

ORDER OF BUSINESS

- 1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS - COUNCIL CHAMBERS**
5.30pm Mary Lucchesi JP, Brad Smoker & Michael Lucchesi – New Councillor Declaration
- 2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE**
- 3 PUBLIC QUESTION TIME**
- 4 APPLICATIONS FOR LEAVE OF ABSENCE**
- 5 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**
 - 5.1 Shire of Kulin Ordinary Meeting – 20 September 2017
 - 5.2 Shire of Kulin Occupational Safety & Health Meeting – 31 August 2017
 - 5.3 Kulin Bush Races Meetings – 14, 21 & 28 September 2017
 - 5.4 Roe Tourism Association Meeting – 21 August 2017
- 6 MATTERS REQUIRING DECISION**
 - 6.1 List of Accounts – September 2017
 - 6.2 Financial Reports – September 2017
 - 6.3 Loc. 18895 Doyle Rd Kulin West – Telstra Tower Development Application
 - 6.4 Proposed Shire of Kulin Heritage List
 - 6.5 Rates – Sale of Land
 - 6.6 Approval – Letter of Exclusivity (LoE) – Lease for Solar Farm Cropping Paddock
- 7 COMPLIANCE**
 - 7.1 Compliance Reporting - General & Financial Compliance September 2017
 - 7.2 Compliance Reporting – Delegations Exercised September 2017
- 8 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 9 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**
- 10 MATTERS FOR WHICH THE MEETING IS CLOSED TO THE PUBLIC**
- 11 DATE AND TIME OF NEXT MEETING**
- 12 CLOSURE OF MEETING**

Minutes of an Ordinary Meeting of Council held in the Council Chambers on Wednesday 20 September 2017 commencing at 4:01pm

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Cr West welcomed Michael Lucchesi and Brad Smoker as members of the public to the Council Meeting.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

Attendance

BD West	President	West Ward
RD Duckworth	Deputy President	West Ward
HT McInnes	Councillor	Town Ward
G Robins	Councillor	Town Ward
MJ Ledwith	Councillor	West Ward
R Bowey	Councillor	Town Ward
BP Taylor	Councillor	Central Ward
R O'Brien	Councillor	Central Ward
L Varone	Councillor	East Ward
N Mason	Chief Executive Officer	
J Hobson	Manager of Works	
N Thompson	ESO / Minutes	

Apologies

C Vandenberg	Deputy CEO
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3. PUBLIC QUESTION TIME

Nil

4. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Shire of Kulin Ordinary Meeting – 20 September 2017

01/1017

Moved Cr Robins Seconded Cr Bowey that the minutes of the Ordinary Council Meeting held on 20 September 2017 be confirmed as a true and correct record.

Carried 9/0

Shire of Kulin Occupational Safety & Health Meeting – 31 August 2017

02/1017

Moved Cr O'Brien Seconded Cr Ledwith that the minutes of the Shire of Kulin Occupational Safety & Health Meeting held 31 August 2017 be received.

Carried 9/0

Kulin Bush Races Committee Meetings – 14, 21 & 28 September 2017

03/1017

Moved Cr Robins Seconded Cr Bowey that the minutes of the Kulin Bush Races Committee Meetings held 14, 21 & 28 September 2017 received.

Carried 9/0

Roe Tourism Association Meeting – 21 August 2017

04/1017

Moved Cr Bowey Seconded Cr O'Brien that the minutes of the Roe Tourism Association Meeting held 21 September 2017 received.

Carried 9/0

6 MATTERS REQUIRING COUNCIL DECISION

6.1 List of Accounts – September 2017

RESPONSIBLE OFFICER: DCEO
FILE REFERENCE: 12.06
AUTHOR: DCEO
STRATEGIC REFERENCE/S: 12.01
DISCLOSURE OF INTEREST: Nil

SUMMARY:

Attached is the list of accounts paid during the month of September 2017 for Council's consideration.

BACKGROUND & COMMENT:

Nil

FINANCIAL IMPLICATIONS:

Nil

STATUTORY AND PLANNING IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

COMMUNITY CONSULTATION:

Nil

WORKFORCE IMPLICATIONS:

Nil

OFFICER'S RECOMMENDATION:

That September payments being cheque No's 237 (Trip Fund), 369 - 373 (Trust Fund) 2012 – 2025 (Bush Races), 36851 - 36864 (Municipal), EFT No's 13201 - 13316, DD6269.1 - DD6289.9 (Municipal), credit card payments, creditor payments, and other vouchers from the Municipal Fund totalling \$393,478.89 be received.

VOTING REQUIREMENTS:

Simple majority required.

05/1017

Moved Cr Ledwith Seconded Cr McInnes that September payments being cheque No's 237 (Trip Fund), 369 - 373 (Trust Fund) 2012 – 2025 (Bush Races), 36851 - 36864 (Municipal), EFT No's 13201 - 13316, DD6269.1 - DD6289.9 (Municipal), credit card payments, creditor payments, and other vouchers from the Municipal Fund totalling \$393,478.89 be received.

Carried 9/0

6.2 Financial Reports – September 2017

RESPONSIBLE OFFICER: DCEO
FILE REFERENCE: 12.01
AUTHOR: DCEO
STRATEGIC REFERENCE/S: 12.01
DISCLOSURE OF INTEREST: Nil

SUMMARY:

Attached is the financial report for the period ending 30th September 2017.

BACKGROUND & COMMENT:

Nil

FINANCIAL IMPLICATIONS:

Nil

STATUTORY AND PLANNING IMPLICATIONS:

Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires local governments to prepare each month a statement of financial activity reporting on the revenue and expenditure of funds for the month in question.

