAFF RECOMMENDATION

That the Minutes of the Council Meeting held on 20 August 2024 be received as a true and correct record of the meeting.

8 PRESENTATIONS

8.1 Petitions

8.2 Presentations

8.3 Deputations

9 REPORTS OF COMMITTEES

9.1 MINUTES OF THE BUSHFIRE ADVISORY COMMITTEE MEETING HELD ON 12 SEPTEMBER 2024

File Ref: BUSH00
Author: Raymond Griffiths, Chief Executive Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments:

HEADING

Bush Fire Advisory Committee Meeting – Thursday 12th September 2024

STAFF RECOMMENDATION

That the Minutes of the Bushfire Advisory Committee Meeting held on 12 September 2024 be received and the recommendations therein be adopted.

10 CORPORATE SERVICES REPORTS

10.1 STATUS REPORT OF ACTION SHEET

File Ref:	Various
Author:	Michelle Wilson, Executive Assistant
Authoriser:	Raymond Griffiths, Chief Executive Officer
Attachments:	1. Status Report of Action Sheet September 2024

BACKGROUND

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

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

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

STAFF COMMENT

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

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

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

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

TEN YEAR FINANCIAL PLAN

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

FINANCIAL IMPLICATIONS

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

STATUTORY IMPLICATIONS

NIL known at this time.

STAFF COMMENT

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

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

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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,
- (c) has —
 - (d) a direct or indirect financial interest in the matter; or
 - (e) 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.

10.2 COMMON SEAL REGISTER AND REPORTING

File Ref: ADM52
Author: Michelle Wilson, Executive Assistant
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Common Seal Register

BACKGROUND

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

STAFF COMMENT

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

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

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

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

TEN YEAR FINANCIAL PLAN

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

FINANCIAL IMPLICATIONS

There are no financial impacts.

STATUTORY IMPLICATIONS

Shire of Kellerberrin Standing Orders Local Law 2016

Clause 19.1 The Council's Common Seal

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

Penalty \$1,000

STRATEGIC COMMUNITY PLAN

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

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

COMMUNITY CONSULTATION

The following consultation took place;

- Councils President
- Councils Deputy President
- Chief Executive Officer
- Manager of Governance

STAFF RECOMMENDATION

That Council acknowledge that the Shire of Kellerberrin's Common Seal was affixed to two (2) document in this quarter.

10.3 ANNUAL CHRISTMAS/NEW YEAR OFFICE CLOSURE

File Ref: PUB02
Author: Morgan Ware, Manager of Governance
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

BACKGROUND

Council has previously closed the Administration Office during the Christmas/New Year period. This has been considered and approved by Council with consideration given to the number of Public Holidays, low level of business transactions and anticipated staff leave, as well as reducing any leave provisions.

Council's October 2023 Ordinary Meeting of Council

MIN 001/23 MOTION - Moved Cr. Reid Seconded Cr. Leake

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

<i>Monday, 25th December, 2023</i>	<i>Public Holiday (Christmas Day)</i>
<i>Tuesday, 26th December, 2023</i>	<i>Public Holiday (Boxing Day Holiday)</i>
<i>Wednesday, 27th December, 2023</i>	<i>Public Service Day</i>
<i>Thursday, 28th December, 2023</i>	<i>RDO/Annual Leave/TIL</i>
<i>Friday, 29th December, 2023</i>	<i>RDO/Annual Leave/TIL</i>
<i>Monday, 1st January 2024</i>	<i>Public Holiday (New Year's Days)</i>

Council's October 2022 Ordinary Meeting of Council

MIN 169/22 MOTION - Moved Cr. Reid Seconded Cr. Gardiner

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

<i>Friday, 23rd December 2022</i>	<i>Public Service Day</i>
<i>Monday, 26th December, 2022</i>	<i>Public Holiday (Christmas Day)</i>
<i>Tuesday, 27th December, 2022</i>	<i>Public Holiday (Boxing Day Holiday)</i>
<i>Wednesday, 28th December, 2022</i>	<i>RDO/Annual Leave/TIL</i>
<i>Thursday, 29th December, 2022</i>	<i>RDO/Annual Leave/TIL</i>
<i>Friday, 30th December, 2022</i>	<i>RDO/Annual Leave/TIL</i>
<i>Monday, 2nd January, 2023</i>	<i>Public Holiday (New Year's Days)</i>

CARRIED 7/0

Council's October 2021 Ordinary Meeting of Council

MIN 176/21 MOTION - Moved Cr. Ryan Seconded Cr. Reid

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

<i>Thursday, 23rd December 2021</i>	<i>From 12:00pm Staff Development Afternoon</i>
<i>Friday, 24th December 2021</i>	<i>Public Service Day</i>
<i>Monday, 27th December, 2021</i>	<i>Public Holiday (Christmas Day)</i>
<i>Tuesday, 28th December, 2021</i>	<i>Public Holiday (Boxing Day Holiday)</i>
<i>Wednesday, 29th December, 2021</i>	<i>RDO/Annual Leave/TIL</i>

Thursday, 30th December, 2021 **RDO/Annual Leave/TIL**
Friday, 31st December, 2021 **RDO/Annual Leave/TIL**
Monday, 3rd January, 2022 **Public Holiday (New Year's Days)**

CARRIED 7/0

Council's October 2020 Ordinary Meeting of Council

MIN 164/20 MOTION - Moved Cr. Leake Seconded Cr. Ryan
That Council approves the closure of the Administration Office for the following inclusive dates over the Christmas / New Year holiday period and that local advertising be completed.
Thursday, 24th December 2020 **Public Service Day**
Friday, 25th December, 2020 **Public Holiday (Christmas Day)**
Monday, 28th December, 2020 **Public Holiday (Boxing Day Holiday)**
Tuesday, 29th December, 2020 **RDO/Annual Leave**
Wednesday, 30th December, 2020 **RDO/Annual Leave**
Thursday, 31st December, 2020 **RDO/Annual Leave**
Friday, 1st January 2021 **Public Holiday (New Year's Days)**

CARRIED 6/0

STAFF COMMENT

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

Christmas Day	Wednesday, 25 th December 2024
Boxing Day	Thursday, 26 th December 2024
Public Service Holiday (in Lieu)	Friday, 27 th December 2024
New Year's Day	Wednesday 1 st January 2025

The anticipated office closure days are the days in between Boxing Day and New Year being.

Monday 30th December 2024 and Tuesday 31st December 2024. These two days can be taken as either, Rostered Day Off (RDO), Annual Leave or Time in Lieu (TIL) entitlements.

The additional holiday "in lieu", which Local Government employees are entitled to has been allocated to Friday 27th December 2024, should Council approve the proposal.

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

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

TEN YEAR FINANCIAL PLAN

Nil known at this time

FINANCIAL IMPLICATIONS

Nil known at this time

STATUTORY IMPLICATIONS

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

STRATEGIC COMMUNITY PLAN

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

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

COMMUNITY CONSULTATION

The following consultation took place

- Chief Executive Officer
- Manager of Governance
- Administration Staff

STAFF RECOMMENDATION

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

Christmas Day	Wednesday, 25 th December 2024
Boxing Day	Thursday, 26 th December 2024
Public Service Holiday (in Lieu)	Friday, 27 th December 2024
RDO/Annual Leave/TIL	Monday 30 th December 2024
RDO/Annual Leave/TIL	Tuesday 31 st December 2024
New Year's Day	Wednesday 1 st January 2025

10.4 EXTENDING SWIMMING POOL BARRIER REQUIREMENTS TO EXCLUDED AREAS

File Ref: ADM
Author: Raymond Griffiths, Chief Executive Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Extending pool safety barrier requirements
2. Extending the private swimming pool safety barrier excluded areas july24I

BACKGROUND

The Department of Energy, Mines, Industry Regulation and Safety – Building and Energy division (Building and Energy) has written to all local governments that have areas within their district that are excluded from the swimming pool safety barrier requirements of Part 8 Division 2 of the [Building Regulations 2012](#) (the Building Regulations).

Drowning is the leading cause of death for young children under five years of age, with the majority of these incidents occurring in private swimming pools.

In response to a report released by the Ombudsman Western Australia (Ombudsman), [Investigation into ways to prevent or reduce deaths of children by drowning](#) (November 2017), Building and Energy conducted a review of the swimming pool and safety barrier requirements in Western Australia. This review culminated in the publication of the Government's [Decision Paper – Swimming Pool and Safety Barrier Control](#) (April 2021) (Decision Paper).

The Decision Paper included both regulatory and non-regulatory measures in response to the Ombudsman report. Building and Energy continues to progress the non-regulatory responses including guidance, education and working with local governments.

Safety barrier requirements

The Building Regulations contain safety barrier requirements for existing private swimming and spa pools in WA and require local governments to conduct inspections of those safety barriers. However Schedule 5 of the Building Regulations sets out areas of the State where these requirements apply, with areas not listed in the Schedule being excluded from these requirements.

Ombudsman recommendation

In its report, the Ombudsman highlighted the increased risk of child drownings in those areas of the State that currently have exclusions from certain safety barrier and inspection requirements.

The Ombudsman recommended consideration be given to amending the Building Regulations to remove excluded areas so that safety barrier and inspection requirements apply to all existing private swimming and spa pools throughout Western Australia (Recommendation 25).

During Building and Energy's review, consultation on this matter revealed varying levels of support from affected local governments.

Government decision

Building and Energy supports the removal of excluded areas but recognises that it is more appropriate for local governments to make this decision for their residents. Decision 9 of Building and Energy's Decision Paper was to:

- Amend the Building Regulations on formal request by affected local governments to require safety barriers for all private swimming pools in all areas of their geographic district.
- Actively engage with affected local governments to remove excluded areas from their district.
- Provide guidance to affected local governments on:
 - the processes required to remove the regulatory exclusion and satisfy the Government's commitment to best practice regulation; and

- the existing requirement for all new swimming pools in all areas of the State, regardless of excluded areas, to have compliant safety barriers at the time of completion of building work.
- Provide guidance to owners on the merit of voluntarily choosing to install swimming pool barriers for those pools located in excluded areas of WA.

Removing excluded areas

Building and Energy requests that affected local governments consider removing or reducing current exclusions from safety barrier requirements.

Building and Energy has produced guidance to assist local governments and their affected residents, which is provided as attachments to this report.

- [Extending pool safety barrier requirements](#) is intended for local governments and explains the consultation process.
- [Extending pool safety barrier requirements – Information for residents](#) is intended for local government distribution to affected residents as part of the consultation process.
- [Safety barriers for private swimming and spa pools in excluded areas](#) is intended for local government distribution to residents in excluded areas, where it decides to not extend safety barrier requirements for existing pools, and encourages the voluntary adoption of safety barriers by the residents.

STAFF COMMENT

The Shire of Kellerberrin in accordance with *Schedule 5 of Building Regulations 2012* are only required to inspect Private pools in the Townsites of Kellerberrin, Doodlakine and Baandee.

In discussion with Councils consulting Environmental Health Officer the following additional advice is provided.

Thank you for the opportunity to consult on this matter. Expanding pool inspections beyond the town centre to encompass the entire shire presents considerable challenges and significant financial implications.

Firstly, Class 10 structures are exempt from requiring a building permit, which complicates efforts to locate records of existing pools. Secondly, the shire currently employs an external consultant, authorised by the shire, to inspect pool barriers. Extending these inspections to all areas would increase the time and travel required, as some pools are located up to 20 kilometres from the town centre, often with long driveways and gated properties.

The consultant may need to visit multiple times throughout the year to accommodate owners and occupants, particularly since during the harvest season, property owners are often too busy with work to make time for inspections. Moreover, the presence of farm animals, such as dogs, makes property owners reluctant to allow inspectors on-site without someone present.

To provide a cost example, the shire incurs a \$370 expense just for the consultant to attend the office excluding work hours, travel time, and return travel. The daily rate is approximately \$1,000, not including accommodation or additional travel expenses. Given the distances between towns and houses, the consultant can inspect around 6-7 pool barriers per day. Therefore, the shire would need to charge approximately \$140- \$150 per pool inspection to recover costs.

The Shire is committed to the safety of its residents and has no objection to provide additional education information on social media, websites and local newspaper to remind residents living on farms to check fences and gates for their own children's safety. The Shire is also not objected to provide a 'fee for service' that allows residents to book the inspector (when in town) to do a compliance check on their pool barriers.

TEN YEAR FINANCIAL PLAN

The Shire of Kellerberrin's Financial Plan impact will be the costs associated with engaged its consultant to travel and inspect all pools in the Shire.

Council will also receive approximately \$54 per inspection.

FINANCIAL IMPLICATIONS

Consultant costs in completing inspections and income from the annual inspection as per fee set by State Government which is currently \$78.00.

- Sub-regulation 53A(2) of the Building Regulations provides a new service fee for an initial inspection, charged up to a maximum of \$312 inclusive of any required re-inspections, limited to but not exceeding the cost to local government of carrying out an initial inspection.

STATUTORY IMPLICATIONS

Division 2 — Private swimming pools

48. Terms used

In this Division —

access, in relation to a pool, means direct or indirect access by young children to the pool and its immediate surrounds;

approved alternative requirement means a requirement that has been approved in accordance with regulation 51(2) by the permit authority for the private swimming pool;

approved door means a door that has been approved in accordance with regulation 51(3) by the permit authority for the private swimming pool;

pool barrier, in relation to a pool, means a barrier that complies with the requirements of regulation 50A;

young child means a child under the age of 5 years.