POLICY IMPLICATIONS:

Nil

COMMUNITY CONSULTATION:

Nil

WORKFORCE IMPLICATIONS:

Nil

OFFICER’S RECOMMENDATION:

That Council endorse the monthly financial statement for the periods ending 30th September 2017.

VOTING REQUIREMENTS:

Simple majority required.

06/1017

Moved Cr Varone Seconded Cr Bowey that Council endorse the monthly financial statement for the period ending 30 September 2017.

Carried 9/0

6.3 Loc. 18895 Doyle Road, Kulin West - Telstra Tower – Development Application

NAME OF APPLICANT:	Deighton Pty Ltd on behalf of TELSTRA
FILE REFERENCE:	08.03 Telecommunications
STRATEGIC REFERENCE/S:	Strategic Community Plan – 2.1.3 Telecommunications Infrastructure
AUTHOR:	CEO

SUMMARY:

Council has received a development application from Deighton Pty Ltd on behalf of Telstra for the construction of an emergency services and mobile phone base station at Lot 18895, Doyle Road, Kulin West as part of the Black Spot Program.

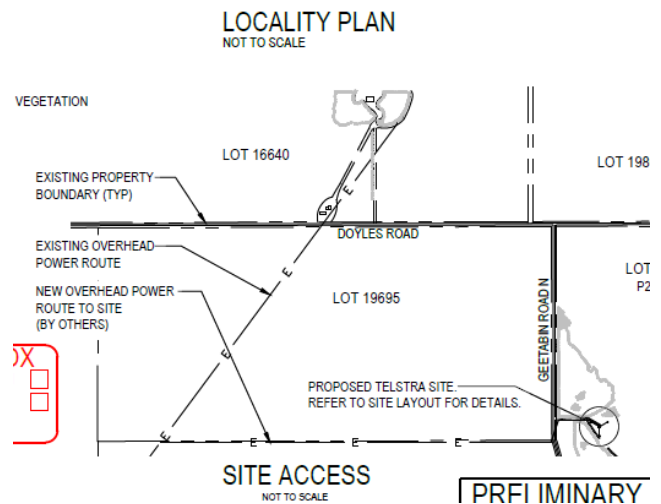
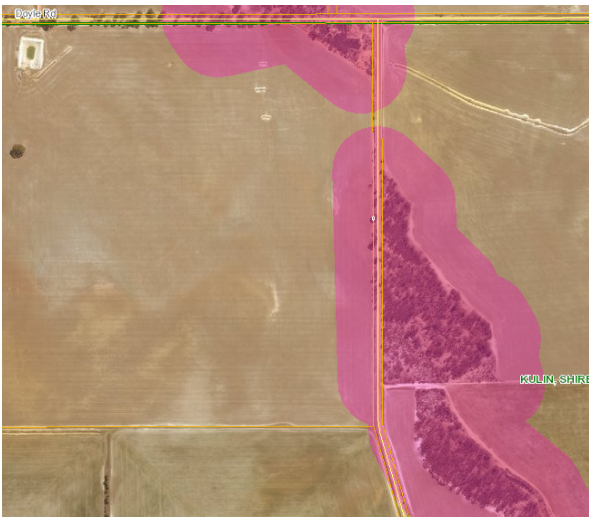
Approval for the DA is requested. The CEO is not able to approve the development application by delegation under the TPS2 as Telecommunication facilities in rural areas require a Council decision.

BACKGROUND & COMMENT:

The proposal is to install a new 60m guyed tower to accommodate 6 Argus PRX310B-v1 panel antennas at the top level and 9RRU’s located behind the antennas and two parabolic dishes. An equipment room will be located at the base of the structure.

The documentation has been lodged with the Shire (see attached letter, DA and plan). The applicant has provided an EME report, which indicates the facility does not result in an adverse impact on any residential or commercial developments within close proximity of the tower, the nearest residence is located 1.6km from the location of the facility. As such, there are no objections to the installation of the new tower on the Doyle land or the extension of electricity grid to service the facility.

Notwithstanding the above, according to DFES mapping, the subject land (area of land comprising the tower) is identified within a bushfire prone area (shaded pink below). As such, the Shire should advise the proponent to undertake a BAL assessment to ensure that the works/facilities will not cause or be impacted by bushfire.



FINANCIAL IMPLICATIONS:

The President has indicated that Council committed to undertake ground works for the power line and clearing some years ago and the Shire is now advised that the power line access road will be in a direct line from the paddock. For this reason the Shire will be required to clear the powerline through the bush to the site.

This is estimated to be 5 hours of dozer (5@\\$231) totalling \$1155 (includes 2 hours travel).

STATUTORY AND TOWN PLANNING IMPLICATIONS:

Requires development consent from the Shire of Kulin. No conditions in relation to DA consent are recommended but BAL assessment by the proponent is recommended.

WORKFORCE IMPLICATIONS:

Nil

RECOMMENDATION:

That Council approve the development application of Deighton Pty Ltd on behalf of Telstra for the construction of an emergency services and mobile phone base station at Lot 18895, Doyle Road, Kulin West as part of the Black Spot Program with NIL listed conditions. The proponent be advised that according to DFES mapping, the subject land (area of land comprising the tower) is identified within a bushfire prone area. As such, the proponent should undertake a BAL assessment to ensure that the works/facilities will not cause or be impacted by bushfire.

VOTING REQUIREMENTS:

Simple majority required

Note: CEO indicated that late information suggests the proposal will now be altered to have the electricity line approaching from the west in a straight line from the fence line and the bush will be cleared to accommodate this change – direct to the site of the building and tower. Removal of the electricity line corner stays reduces cost of the line.