[Regulation 48 amended: Gazette 15 Apr 2016 p. 1169; SL 2023/208 r. 14.]

49. Application of this Division

This Division applies in respect of a private swimming pool that is located in a local government district specified in column 1 of the Table in Schedule 5 in the area specified for that district in column 2 of that Table.

50. Barrier to private swimming pool

- (1) This regulation does not apply in respect of a private swimming pool in —
 - (a) a construction site (as defined in the *Work Health and Safety (General) Regulations 2022* regulation 5) to which the *Work Health and Safety (General) Regulations 2022* regulation 298 applies; or
 - (b) a work area to which the *Work Health and Safety (General) Regulations 2022* regulation 306 applies.
- (2) Each owner and occupier of premises on which there is a private swimming pool containing water that is more than 300 mm deep must ensure that a pool barrier restricting access is installed or provided around the pool.

Penalty for this subregulation: a fine of \$5 000.

[Regulation 50 inserted: SL 2023/208 r. 15.]

50A. Pool barrier requirements

- (1) If all or part of a building (other than a Class 10 building) is within the area bounded by a pool barrier, that pool barrier or another pool barrier must restrict access from the building.
- (2) Subject to subregulations (3) and (4), a pool barrier must comply with a Building Code pool barrier requirement that was in effect —

- (a) if a building permit applies to the construction of the pool — at or after the time the application for a building permit to construct the pool was made; or
- (b) otherwise — at or after the time the construction of the pool commenced.

Note for this subregulation:

See also regulation 15B which modifies AS 1926.1-2012.

- (3) For the purposes of subregulation (2), a performance solution cannot be used to comply with a Building Code pool barrier requirement unless the performance solution is an approved barrier solution.
- (4) If the pool is a pre-May 2016 private swimming pool, the pool barrier need not comply with subregulation (2) if —
 - (a) it is in accordance with —
 - (i) the requirements of AS 1926.1-1993; or
 - (ii) approved alternative requirements;and
 - (b) any wall comprising part of the pool barrier has no means of access through a building other than —
 - (i) a window that is in accordance with the requirements of AS 1926.1-1993; or
 - (ii) an approved door.
- (5) For the purposes of subregulation (4)(a), a boundary fence of the premises that is part of the pool barrier is in accordance with the requirements of clauses 2.3, 2.6 and 2.7 of AS 1926.1-1993 if all those requirements are satisfied in relation to either side of the fence.

Note for this regulation:

If a wall or any other part of a building is included in a pool barrier, that wall or other part must comply with the requirements of this regulation.

[Regulation 50A inserted: SL 2023/208 r. 15.]

51. Approvals by permit authority

- (1) In this regulation —

person with a disability means a person who in the view of National Disability Services (ACN 008 445 485), registered under the *Corporations Act 2001* (Commonwealth), has a disability or medical condition that makes it difficult for the person to use a gate of the kind that would be required by these regulations in a swimming pool barrier.
- (2) A permit authority may approve requirements alternative to the requirements of regulation 50A(4)(a)(i) if it is satisfied that the alternative requirements will restrict access as effectively as if there were compliance with AS 1926.1-1993.
- (3) A permit authority may approve a door for the purposes of regulation 50A(4)(b)(ii) if the door is in accordance with the requirements of AS 1926.1-1993 and —
 - (a) in the opinion of the permit authority, a fence or barrier satisfying regulation 50A between the building and the private swimming pool would cause —
 - (i) a significant problem of a structural nature; or
 - (ii) a significant problem of any other nature, the cause of which is not within the control of the owner or occupier;or

- (b) the private swimming pool is totally enclosed by a building; or
 - (c) in the opinion of the permit authority, a fence or barrier satisfying regulation 50A between the building and the private swimming pool would create a significant problem for a person with a disability who is resident at the premises and wishes to have access.
- (4) In deciding whether to give approval under subregulation (3) a permit authority is required to have regard to whether or not a young child resides at the premises.
- (5) A permit authority may approve a performance solution to a Building Code pool barrier requirement if the permit authority is satisfied that the performance solution complies with the relevant performance requirement.

[Regulation 51 amended: Gazette 15 Apr 2016 p. 1171; 8 Aug 2017 p. 4345; 22 Dec 2017 p. 5975; SL 2023/208 r. 16.]

52. Concessions for pre-November 2001 private swimming pools

- (1) This regulation applies to a private swimming pool —
- (a) installed before 5 November 2001; or
 - (b) installed on or after 5 November 2001 in accordance with plans, drawings and specifications submitted to the local government for approval before that day.
- (2) For the purposes of regulation 50(2), the immediate surrounds of a private swimming pool to which this regulation applies may include any part of the premises on which the pool is located.
- (3) The barrier required by regulation 50 may include a wall that contains a door permitting access through a building if that door satisfies the requirements of AS 1926.1-1993.

[Regulation 52 amended: Gazette 15 Apr 2016 p. 1171; SL 2023/208 r. 17.]

53. Inspection of barrier to private swimming pool

- (1) The local government for the district in which a private swimming pool containing water that is more than 300 mm deep is located must arrange for an authorised person to inspect the barrier to the private swimming pool on the days and at the intervals described in subregulation (2), for the purpose of monitoring whether the provisions of regulations 50, 50A and 52 are being complied with.
- (2) For the purposes of subregulation (1), the days and intervals for inspections of a barrier to a private swimming pool are —
- (a) if the local government has never arranged for an authorised person to inspect the barrier — a day that is no more than 30 days after the day on which the first of the following occurs —
 - (i) the local government receives a notice of completion under section 33 stating that the building work in respect of the barrier or the private swimming pool is completed;
 - (ii) the local government receives details of a notice of completion under section 7(2)(b) indicating that the building work in respect of the barrier or the private swimming pool is completed;
 - (iii) the local government otherwise becomes aware that it has never arranged for an authorised person to inspect a barrier to the private swimming pool;and
 - (b) if the local government has previously arranged for an authorised person to inspect the barrier to a private swimming pool (the **relevant inspection**) —
 - (i) if the authorised person is not satisfied that the provisions in regulation 50, 50A and 52 are being complied with — on a day that is within 60 days after the day of the relevant inspection; and

- (ii) in any other case — on a day that is within 4 years after the day of the relevant inspection.

Note for this subregulation:

If subregulation (2)(b)(i) applies, the local government must arrange 1 or more further inspections until an authorised person is satisfied that the provisions in regulations 50, 50A and 52 are being complied with.

[Regulation 53 inserted: SL 2023/208 r. 18.]

53A. Charges may be imposed for inspection of barrier

- (1) In this regulation —
 - initial inspection** means an inspection arranged under regulation 53(1) to which regulation 53(2)(a) applies;
 - periodic inspection** means an inspection arranged under regulation 53(1) to which regulation 53(2)(b)(ii) applies;
 - re-inspection** means an inspection arranged under regulation 53(1) to which regulation 53(2)(b)(i) applies.
- (2) A local government may fix the charge to be imposed on an owner of land on which there is a private swimming pool containing water that is more than 300 mm deep for an initial inspection, but —
 - (a) a single charge is to be imposed covering both the initial inspection and any related re-inspections; and
 - (b) the amount of the charge must not exceed the lesser of —
 - (i) the estimated average cost to the local government of carrying out an initial inspection and any related re-inspections; and
 - (ii) \$312.
- (3) A local government may, for a financial year, fix the charge to be imposed on each owner of land on which there is a private swimming pool containing water that is more than 300 mm deep, in respect of the cost in that financial year of carrying out periodic inspections, but —
 - (a) a single charge is to be imposed in respect of periodic inspections and any related re-inspections; and
 - (b) the amount of the charge must not exceed the lesser of —
 - (i) the estimated average cost to the local government of carrying out periodic inspections and related re-inspections in that year; and
 - (ii) \$78;and
 - (c) the charge is payable by an owner whether or not a periodic inspection is conducted in respect of a pool on that owner's land in the financial year.

[Regulation 53A inserted: SL 2023/208 r. 18.]

53B. Local governments to give Building Commissioner information

- (1) In this regulation —
 - reporting period** means the period commencing on 1 July and ending on the next following 30 June.
- (2) Each local government must, before 1 August each year, give the Building Commissioner the following information in respect of the immediately preceding reporting period —
 - (a) the number of swimming pools in respect of which this Division applies that are located in the local government's district at the end of the reporting period;

- (b) the number of swimming pools referred to in paragraph (a) that were inspected by an authorised person during the reporting period at an inspection arranged under regulation 53;
 - (c) the number of swimming pools referred to in paragraph (a) that, at the end of the reporting period, have not been inspected by an authorised person at an inspection arranged under regulation 53 within the interval specified in regulation 53(2)(b)(ii).
- (3) The information referred to in subregulation (2) must be provided to the Building Commissioner electronically.

[Regulation 53B inserted: SL 2023/208 r. 18.]

54A. Temporary pool barriers

- (1) In this regulation —
- person responsible** has the meaning given in section 75;
 - work** has the meaning given in section 75.
- (2) A person responsible for work that requires the removal of a fence, wall, gate or other component that is part of a barrier to a private swimming pool must ensure that an alternative barrier that complies with regulation 50 is installed or provided for any period during which the fence, wall, gate or component is removed.

[Regulation 54A inserted: Gazette 24 Apr 2014 p. 1140; amended: Gazette 15 Apr 2016 p. 1171.]

54. Transitional provision — persons authorised by regulation 5A

- (1) In this regulation —
- regulation 5A** means regulation 5A as in force immediately before repeal day;
 - repeal day** means the day on which the *Building Amendment Regulations 2023* regulation 5 comes into operation.
- (2) A person who, immediately before repeal day, was an authorised person under regulation 5A is to be taken to be an authorised person for the purposes of section 93(2)(d) for the period commencing on repeal day and ending on the earlier of —
- (a) the day that is 6 months after repeal day; and
 - (b) the day on which the person is designated as an authorised person under regulation 4A.

[Regulation 54 inserted: SL 2023/208 r. 7.]

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
- Consulting EHO

STAFF RECOMMENDATION

That Council;

1. Removes the current exemptions for Pool Barrier Inspections for the Shire of Kellerberrin under Schedule 5 of the Building Regulations 2012.
2. Write to all rural landowners seeking advice on whether they have a pool at their rural properties to add to Councils current register for inspections.

10.5 CHEQUE LIST AUGUST 2024

File Ref: N/A
Author: Nikayla Ovens, Finance Officer
Authoriser: Morgan Ware, Manager of Governance
Attachments: 1. Payment List - August 2024

BACKGROUND

Accounts for payment from 1st August – 31st August 2024

TRUST

Trust Total	\$2,000.00
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MUNICIPAL FUND

Cheque	\$17,292.03
EFT	\$517,618.71
Direct Debit	\$50,162.01
Municipal Total	\$585,072.75

STAFF COMMENT

During the month of August 2024, the Shire of Kellerberrin made the following significant purchases: Please note the Shire of Kellerberrin is the host to Wheatbelt Secondary Freight Network (WSFN), costs associated are reimbursed as per contractual agreement.

Youlie and Son Contracting	\$ 5,404.85
Various plant hire for the Month of August 2024	
Perfect Computer Solutions	\$ 5,445.16
MS Exchange Online Annual Charge & MS Office 365 annual licence	
EFTSURE PTY LTD	\$ 5,742.81
EFTsure Software 12 Monthly Subscription	
Shire Of Kellerberrin	\$ 5,960.00
24/25 Rates: Caravan Park	
BE Surveys	\$ 7,102.00
Legal Boundary Re-establishment along Victoria Rd	
LG Corporate Solutions	\$ 8,250.00
Preparation of 24/25 Statutory Budget	
Avon Waste	\$ 10,300.07
Domestic & Commercial Collections July 2024	
Aussie Buckets	\$ 10,902.10
Quick Hitch and Bucket for Excavator	
Western Australian Treasury Corporation	\$ 11,140.49
Loan No. 119 Interest payment - Construct CEACA Senior Units - Hammond St	
InfoCouncil Pty Ltd	\$ 13,736.14
Annual Subscription 01/07/2024 - 30/06/2024	
Peak Transport	\$ 14,938.00
Semi Side Tipper Hire for the Month of August 2024	
Youlie and Son Contracting	\$ 17,132.50
Hire of Machinery July 2024	
United Card Services Pty Ltd	\$ 22,645.71
United Fuel Card Purchases for the Month of July 2024	
Merredin Refrigeration & Gas	\$ 23,550.00
Supply and Install New Air-conditioning at Hammond Street Units (A, B & C)	
LAC Laundry	\$ 34,505.90
Purchase of T-750 SWD Washer/Dryer stacker for Caravan Park & delivery	

Digga West & Earthparts WA	
Purchase of Rotary Axe Brush Cutter for Skid Steer	\$ 35,090.00
Avon Valley Toyota	
Purchase of LC300 3.3L V6 Toyota Landcruiser	\$141,590.00

TEN YEAR FINANCIAL PLAN

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

FINANCIAL IMPLICATIONS

Shire of Kellerberrin 2024/2025 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 August 2024, 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 **\$585,072.75** on vouchers EFT, CHQ, Direct payments.*
2. *Trust Fund payments totalling **\$2,000.00** on vouchers EFT, CHQ, Direct payments.*

10.6 DIRECT DEBIT LIST AND VISA CARD TRANSACTIONS - AUGUST 2024

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 August 2024.