07/1017

Moved Cr Duckworth Seconded Cr Robins that Council approve the development application of Deighton Pty Ltd on behalf of Telstra for the construction of an emergency services and mobile phone base station at Lot 18895, Doyle Road, Kulin West as part of the Black Spot Program with NIL listed conditions. The proponent be advised that according to DFES mapping, the subject land (area of land comprising the tower) is identified within a bushfire prone area. As such, the proponent should undertake a BAL assessment to ensure that the works/facilities will not cause or be impacted by bushfire.

Carried 9/0

6.4 Proposed Shire of Kulin Heritage List

NAME OF APPLICANT: Shire of Kulin
LOCATION: Shire of Kulin Municipal District
ATTACHMENTS: Nil
REPORTING OFFICERS: Mr Joe Douglas - Consultant Town Planner (Exurban Rural & Regional Planning); CEO
DATE OF REPORT: 10 October 2017

SUMMARY:

This report recommends that Council authorise the Shire Administration to proceed with preparation of a new Heritage List comprising buildings, places and objects previously identified by Council as being of cultural heritage significance to provide for their long term protection under the Shire's new town planning framework.

BACKGROUND & COMMENT:

Under the terms of the *Heritage of Western Australia Act 1990* and *Planning and Development Act 2005* all local government authorities throughout the State are required to identify and provide for the protection of buildings, places and objects of cultural heritage significance for the benefit of future generations.

The *Heritage of Western Australia Act 1990* requires all local government authorities to prepare an inventory of buildings, places and objects within its district, which in its opinion are, or may become, of cultural heritage significance. In March 1997 the Shire of Kulin adopted a Municipal Heritage Inventory containing 134 buildings, places and objects identified by Council as being of cultural heritage significance to the local community.

It should be noted there are no legal implications or consequences associated with any listing contained in the Shire's Municipal Heritage Inventory, particularly with regard to the future development and/or use of land containing buildings, places and objects of cultural heritage significance. As such it has little effect beyond requiring Council to acknowledge the heritage value of those places listed.

In order to give legal effect to the Shire's Municipal Heritage Inventory and facilitate the long term protection of heritage values, Part 5 of the original version of the Shire of Kulin Town Planning Scheme No.2 contained provisions which provided for the automatic adoption of the Shire's Municipal Heritage Inventory as the Shire's Heritage List. Consequently any person or organisation seeking to develop and/or use any one of the 134 properties included in the Shire's Heritage Inventory and List was required to prepare and submit a development application seeking Council's formal approval prior to proceeding.

Following the recent introduction by the State Government of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the Minister for Planning's final approval to the new consolidated version of the Shire of Kulin Town Planning Scheme No.2, the Shire's Municipal Heritage Inventory is no longer able to be automatically adopted and used as the Shire's Heritage List. As such the Shire must now prepare a new independent, standalone Heritage List identifying buildings, places and objects within its municipal district that are of cultural heritage significance and worthy of protection. Such protection is afforded through specific heritage provisions contained in the new Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* which all local government authorities throughout the State are now required to consider and apply when dealing with development applications involving any property included in their respective Heritage Lists.

The proposed Shire of Kulin Heritage List will only include those properties identified in the Shire's Municipal Heritage Inventory as requiring the highest levels of protection under the new planning framework (i.e. Category 1 and 2). A review of the Shire's Heritage Inventory has confirmed a total of **sixteen (16) properties** have been assigned a Category 1 or 2 classification. As such the heritage controls afforded to Council under the planning framework will only apply to these properties in the event of any future development and/or change of use and not all 134 properties currently listed in the Shire's Heritage Inventory as was previously the case under the Shire's previous, now superseded version of Town Planning Scheme No.2.

When preparing a new Heritage List the Shire will need to have due regard for the following statutory requirements:

1. The Heritage List:
 - (a) must set out a description of each place and the reason for its entry in the Heritage List; and
 - (b) must be available, with the Scheme documents, for public inspection during business hours at the offices of the local government; and
 - (c) may be published on the website of the local government.
2. The local government must not enter a place in, or remove a place from, the Heritage List or modify the entry of a place in the Heritage List unless the local government:
 - (a) notifies in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry; and
 - (b) invites each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice; and
 - (c) carries out any other consultation the local government considers appropriate; and
 - (d) following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the Heritage List with or without modification, or that the place be removed from the Heritage List.
3. If the local government enters a place in the Heritage List or modifies an entry of a place in the Heritage List the local government must give notice of the entry or modification to:
 - (a) the Heritage Council of Western Australia; and
 - (b) each owner and occupier of the place.

Having regard for Council's statutory obligation to identify and provide for the protection of buildings, places and objects of cultural heritage significance in the Shire's municipal district for the benefit of future generations, it is recommended the Shire Administration be authorised to proceed with preparation of a new Heritage List comprising all Category 1 and 2 properties listed in the Shire's Municipal Heritage Inventory for formal

consideration and final adoption by Council.

STATUTORY ENVIRONMENT:

- Planning and Development Act 2005 (as amended)
- Planning and Development (Local Planning Schemes) Regulations 2015
- Heritage of Western Australia Act 1990 (as amended)
- Shire of Kulin Town Planning Scheme No.2

POLICY IMPLICATIONS:

Nil

COMMUNITY CONSULTATION:

Each owner and occupier of any place proposed to be entered in the Shire's new Heritage List will be notified of the proposed listing and invited to provide comment to the Shire within a twenty one (21) days of the day on which the notice is served on them. It is likely the period for submissions will be extended to forty two (42) days to provide all affected owners, occupiers and other government agencies with sufficient time to evaluate individual listings and the draft Heritage List as a whole and provide a written response.

FINANCIAL IMPLICATIONS:

The total cost to prepare the Shire's proposed new Heritage List, undertake the required public advertising, assess all submissions received and prepare a report to Council regarding final adoption is estimated to be in the order of \$6,500.00 excluding GST. The total cost of the project can only be met through funding allocations in Council's budget for the 2018/2019 financial year.

The Shire's previous consultant that did the original work has indicated that the estimate would be reasonably accurate.

STRATEGIC IMPLICATIONS:

Preparation and implementation of the proposed Shire of Kulin Heritage List is consistent with the Shire of Kulin 2017 Strategic Community Plan as it applies specifically to the following objectives and strategies:

- Social
 - *Invite and promote the community to take a proactive role in improving the aesthetics of each town site.*
- Economic
 - *Support and promote a collaborative Shire wide approach to heritage, our stories and tourism;*
 - *Support and deliver projects that encourage and facilitate the celebration and protection of our rural history.*
- Civic Leadership
 - *Deliver services that meet the current and future needs and expectations of the community, whilst maintaining statutory compliance.*

RECOMMENDATION:

That Council authorise the Shire Administration to proceed with preparation of a new Heritage List comprising all Category 1 and 2 properties listed in the Shire of Kulin Municipal Heritage Inventory in accordance with the procedural requirements of Part 3 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for formal consideration and final adoption by Council.

VOTING REQUIREMENTS:

Simple majority required.

08/1017

Moved Cr Bowey Seconded Cr McInnes that Council authorise the Shire Administration to proceed with preparation of a new Heritage List comprising all Category 1 and 2 properties listed in the Shire of Kulin Municipal Heritage Inventory in accordance with the procedural requirements of Part 3 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for formal consideration and final adoption by Council.

Carried 9/0

6.5 Rates – Sale of Land

NAME OF APPLICANT: DCEO
RESPONSIBLE OFFICER: DCEO
FILE REFERENCE: 25.03
AUTHOR: DCEO
DISCLOSURE OF INTEREST: Nil

SUMMARY:

Sale of Land – recovery of rates in arrears for a period of three or more years.

BACKGROUND:

There are currently 3 properties that have rates outstanding by three or more years for which it has not been possible to enter into acceptable and successful arrangements for the payment of the balance owing. In each instance, a written notification has been directed to the last known postal address of the ratepayer's property advising that it will be our intention to refer the matter to Council with a recommendation to sell property in order to recover the outstanding balance.

Each of these properties have been referred to our debt collection agency and the bailiff has served a general procedure claim to the ratepayer advising them of the intention to sell their property if the rates are not paid immediately. The ratepayer has not been in contact with Council and we now wish to proceed to the next step and issue the rate payer with a Property Sale & Seizer Order (PSSO).

COMMENT:

Assessment	A829
Zoning	Rural UV
Period Outstanding	2013/2014 – 2017/2018
Amount Outstanding	\$ 17,570.61
Last Payment	24/04/2017 (partial)
Recovery Action	- Letter sent in accordance with Council policy - Final Notice Sent - General Procedure Claim served
Assessment	A1427
Zoning	Rural UV
Period Outstanding	2013/2014 – 2017/2018
Amount Outstanding	\$ 25,688.66
Last Payment	24/04/2017 (partial)
Recovery Action	- Letter sent in accordance with Council policy - Final Notice Sent - General Procedure Claim served
Assessment	A122
Zoning	Commercial GRV
Period Outstanding	2015/2016 – 2017/2018
Amount Outstanding	\$ 3,220.25
Last Payment	24/04/2017 (partial)
Recovery Action	- Letter sent in accordance with Council policy - Final Notice Sent

	- General Procedure Claim served
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STATUTORY ENVIRONMENT:

S6.64 of the Local Government Act 1995 states:

- 1.) If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and –
 - (a) From time to time lease the land;
 - (b) Sell the land;
 - (c) Cause the land to be transferred to the Crown; or
 - (d) Cause the land to be transferred to itself.
- 2.) On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.
- 3.) Where payment of rates or service charges in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land and may withdraw caveats so lodged by it.

FINANCIAL IMPLICATIONS:

The sale of this land will equate to a decrease in the level of outstanding rates of \$ 46,479.25

Options

Option 1 – exercise the provisions of Section 6.64 of the Local Government Act 1995

- Given the level of debt, and the amount of time that has been afforded to enable to ratepayers to either clear or reduce their debt, it is appropriate to apply the relevant section of the Local Government Act 1995 empowering the sale of land provisions in relation to the unpaid rates and charges.

Option 2 – Exercise the provisions of Section 6.74 of the Local Government Act 1995

- Apply to the Minister to have the land re-vested in the Crown in the right of the State.

Option 3 – Make application for the land to be vested in the local government.

RECOMMENDATION:

That Council pursuant to Section 6.64(1)(b) of the Local Government Act 1995, proceed to sell the properties listed hereunder which have rates in arrears for 3 or more years, and recover from the proceeds of sale the outstanding balances which total \$46,479.25.

09/1017

Moved Cr Robins Seconded Cr McInnes that Council pursuant to Section 6.64(1)(b) of the Local Government Act 1995, proceed to sell the properties listed hereunder which have rates in arrears for 3 or more years, and recover from the proceeds of sale the outstanding balances which total \$46,479.25.

Carried 9/0

6.6 Approval – Letter of Exclusivity (LoE) - Lease for Solar Farm - Cropping Paddock

RESPONSIBLE OFFICER: CEO
FILE REFERENCE: 05.19 Lease of Land
AUTHOR: CEO
STRATEGIC REFERENCE/S: CSP – Environment – Sustainable alternate energy solutions
DISCLOSURE OF INTEREST: Nil

SUMMARY:

In May 2017, Blue Planet Developments (BPD) in association with EPMS Consultants PL requested the Shire of Kulin consider in-principle support for the development of a 4-5MW Solar PV project at Kulin. In principle support was given in Resolution 08/0517. Blue Planet are now in a position to move ahead on the project and are

seeking Shire commitment to provide them with security over the land so that they may finalise an application to Western Power.