Municipal Direct Debit List

Date	Name	Details	\$	Amount
1-Aug-24	Shire of Kellerberrin	Precision Superannuation		14,772.77
1-Aug-24	Shire of Kellerberrin	Pay Run		74,900.42
7-Aug-24	Shire of Kellerberrin	Creditors Payments		224,997.03
13-Aug-24	Department of Communities	Rent 73 Gregory Street		420.00
15-Aug-24	Shire of Kellerberrin	Precision Superannuation		14,745.11
15-Aug-24	Shire of Kellerberrin	Pay Run		72,721.44
19-Aug-24	ATO	BAS Payment July 2024		1,468.00
20-Aug-24	Nayax Australia	Vending Machine Caravan Park		38.17
22-Aug-24	Shire of Kellerberrin	Creditors Payments		263,321.72
23-Aug-24	Shire of Kellerberrin	Creditors Payments		4,795.00
26-Aug-24	ACMA	Licence Renewal Communications Hut		226.00
24/7/8/24	Department of Communities	Rent 73 Gregory Street		420.00
28-Aug-24	Shire of Kellerberrin	Creditors Payments		24,504.96
29-Aug-24	Shire of Kellerberrin	Precision Superannuation		15,007.77
29-Aug-24	Shire of Kellerberrin	Pay Run		73,937.75
30-Aug-24	NAB	Merchant Fee - Pool		20.00
30-Aug-24	NAB	Merchant Fee - Trust		4.89
30-Aug-24	NAB	Merchant Fee - Caravan Park		98.40
30-Aug-24	NAB	Merchant Fee - Muni		259.95
30-Aug-24	NAB	B-Pay Fee		236.44
30-Aug-24	NAB	Account Fee - Muni		87.40
30-Aug-24	NAB	Account Fee - Trust		10.00
TOTAL			\$	786,993.22

Visa Transactions

Date	Name	Details	\$	Amount
31-Jul-24	ZF Services Blacktown	Parts for Liugong Loader P7		1,537.20
02-Aug-24	Kellerberrin CRC	MC Licence – Plant Operator		60.30
14-Aug-24	Carasales.Com	Advert for sale of KE002		449.00
23-Aug-24	Boddington Hotel	Meals LGIS Meeting		142.00
26-Aug-24	Boddington Hotel	Refreshments LGIS Meeting		80.00
27-Aug-24	Boddington Hotel	Meals LGIS Meeting		104.00
28-Aug-24	NAB	Card Fee		9.00

TOTAL - CEO **\$** **2,381.50**

Date	Name	Details	\$	Amount
30-Jul-24	Laserman Technologies	Parts Depot Wheel Aligner		192.50
01-Aug-24	Kellerberrin CRC	Licence KE1		487.70
07-Aug-24	United Petroleum	AD Blue KE002		34.93
07-Aug-24	Harvest Café	Meals WEROC Meeting (Reimbursed by WEROC)		511.50
14-Aug-24	Dropbox	Subscription Dropbox		306.90
20-Aug-24	Kellerberrin CRC	Licence KE002		31.10
22-Aug-24	JB Hi-Fi	iPad cover and screen protector		199.93
23-Aug-24	Kellerberrin CRC	Licence KE2421		31.10
23-Aug-24	Industrial Power Equipment	New Generator Waste Transfer Station		2,488.99
28-Aug-24	NAB	Card Fee		18.21

TOTAL -MOG **\$** **4,302.86**

Date	Name	Details	\$	Amount
28-Aug-24	NAB	Card Fee		9.00

TOTAL WSNF PROGRAMME DIRECTOR **\$** **9.00**

31-Jul-24	Soul Origin	Catering WSNF Steering Committee Meeting	219.00
02-Aug-24	Bruce Rock Café	Meals WSNF Programme Manager	64.50
09-Aug-24	Woolworths Midland	Catering WSNF Steering Committee Meeting	67.75
09-Aug-24	Officeworks	Stationery WSNF Office	52.91
14-Aug-24	Quairading Coop	Meals WSNF Programme Manager	59.89
15-Aug-24	Shire of Quairading	Accommodation WSNF Programme Manager	148.50
19-Aug-24	Obrien Glass	Repairs WSNF Utility	279.00
23-Aug-24	Officeworks	Stationery WSNF Office	20.00
23-Aug-24	Soul Origin	Catering WSNF Steering Committee Meeting	198.30
26-Aug-24	Dome Warwick	Meals WSNF Programme Manager	11.10
28-Aug-24	NAB	Card Fee	9.00
TOTAL WSNF PROGRAMME MANAGER			1,129.95
TOTAL VISA TRANSACTIONS			\$ 7,823.31

Municipal Direct Debit List

Date	Name	Details	\$	Amount
1-Jul-24	3 E Equipment	WSNF Copier Rental		246.40
2-Jul-24	Department of Communities	Rent 73 Gregory Street		420.00
4-Jul-24	Shire of Kellerberrin	Precision Superannuation		14,657.22
4-Jul-24	Shire of Kellerberrin	Creditors Payments		5,799.75
4-Jul-24	Shire of Kellerberrin	Pay Run		71,620.45
5-Jul-24	Shire of Kellerberrin	Creditors Payments		522.50
8-Jul-24	ACMA	Licences DFES Kellerberrin Hill & Doodlakine		92.00
11-Jul-24	Shire of Kellerberrin	Creditors Payments		426,081.74
11-Jul-24	Shire of Kellerberrin	Creditors Payments		17,520.64
16-Jul-24	Department of Communities	Rent 73 Gregory Street		420.00
17-Jul-24	ATO	BAS Payment June 2024		36,725.00
18-Jul-24	Shire of Kellerberrin	Precision Superannuation		14,498.38
18-Jul-24	Shire of Kellerberrin	Pay Run		70,397.44
22-Jul-24	Nayax Australia Pty Ltd	Vending Machine Caravan Park		38.17
25-Jul-24	Shire of Kellerberrin	Creditors Payments		137,941.45
30-Jul-24	Department of Communities	Rent 73 Gregory Street		420.00
30-Jul-24	NAB	NAB Connect Fees		54.98
31-Jul-24	NAB	Merchant Fees - Pool		20.00
31-Jul-24	NAB	Merchant Fees - Trust		6.15
31-Jul-24	NAB	Merchant Fees - Muni		225.94
31-Jul-24	NAB	Merchnaty Fees - Caravan Park		94.59
31-Jul-24	NAB	B-Pay Charge		49.68
31-Jul-24	NAB	Account Fees - Muni		70.20
31-Jul-24	NAB	Account Fees - Trust		10.00
TOTAL			\$	797,932.68