The Shire's commitment can be provided by a Letter of Exclusivity (LoE) which would require us to sign an Option to Lease Deed which locks the Shire into signing a Lease for the land. Clause 2.2(a) of the Option to Lease allows the Shire to list those items that would be "requirements" prior to the final Lease being signed (approved DA, WAPC long term lease approval, Aboriginal Heritage clearance and Western Power grid plan approval).

The security over land will allow BPD to continue with the Western Power Grid and the Shire of Kulin planning Development Application in parallel. The CEO has already submitted a request to WAPC asking about long term lease approval requirements.

As this recommendation commits the Shire to a long term lease (if option exercised by BPD) – approval by absolute majority required.

BACKGROUND & COMMENT:

The May 2017 resolution was enacted by staff.

08/0517

Moved Cr Duckworth Seconded Cr Taylor that the Shire of Kulin offer in principle support for the development of a solar PV farm proposal on leased Shire land by Blue Planet Developments/EPMS subject to;

- *Finalising agreement with the Kulin Kondinin Football Club for the use of 25ha of the cropping paddock prior to the completion of the existing agreement as depicted on the attached plan;*
- *Approval of a Development Application (DA) by the Shire, submitted by the proponent addressing planning/other development and community issues as detailed in this report;*
- *Finalisation of a lease agreement with the Shire being completed for the proposed land;*
- *State Planning Commission approval for the creation of a lease with a longer life than 20 years;*
- *Western Power support for the proposal, with the proponent obtaining approvals to develop the project and connect to the grid network.*

Carried 9/0

Dot Point One – Jay Robertson presented all the information (submitted by BPD and the Shire Agenda Item) to the KKFC Committee who have indicated support for the proposal. Not expecting any complications in relation to the lease area once crop removed this year.

Dot Point Two – BPD upon receipt of security over the land are committing to providing a Development Application within 6 months.

Dot Point Three – Copy of a proposed Lease has been provided with current information.

Dot Point Four – State Planning Commission have been forwarded all information in regards to the long term lease. WAPC will respond soon.

Dot Point Five – BPD are required to put to Western Power a proposal outlining their project – which again will be completed once land holdings have been secured.

Exclusivity Letter (LoE) (Attached)

The Exclusivity agreement binds the Shire to BPD for the next 3 years during which time it is expected Western Power will make the ultimate call as to whether the solar power generation project proposal can proceed. No known impediments exist preventing the Shire from committing to this requirement for both the land and any other solar service provider.

The proposal to lease and exclusivity arrangements will terminate if BPD is not able to proceed with the project or fail to give notice of the project;

Exclusivity

For a period of three years from today, you will not accept or solicit an offer from any other person or company to acquire or create or agree to grant any interest or right in the Proposed Lease Area. This will allow us to undertake our due diligence and seek all necessary governmental and other approvals to advance the project.

In addition, during that three year period, you will not (and will ensure any related entity to you will not) grant any interest or right in any area of land falling within 5 km of the boundary of the Proposed Lease Areal in favour of any person or company that directly or indirectly conducts or has a commercial interest in any business of electricity generation or renewable energy.

Committing to the “exclusivity” letter effectively commits the Shire to the Option to Lease (conditions precedent) and then the long term lease for the Land on the detailed terms and conditions.

Option to Lease

The proposed Option to Lease Deed terms is attached. The Option to Lease Deed would be exercised as soon as “Notice” is provided, the trigger for this would be a firmer commitment from BPD that a project is likely following discussions and submission of proposal to Western Power following the signing of the Exclusivity letter (LoE). The Deed is very much a standard Deed and of modern form obviously written for WA law and would be acceptable to the Shire.

NOTE: The Deed contains a “confidential” Clause that requires the Shire not to disclose any sensitive information other than that needed to meet our legislative and consultation requirements. It is important therefore that Councillors and staff not disclose detail of the documents other than that required to meet our advertising and consultations requirements.

Deed of Lease agreement

Proposed Deed of Lease agreement terms are outlined below. The Deed of Lease would be completed within 3 years of the signing of the Exclusivity letter (LoE) is very much a standard deed of modern form and would be acceptable to the Shire. This documentation is clearly written for WA laws.

Lease Terms

Lease Area:	The Proposed Lease Area which is approximately 13.5 hectares (or any lesser area within the original Proposed Lease Area as notified in writing by BPD)
Term of Lease:	An initial term of 25 years and 6 months.
Annual Rent:	A\$800 per hectare of Lease Area.
Outgoings	The Lessee will also pay to the Lessor all rates and taxes payable by the Lessor to any governmental authority in respect of the Lease Area (and in the case of land tax, calculated on the basis that the Lease Area is the only land owned by the Lessor). The Lessee will be responsible for all water, gas and other utilities provided to the Lease Area.
Use of the Lease Area:	The construction and operation by the Lessee of a Solar power generation project.
Rent Review:	The Annual Rent will be subject to an annual rent increase on the anniversary of the commencement date by reference to the CPI, and annually thereafter.
Option to renew:	The Lessee will have 3 successive options to renew the lease each for a further term of 5 years
Exclusivity area	During the term of the lease (and any further term), the lessor will not (and will ensure any related entity to the lessor will not) grant any interest or right in any area of land falling within 5 km of the boundary of the Lease Areal in favour of any person or company that directly or indirectly conducts or has a commercial interest in any business of electricity generation or renewable energy.

The land in question being Lot 9002 on the corner of Davies & Corrigin-Kulin Roads, Kulin is currently classified ‘Rural’ zone in TPS No.2.



FINANCIAL IMPLICATIONS:

Council currently receives \$10pa for the cropping paddock “if charged” and the land is not rateable under Shire ownership.