Visa Transactions

Date	Name	Details	\$	Amount
03-Jul-24	WA Newspaper Subscriptions	Yearly Subscriptions		96.00
12-Jul-24	Foam Sales	Parts Ammann Roller		63.00
12-Jul-24	Carsales.com	Advert Freightliner Truck		479.00
15-Jul-24	DMIRS East Perth	HRWL Simon Beckham		44.00
15-Jul-24	Carsales.com	Advert Toyota Prado		579.00
15-Jul-24	Edible Blooms	Hamper Caravan Park Manager		155.00
17-Jul-24	Kellerberrin CRC	Licencing KE1		31.10
29-Jul-24	Nab	Card Fee		9.00
TOTAL - CEO			\$	1,456.10

Date	Name	Details	\$	Amount
18-Jul-24	Canva	Canva Subscription Renewal		164.99
23-Jul-24	UBWH Australia	Ubiquity switch digital scoreboard		147.19
24-Jul-24	Athletes Foot	Workboots Ian Kent		229.99
25-Jul-24	Department of Transport	Licencing KE002		125.25
29-Jul-24	NAB	Card Fee		9.00
		TOTAL -DCEO		676.42
11-Jul-24	NAB	Refund of disputed transaction		-274.41
11-Jul-24	NAB	International Fee Refund for disputed transaction		-8.23
29-Jul-24	NAB	Card Fee		9.00
		TOTAL WSNF PROGRAMME MANAGER		-273.64
10-Jul-24	Big W Midland Gate	Stationery WSNF Office		104.00
15-Jul-24	Wyalkatchem Garden Café	Meals WSNF Programme Manager		43.00
17-Jul-24	Muka Café	Meals WSNF Programme Manager		44.00
18-Jul-24	Wickepin Newsagency	Meals WSNF Programme Manager		47.16
22-Jul-24	Wendy Miller Hyden	Meals WSNF Programme Manager		51.75
29-Jul-24	NAB	Card Fee		9.00
		TOTAL WSNF PROGRAMME DIRECTOR		298.91
		TOTAL VISA TRANSACTIONS	\$	2,157.79

STAFF COMMENT

The Direct Debit List and Visa Card Transactions are presented for Council to note for the month of August 2024.

Please note The Shire of Kellerberrin is the host to Wheatbelt Secondary Freight Network (WSFN), costs associated are reimbursed as per contractual agreement.

TEN YEAR FINANCIAL PLAN

There is no direct implication on the Long-Term Financial Plan.

FINANCIAL IMPLICATIONS

Financial Management of 2024/2025 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 sub regulation (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 August 2024 comprising of,

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

10.7 FINANCIAL ACTIVITY STATEMENT - AUGUST 2024

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 2023/24 Ordinary Meeting of Council – 16^h July 2024

MIN 090/24 MOTION - Moved Cr. Leake Seconded Cr. Ryan

That Council:

PART F – MATERIAL VARIANCE REPORTING FOR 2024/2025

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 2024/2025 for reporting material variances shall be 10% or \$10,000, whichever is the greater.

**CARRIED 5/0
 BY ABSOLUTE MAJORITY**

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, monthly, 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 August 2024.

TEN YEAR FINANCIAL PLAN

Financial Management of 2024/2025 Budget.

FINANCIAL IMPLICATIONS

Financial Management of 2024/2025 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 sub regulation (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 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
- LG Corporate Solutions

STAFF RECOMMENDATION

That Council adopt the Financial Report for the month of August 2024.

The draft financial report comprises.

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

10.8 BUILDING REPORTS AUGUST 2024

File Ref: BUILD06
Author: Jacki Peak, Administration Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Buidling Permits Issued August 2024

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 zero (0) applications received for a "Building Permit" during the August period.
2. There was one (1) "Building Permits" issued in the August 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 August 2024 period.
2. Acknowledge the "Return of Building Permits Issued" for the August 2024 period.

10.9 WALGA - MEMBER MOTIONS FOR CONSIDERATION - AGM

File Ref: OLGOV-12
Author: Raymond Griffiths, Chief Executive Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: Nil

BACKGROUND

The Annual General Meeting of WALGA is scheduled for Wednesday, 9th October 2024. There are six (6) member motions to be presented as part of the agenda for the 2024 AGM of the Western Australian Local Government Association (WALGA).

STAFF COMMENT

The following motions are summarised for Council to consider. Council appointed Delegates attending the Annual General Meeting of the WA Local Government Association are required to vote according to the indicative determinations from the Council in regards to the following summary motions presented in the mentioned Agenda and Meeting.

A full copy of the Motions have been attached to this Agenda Item for detailed Council reading and direction to appointed Delegates;

Agenda Item	Local Government Proponent	Motion Title
7.1	Shire of Dardanup & Shire of Esperance	Amendments to the Cat Act 2011 – Allow LG’s to make local laws to contain cats to the owner’s property.
7.2	Town of Bassendean	Advocacy for Legislative reforms to counter land-banking
7.3	Town of Bassendean	Advocacy for expansion of Differential Rating to Include long term unoccupied Commercial Buildings (Property Activation Levy)
7.4	Shire of Dundas	Action on Asbestos for Western Australia
7.5	Shire of Dundas	Addressing the impracticality of Local Governments Funding Department of Communities and Government Regional Officer Housing.
7.6	Town of Victoria Park	Advocacy for Accessibility

Please find below the motions for the abovementioned items and an “In-Brief” information regarding the item. The full agenda is attached for further information regarding all agenda items.

ITEM 7.1**CONSOLIDATED MOTION**

That WALGA advocate to the State Government to make changes to the Cat Act 2011 to permit local laws to be made to the following effect:

1. *Cats are to be confined to the cat owner's residence premises;*
2. *Cats within public places are to be under effective control and not to create a nuisance;*
3. *Cats are not allowed on other private properties where the cat does not have the expressed permission of the occupier of that premises, and are not to create a nuisance;*
4. *Cats are prohibited from ecologically sensitive areas designated as Cat Prohibited Areas by Absolute majority of Council, and clearly demarcated as such on a sign displayed at the area, without the need to modify the local law.*

NOTES

- The Cat Act 2011 prohibits Local Governments to make a local law to prohibit a cat from wandering.
- Cats do a significant amount of damage to wildlife when left to wander.
- Wandering domestic cats add to the breeding of feral cats.
- The Shire of Dardanup attempted to bring its local law in line with that of other Local Governments where provisions have been included that expressly require cat owners to have effective control of their cats, and that makes it an offence for a cat to be in other places, where the occupier of that place has not given approval.
- The Joint Standing Committee on Delegated Legislation considered the Shire of Dardanup Cats Local Law 2023 and outlined that the Committee believed the proposed local law is contrary to the Cat Act 2011.
- Within Western Australia there are a number of Local Governments that have Cat Local Laws that require cats to be under effective control when in a public place. Some of these Cat Local Laws also make it an offence for a cat to be in a place, other than a public place, without the express permission of the occupier of that place. These local laws also require cats not to create a nuisance in either a public place, or other places.
- WALGA's support for the development of a model Cat Local Law that incorporates these provisions as standard provisions are sought so as to ensure this is accepted in advance by the Department of Local Government, Sport and Cultural Industries and the Joint Standing Committee on Delegated Legislation