The Lease is proposing \$800 (GST Incl) per hectare per annum for the 13.5ha. This equates closely to \$700ha (minus GST and rates) which it could be argued is 70% of the current purchase price for the rural land in question. The Lease proposal also includes CPI increases on anniversary date.

The total annual payment is \$10,400 (GST Inclusive) with the total 25 year lease being \$265,200. If the 15 years of options are exercised; the total lease return then expands to \$421,200 or \$31,200ha over life.

As a separate landholding the lease could attract minimum rates (Rural \$417) but it is not recommended to pursue rating as to survey, separate and obtain a valuation would cost close to 15 years of rate income.

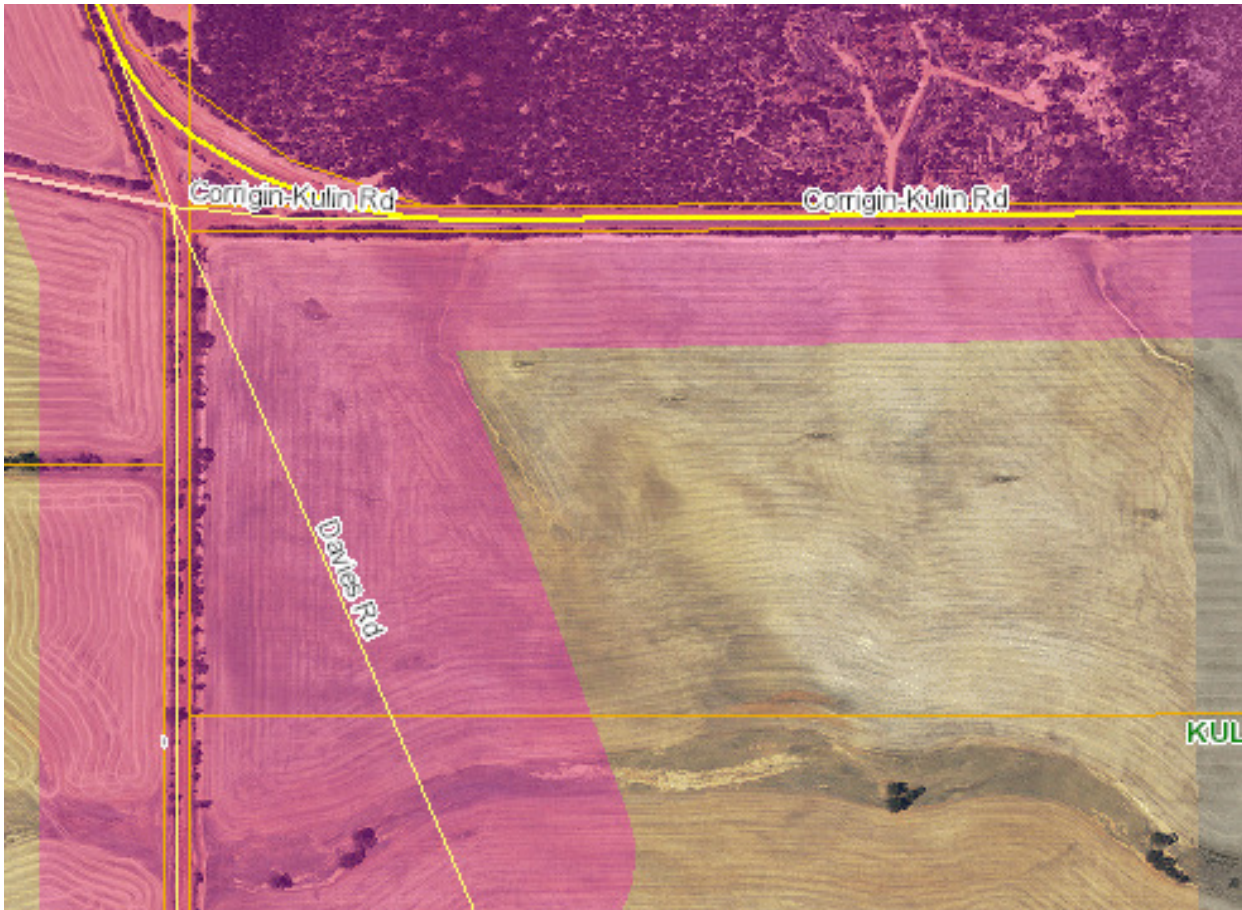
This is a very favourable return for land only ever likely to be cropped into the future. The land under the lease arrangements will always be owned by the Shire.

STATUTORY AND PLANNING IMPLICATIONS:

As agreed with BPD, a Development Application would be required for the proposal. BPD have now indicated that the DA would be presented within 6 months of the agreement over the land.

TPS 2 Clause 18 (4) allows Council to consider a development “use” not specifically mentioned in the zoning table and in this case Lot 9002 is zoned rural and Solar Farms or 4-5MW Solar PV projects are not listed as a use in the TPS2 zoning tables. Council would be required to consider the matter which may or may not include a requirement to advertise, following receipt of the DA.

It is likely that the development would include a small plant and equipment building and according to DFES mapping, the subject land (area of land comprising the tower) is identified within a bushfire prone area (shaded pink below). As such, the Shire should advise the proponent to undertake a BAL assessment to ensure that the works/facilities will not cause or be impacted by bushfire.



STRATEGIC & POLICY IMPLICATIONS:

Proposed Lease – Table of Contents - The lease has been read and no significant adverse requirements are evident.

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COMMUNITY/CONSULTATION:

In the planning process any Development Application (DA) received will be required to be advertised for public comment for the minimum required period of 14 days before Council considers it.

As the land fronts Corrigin-Kulin Road the Shire must also refer the proposal to Main Roads WA (MRWA) for review and comment. Under the Planning Regulations, MRWA will have up to 42 days to provide a formal

response to the Shire's request for comment. As such Council is unable to make a final decision on any development application received until the 42 day period has expired.