ITEM 7.2

That WALGA:

1. *In line with its 2020-2025 Strategic Plan to provide a Sector Vision that enables Local Governments to be agile enhancing community wellbeing and economic prosperity, develops a draft Advocacy Position for Legislative Reforms to address Land-Banking practices including, but not limited to consideration of the following:*
 - a. *Prohibiting demolition of habitable housing until a Development Application (DA) has been approved;*
 - b. *development applications that result in the demolition of existing habitable housing be time limited so that reasonable time periods for project commencement and project completion are conditions of the development application.*

- c. *provide Local Authorities with the ability to apply a “penalty fee” over and above any differential rating on vacant land, where the time conditions on the development application in (b) have not been met.*
 - d. *Development of a mandatory register of unoccupied residential properties, with the ability of Local Governments to apply rates or levies on long term unoccupied residential properties, which could increase incrementally over time.*
2. *Distributes the draft “WALGA Advocacy Position for Legislative Reforms to counter Land-Banking” to all West Australian Local Authorities for comment, and that a subsequent report be provided for consideration by WALGA Zones.*

NOTES

- Land-banking reduces the availability of sites for development.
- Premature demolition of viable housing is unacceptable in what is a dire housing shortage for this nation.
- Additional legislative changes are required to enable Local Authorities the flexibility to apply additional levies to long term unoccupied housing.

ITEM 7.3

That WALGA:

1. *Explores expanding Item 2.1.8 Differential Rates of its Advocacy Position Statement to consider inclusion of the following:*
 - a. *Advocating for Local Authorities to have the ability to apply a differential rate to long term unoccupied commercial buildings; and*
 - b. *Developing legislation that requires commercial property owners to demonstrate that in order to avoid the imposition of a differential rate on unoccupied commercial property the property;*
 - i. *is commercially habitable with annual investment in maintenance*
 - ii. *remains connected to essential services*
 - iii. *is undergoing periodic compliance checks and,*
 - iv. *has a plan in place to redevelop or make operational.*
 - c. *Develop legislation that enables Local Government to provide exemptions to the above differential rating based on an approved periodic activation program for the vacant commercial property by the Local Government.*
2. *Distributes the draft expanded WALGA Advocacy Position for Differential Rates to counter long term unoccupied commercial buildings to all West Australian Local Authorities for comment, and that a subsequent report be made available for consideration by WALGA Zones.*

NOTES

The Northern Territory Government enabled Darwin to apply a “Property Activation Levy” to address long term vacant land or unoccupied commercial buildings, endeavouring to activate or beautify properties that generally have a negative impact the overall amenity and vibrancy of streetscapes. The Property Activation Levy incorporates the following:

- *Owners of unoccupied commercial property are provided a reasonable grace period to activate their property without incurring the levy.*
- *Any property meeting the minimum number of listed activation options does not incur the surcharge levy applicable only to long term unoccupied commercial buildings.*

- *Revenue raised from the Property Activation Levy, is used on revitalisation projects of public places and land.*

The purpose of the property activation levy is to encourage owners of unoccupied commercial buildings to activate and maintain their properties to improve commercial precincts with a focus on the following objectives:

- *To improve the amenity of commercial precincts for residents, workers and visitors / tourists.*
- *Support adjoining business operators by encouraging activation of all commercial premises within precincts.*
- *Improve the liveability, attractiveness, safety and cultural activity of these precincts.*
- *Encourage the commercial precincts to thrive.*

Some of the suggested activation (that must include ongoing maintenance) for unoccupied commercial premises are listed below, noting this list is not exhaustive:

- *Inset graphics, art displays or other visual installations on ground level external windows and walls.*
- *Repaint or retile and improve ground level frontage and associated awnings over the footpath.*
- *Include rotating shop displays (for example Christmas, Easter, local events) or community spaces, such as for group activities, classes or study areas.*
- *Where setback from the road reserve exists, undertake improved landscaping.*

ITEM 7.4

That WALGA advocates for the state and federal governments to take urgent action to assist Local Governments and their communities in safely removing asbestos, including providing targeting funding programs and support for regional areas.

NOTES

- The Asbestos Safety and Eradication Agency (ASEA) has released its 2024-2030 Strategic Plan, which identifies the need to take action to save lives, as asbestos materials are degrading, increasing the risk they pose.
- The approach to asbestos is unlikely to change unless Local Governments and their communities, particularly in regional areas, are provided with additional funding and support.

ITEM 7.5

That WALGA advocates to the State Government for the State Government to fully fund Department of Communities (Social) and Government Regional Officer Housing.

NOTES

- **Housing Funding Impracticality:** Local Governments face impracticalities in funding housing due to the extra budgetary constraints then placed on the Local Government.
- **Financial Risk:** Investment in providing housing can be risky over the long term due the volatility of the housing market (particularly in areas where mining is the predominant

industry) and the constraints placed on Local Governments that are borrowing money to fund these builds.

- State Responsibility: Housing should be funded through state taxes and mining royalties, not Local Government budgets.

ITEM 7.6

That WALGA develops an Advocacy Position calling for the WA Government to adopt the Liveable Housing Design Standards for accessibility as part of the National Construction Code, consistent with WALGA's 2020-2025 Strategic Plan Sector Vision to enable inclusive Local Governments enhancing community wellbeing and economic prosperity..

NOTES

- Advocacy for adoption of National Construction Code minimum accessibility standards
- Australia should have national building standards guaranteeing new homes have access for all abilities.
- WALGA should develop a policy to reflect its organisation commitment to accessibility, including but not limited to ensuring any venues WALGA utilises for its services or events have universal accessibility entry points (and are not dependent on one accessible entry point).

TEN YEAR FINANCIAL PLAN

NIL Known at this time

FINANCIAL IMPLICATIONS

NIL Known at this time

STATUTORY IMPLICATIONS

Cat Act 2011

STRATEGIC COMMUNITY PLAN

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

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

COMMUNITY CONSULTATION

The following consultation took place;

- Chief Executive Officer
- Manager of Governance

STAFF RECOMMENDATION

That Council

1. Appoints Cr. _____ & Cr. _____ as voting Delegates for the Annual General Meeting; and
2. Directs its appointed delegates to vote as follows;

Agenda Item	Motion Title	Support/Not Supported
7.1	Amendments to the cat Act 2011 – Allow Local Governments to make local laws to contain cats to the owner’s property	Support
7.2	Advocacy for legislative reforms to counter land-banking	Support
7.3	Advocacy for expansion of differential rating to include long term unoccupied commercial buildings (Property Activation Levy)	Support
7.4	Action on asbestos for Western Australia	Support
7.5	Addressing the impracticality of Local Governments funding Department of Communities and Government Regional Officer Housing	Support
7.6	Advocacy for accessibility	Support

10.10 NOONGAR BOODJA TRUST - RATE EXEMPTION APPLICATION

File Ref: A 1861
Author: Raymond Griffiths, Chief Executive Officer
Authoriser: Raymond Griffiths, Chief Executive Officer
Attachments: 1. Noongar Boodja - Rate Exemption

BACKGROUND

Council on Monday, 9th September 2024 received a letter from Perpetual Trustee request land rates exemption for land held by the Noongar Boodja Trust as per below exert:

We write to you in our capacity as trustee for the Noongar Boodja Trust. The Noongar Boodja Trust is the special purpose charitable trust that receives, holds and manages all of the assets arising from the Southwest Native Title Agreement between the state of Western Australia and the Noongar People.

I write generally about the rateability of land held by the Noongar Boodja Trust, and specifically in relation to L50 Mission Road, Kellerberrin, which is referred to as Mission Road KELLERBERRIN
Lot / Location: 50 on the rates notice issued to the Noongar Boodja Land Sub Pty Ltd by the Shire of Kellerberrin, on the 23/08/2024, Assessment Number A186. This Lot is owned freehold by the Noongar Boodja Trust, through its holding entity the Noongar Boodja Land Sub Pty Ltd.

The Noongar Boodja Trust is a registered charity that advances the culture, social and public welfare of Aboriginal and Torres people, specifically the Noongar People of the Noongar Nation, and in accordance with the trust deed. The Noongar Land Sub Pty Ltd is a wholly owned subsidiary of the Noongar Boodja Trust, that holds the legal title to all land and management orders on bare trust for the Noongar Boodja Trust. The Noongar Land Sub Pty Ltd is also a registered charity.

Error in the Rate Record

Section 6.26 of the Local Government Act 1995 sets out a wide range of circumstances in which land is not rateable land. Section.6.26(2)(g) provides that land is not rateable land if the land is used 'exclusively for a charitable purpose'. As both the Noongar Boodja Trust and Noongar Land Sub Pty Ltd are both registered charities, and as the seven beneficiaries of the trust are, or are capable of being endorsed as, eligible charities by the Commissioner of Taxation, we maintain that L50 Mission Road Kellerberrin is not rateable land on the grounds that the land is used exclusively for a charitable purpose.

The Trust holds and uses the Property for the benefit of the Noongar People pursuant to the South West Native Title Settlement. The Trust is bound by its governing documents to use the Property exclusively for that purpose.

Where land is used for the purpose of improving the economic position, social condition and traditional ties of an Aboriginal community, that will generally be a charitable use of the land: Shire of Derby-West Kimberley v Yungngora Association (2007) 157 LGERA 238; [2007] WASCA 233 at [54]. We confirm that the Trust uses the Property exclusively for such purposes.

Pursuant to the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016 (WA), the Parliament of Western Australia has expressly acknowledged the living cultural, spiritual, familial and social relationship that the Noongar People have with Noongar land (which includes the Property): s 5(2)(a). The Trust's use of the Property to promote and preserve the Noongar People's spiritual and cultural connections with their land is an exclusively charitable purpose.

Further, and without prejudice to the above, we note that the Trust does not (and presently cannot)

use the Property for any commercial purpose and derives no income from the Property. Before taking any substantive steps with respect to the Property, the Trust is obliged under the trust deed to consult with the Noongar Advisory Company and the Noongar Regional Corporation and to carefully consider, in a culturally appropriate way, how the land can best serve the spiritual, social and economic interests of the Noongar People. The important consultation work is ongoing.

Requiring the Trust to pay rates while establishing these necessary consultation processes occur would seem to be an unintended consequence of the Southwest Native Title Settlement, and at odds with community expectations. We also observe that the local government would not suffer any prejudice by reason of granting this exemption given that the Property was not rateable land prior to being assigned to the Trust.

We therefore respectfully request that the Shire correct the rate record to show that the Property is not rateable land and reimburse the Trust for rates paid pursuant to the Rates Notice.

STAFF COMMENT

Council has reviewed all the documentation provided regarding the request of which is attached to this agenda being.

- *Diagram Drawing*
- *L50 Mission Road Context*
- *Rates Exemption Application*
- *Overhead Screenshot of Lot*
- *ACNC Document*
- *Noongar Boodja Land Sub Pty Ltd Current Details*
- *Trust Deed*
- *Constitution*
- *Rates Exemption Letter*
- *Statement of Operations.*

In reviewing the above documentation and understanding Lot 50, Mission Road and its use Councils Management provides a recommendation to have this property changed to being rates exempt as the property is used for charitable purposes.

TEN YEAR FINANCIAL PLAN

Shire of Kellerberrin Long Term Financial Plan – Rate Income

FINANCIAL IMPLICATIONS

Assessment No	Property Address	Rates Levied 2024/2025
A1861	Lot 50 Mission Road, Kellerberrin, WA, 6410	\$1,027.00

STATUTORY IMPLICATIONS

Local Government Act 1995 – Part 3, Division 3

Local Government Act 1995 (as amended) (LGA)

LGA - 6.26. Rateable land

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

(k) land which is declared by the Minister to be exempt from rates.

(3) If Co-operative Bulk Handling Limited and the relevant local government cannot reach an agreement under subsection (2)(i) either that company or the local government may refer the matter to the Minister for determination of the terms of the agreement and the decision of the Minister is final.

(4) The Minister may from time to time, under subsection (2)(k), declare that any land or part of any land is exempt from rates and by subsequent declaration cancel or vary the declaration.

(5) Notice of any declaration made under subsection (4) is to be published in the *Gazette*.

(6) Land does not cease to be used exclusively for a purpose mentioned in subsection (2) merely because it is used occasionally for another purpose which is of a charitable, benevolent, religious or public nature.

[Section 6.26 amended by No. 36 of 1999 s. 247.]

LGA: s6.47 – Concessions

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

STRATEGIC COMMUNITY PLAN

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

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

COMMUNITY CONSULTATION

The following consultation took place.

- Chief Executive Officer
- Manager of Governance
- Senior Finance Officer
- Noongar Boodja Trust

STAFF RECOMMENDATION

That Council;

1. Approve the rate exemption application for Lot 50 Mission Road, Kellerberrin being A1861 owned by the Noongar Boodja Trust; and
2. Approve the reimbursement of the 2024/2025 rates paid in full on the 26th of July 2024 for \$1,027.00

11 DEVELOPMENT SERVICES REPORTS

Nil

12 WORKS & SERVICES REPORTS

Nil

13 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

14 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**15 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:

15.1 Freeman of the Shire Application

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.

16 CLOSURE OF MEETING