WORKFORCE IMPLICATIONS:

Nil

RECOMMENDATION:

That the Shire of Kulin approve of and sign the Letter of Exclusivity (LoE) for Blue Planet Developments;

- acknowledge that signing the LoE commits the Shire to the Option to Lease;
- the Option to Lease Clause 2.2(a) be populated to include the following pre-conditions; DA approval, WAPC long term lease approval, Aboriginal Heritage clearance approval and Western Power grid plan approval required prior to a Deed of Lease being signed;
- the Development Application (DA) presented to the Shire would require advertising and comment periods which the proponent acknowledges, and
- the final signing of a Deed of Lease for a portion of Lot 9002 Kulin would be in accordance with the Deed and the stated Lease terms.

VOTING REQUIREMENTS:

As this recommendation commits the Shire to a long term lease if the option is exercised by BPD – approval by absolute majority is required.

10/1017

Moved Cr Robins Seconded Cr Taylor that the Shire of Kulin approve of and sign the Letter of Exclusivity (LoE) for Blue Planet Developments;

- **acknowledge that signing the LoE commits the Shire to the Option to Lease;**
- **the Option to Lease Clause 2.2(a) be populated to include the following pre-conditions; DA approval, WAPC long term lease approval, Aboriginal Heritage clearance approval and Western Power grid plan approval required prior to a Deed of Lease being signed;**
- **the Development Application (DA) presented to the Shire would require advertising and comment periods which the proponent acknowledges, and**
- **the final signing of a Deed of Lease for a portion of Lot 9002 Kulin would be in accordance with the Deed and the stated Lease terms;**
- **the land requirement of the lease area be squared off to the Corrigin road, north of the power line;**
- **screening be provided on the east side of the project;**
- **that the proponent acknowledge that the LoE does not prevent the Shire from undertaking its legislative responsibilities on non-Shire land.**

Carried 8/1

Reason for Change to Recommendation

The Recommendation was changed with 3 additional dot points, to ensure the proponent was clear of the additional items to be addressed in the DA, and that the Shire is required to assess ALL applications when submitted.

7.1 Compliance Reporting – General & Financial Compliance – September 2017

NAME OF APPLICANT: CEO
RESPONSIBLE OFFICER: CEO
FILE REFERENCE: 12.05 Compliance 12.06 – Accounting Compliance
STRATEGIC REFERENCE/S: CBP 4.1 Civic Leadership, 4.1.8 Compliance methods
AUTHOR: CEO/DCEO
DISCLOSURE OF INTEREST: Nil

SUMMARY:

This report addresses General and Financial Compliance matters for September 2017. This process is not definitive, each month additional items and/or actions may be identified that are then added to the monthly checklist. Items not completed each month e.g. quarterly action - will be notations.

The report provides a guide to the compliance requirements being addressed as part of staff workloads and demonstrates the degree of internal audit being completed.

BACKGROUND & COMMENT:

The Compliance team and works staff commence the monthly compliance effort immediately after the Shire meeting each month. At that time, the executive support officer will email the assigned staff member their compliance requirements for the coming month.

As the month progresses, staff in conjunction with their manager, the CEO or DCEO will determine the extent of work/action needed to complete items. During Agenda week, the Compliance Team again meets to ensure the monthly report/list is reviewed and that compliance items are completed. In preparing the Agenda report, the CEO or DCEO will sign off on completed items.

Prior month items not completed previously will be reported in the following month so Council remains aware of what items are still outstanding. (Refer to Table attached)

All items completed in August.

Items still outstanding in September 2017;

FOI Statement	- to be finalised for Nov Meeting with Annual Report
Record Keeping Plan Compliance	- to be finalised for Nov Meeting with Annual Report
Bushfire Firebreak Inspections	- will be completed after 1 Nov
Firebreak Reminders	- will be completed after 1 Nov
Bushfire Protective Clothing	- currently taking orders for respirators – next month finalised
Transport R2R Annual	- soon – with Annual Accounts completed – soon
Audit Committee with Auditor	- planned for Nov meeting day
ABS return	- to be completed after Annuals confirmed
Cat Dog registration renewals	- by 15 th Oct

FINANCIAL IMPLICATIONS:

In the generation of the report, nil in terms of meeting compliance. There may be items that require additional administrative effort to complete or require external assistance to resolve. In those cases, individual financial implications will be reported.

STATUTORY AND PLANNING IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Identified as necessary – this report Nil

COMMUNITY CONSULTATION:

Nil

WORKFORCE IMPLICATIONS:

Nil

OFFICER'S RECOMMENDATION:

That Council receive the General & Financial Compliance Reports for September 2017 and note the matters of non-compliance.

VOTING REQUIREMENTS:

Simple majority required.

11/1017

Moved Cr Taylor Seconded Cr O'Brien that Council receive the General & Financial Compliance Report for September 2017 and note the matters of non-compliance.

Carried 9/0

7.2 Compliance Reporting – Delegations Exercised – September 2017

NAME OF APPLICANT:	CEO
RESPONSIBLE OFFICER:	CEO
FILE REFERENCE:	12.05 - Compliance
STRATEGIC REFERENCE/S:	CBP 4.1 Civic Leadership, 4.1.8 Compliance methods
AUTHOR:	CEO
DISCLOSURE OF INTEREST:	Nil

SUMMARY:

To report back to Council actions performed under delegated authority for the period ending 1 October 2017.

To provide a comprehensive report listing of the delegations able to be exercised following adoption of a more substantial array of delegations in June 2017.

BACKGROUND & COMMENT:

This report is prepared for Council detailing actions performed under delegated authority by the respective officers under each of the delegation headings:

ADMINISTRATION

Policy	Delegation	Officers
A1	Acting Chief Executive Officer	(CEO)
A2	Agreements for Payments of Debts to Council	(CEO/DCEO)
A3	Casual Hirer's Liability	(CEO)
A4	Complaint Handling	(CEO)
A5	Fees & Charges – Discounts	(CEO/DCEO/MW/MLS/CRC Mgr.)
A6	Investment of Surplus Funds	(CEO/DCEO)
A7	IT & Social Media – Use Of	(CEO)
A8	Legal Advice, Representation & Cost Reimbursement	(CEO)
A9	Payments from Municipal and Trust Funds	(CEO – to numerous staff for Orders)
A10	Use of Common Seal	(CEO)
A11	Writing Off Debts	(CEO)
A12	Housing	(CEO)
A13	Procedure for Unpaid Rates Finance	(CEO)

GOVERNANCE

G1	Applications for Planning Consent	(CEO)
G2	Building Licences and Swimming Pools	(EHO/Building Surveyor)
G3	Cemeteries Act 1986	(CEO)
G4	Health Act 1911 Provisions	(EHO)

HUMAN RESOURCES

H1	Grievance Procedures	(CEO)
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COMMUNITY SERVICES

C1	Bushfire Control – Shire Plant for Use of	(CEO)
C2	Bushfire Control – Plant Use for Adjoining Shires	(CEO)
C3	Bushfire Prohibited / Restricted Burning Periods – Changes	(Shire President/CEO)
C4	Bushfire Training Administration	(CEO)
C5	Cat Ownership Limit – Cat Control	(CEO)
C6	Dog Control – Attacks	(CEO)
C7	Dog Ownership Limit – Dog Control	(CEO)
C8	Sea Containers Use of – Town Planning	(CEO)
C9	Second Hand Dwellings	(CEO)
C10	Temporary Accommodation	(CEO)
C11	Unauthorised Structures – Building Control	(CEO)
C12	Kulin Bush Races	(Kulin Bush Races Committee)
C13	Freebairn Recreation Club Committee	(FRC Club Committee)
C14	Kulin Child Care Centre Management Committee	(Kulin CCC Management Committee)
C15	General – Community Services Practices	(CEO)

WORKS

W1	Gravel Supplies	(MW)
W2	Roads – Clearing	(CEO)
W3	Roads – Damage to	(MW)
W4	Roads – Roadside Markers – Management of	(MW)
W5	Stormwater Drainage	(MW)
W6	Street Trees	(CEO)
W7	Streetscape – Improvements	(CEO)
W8	Roadside Burning	(MW)
W9	Temporary Road Closures	(MW)
W10	General – Works Practices Approvals	

COMMENT:

The following details the delegations exercised within the Shire relative to the delegated authority for the month and are submitted to Council for information (excluding delegations under A9, Payments – refer to individual order and payment listed in Accounts paid)

A2 Agreements for Payments of Debts to Council

(CEO/DCEO)

CEO Approved a payment plan for J Nichols -73 Johnston Street - Rates

G2 Building Licences (CEO)

Approved Building Application for Kulin Bush Races (Owner Luccia Pty Ltd) – Lot 7759 Jilakin Rock Rd for Transportable - estimated value \$2500.

STATUTORY ENVIRONMENT:

Building Act 2011
Bushfires Act 1954
Cemeteries Act 1986
Health (Asbestos) Regulations 1992;
Health (Miscellaneous Provisions) Act 1911;
Local Government Act 1995
Public Health Act 2016
Shire of Kulin TPS2
Town Planning Development Act
Town Planning Scheme
Trustees Act, Part III,
Criminal Procedure Act 2004;

FINANCIAL IMPLICATIONS:

Nil in terms of exercising delegation and reporting to Council though there may be financial implications in the case of each delegation exercised.

STATUTORY AND PLANNING IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

There are no known policy implications relating to this report.

COMMUNITY CONSULTATION:

Nil

WORKFORCE IMPLICATIONS:

Nil

OFFICER'S RECOMMENDATION:

That Council receive the Delegation Exercised Report for September 2017.

VOTING REQUIREMENTS:

Simple majority required.

12/1017

Moved Cr McInnes Seconded Cr Varone that Council receive the Delegation Exercised Report for September 2017.

Carried 9/0

8 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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

Cr West requested that the following be noted in Council Minutes:-

- Formal congratulations to Tanya Dupagne for being named as Agric's Rural Woman of the Year 2017. Tanya was acknowledged earlier in the day and presented with flowers on behalf of Council.
- Thank you to Kulin Bush Races for acknowledging the Shire of Kulin as a race sponsor this year and congratulations to all staff for the work they put into assisting with the event.
- Best wishes to Gemma Boxall who was presented with her Certificate III in Events and has now concluded her traineeship with the Kulin Community Resource Centre.
- Acknowledgement and recognition to Councillors Ledwith and O'Brien for their contribution to the Shire of Kulin.

Cr Ledwith responded that it has been a pleasure to make the commitment to the community, our council is great and not focused on self-interest, working together to make things happen.

Cr O'Brien said he enjoyed his time on Council. Kulin is a proactive place with proactive people, community & staff so a lot has been achieved and we've created a good place to live.

Mary and Serge Lucchesi entered the Council Chambers at 5.36pm

Councillor Declarations

Mary Lucchesi JP was invited to oversee the signing of the Councillor declarations for recently elected Councillors.

The following members made the declaration as required for newly elected members, Form 7:
Rodney Duckworth; Grant Robins; Michael Lucchesi and Brad Smoker.

The President congratulated the elected Councillors and thanked Mary as JP for her attendance.

10 MATTERS FOR WHICH THE MEETING IS CLOSED TO THE PUBLIC

Nil

There being no further business the meeting closed 5.46pm.