



Agenda

Ordinary Council Meeting Thursday 18 April 2024

4.30 pm in Carlotta Bush Fire Brigade Shed, Nannup

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A G E N D A

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS/ACKNOWLEDGMENT OF COUNTRY:

The Shire President is to declare the meeting open and welcome the public gallery.

The Shire President to acknowledge the traditional custodians of the land, the Wardandi and Bibbulmun people, paying respects to Elders past, present, and emerging.

2. ATTENDANCE/APOLOGIES:

2.1 ATTENDANCE

2.2 APOLOGIES

3. PUBLIC QUESTION TIME:

4. MEMBERS ON LEAVE OF ABSENCE AND APPLICATIONS FOR LEAVE OF ABSENCE:

4.1 APPROVED LEAVE OF ABSENCE:

4.2 APPLICATION FOR A LEAVE OF ABSENCE:

5. CONFIRMATION OF MINUTES:

5.1 Shire of Nannup Ordinary Council Meeting – 26 March 2024

EXECUTIVE RECOMMENDATION:

That the Minutes from the Ordinary Meeting of Council held 26 March 2024 be confirmed as a true and correct record (attachment 5.1).

5.2 Shire of Nannup Audit Advisory Committee – 26 March 2024

EXECUTIVE RECOMMENDATION:

That the Minutes from the Audit Advisory Committee held 26 March 2024 be received (attachment 5.2).

5.3 Warren Blackwood Alliance of Councils – 2 April 2024

EXECUTIVE RECOMMENDATION:

That the Minutes from the Warren Blackwood Alliance of Councils meeting held 2 April 2024 be received (attachment 5.3).

6. ANNOUNCEMENTS FROM PRESIDING MEMBER:

Nil.

7. DISCLOSURE OF INTEREST:

Division 6: Sub-Division 1 of the *Local Government Act 1995*. Care should be taken by all Councillors to ensure that a financial/impartiality interest is declared and that they refrain from voting on any matter, which is considered to come within the ambit of the Act.

Where a member has disclosed a financial or proximity interest in an item, they must leave the Chamber for consideration of that item.

Where a member has disclosed an impartiality interest in an item, they may remain in the Chamber. The member is required to bring an independent mind to the item and decide impartially on behalf of the Shire of Nannup and its community.

The Shire of Nannup Disclosure of Interest Register is on our website [here](#).

8. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN:

Nil.

9. PRESENTATIONS/DEPUTATIONS/PETITIONS:

Nil.

10. REPORTS BY MEMBERS ATTENDING COMMITTEES:

11. REPORTS OF OFFICERS:

AGENDA NUMBER & SUBJECT:	11.1 – Delegated Planning Decisions for March 2024
LOCATION/ADDRESS:	Various
NAME OF APPLICANT:	Various
FILE REFERENCE:	TPL18
AUTHOR:	Erin Gower – Development Services Officer
REPORTING OFFICER:	David Taylor – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	9 April 2024
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENT:	11.1.1 – Register of Delegated Development Approvals

BACKGROUND:

To ensure the efficient and timely processing of planning related applications, Council delegates authority to the Chief Executive Officer to conditionally approve Applications for Development Approval that meet the requirements of both Local Planning Scheme No.4 (LPS4) and adopted Council policy.

Delegated planning decisions are reported to Council monthly to ensure that Council has an appropriate level of oversight on the use of this delegation. A Register of Delegated Development Approvals, detailing those decisions made under delegated authority in March 2024 is presented in Attachment 11.1.1.

COMMENT:

As shown in the attachment, each application has been advertised in accordance with LPS4 and Council's adopted Local Planning Policy *LPP5 Consultation* as detailed in the Policy Implications section of this report.

During March 2024, three (3) development applications were determined under delegated authority. The table below shows the number and value of development applications determined under both delegated authority and by Council for March 2024 compared to March 2023:

	February 2023	February 2024
Delegated Decisions	6 (\$595,000)	3 (\$160,000)
Council Decisions	0	0 (\$0)
Total	6 (\$595,000)	3 (\$160,000)

100% of all approvals issued in the month of March were completed within the statutory timeframes of either 60 or 90 days.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005, Local Government Act 1995 and LPS4.

Regulation 19 of the *Local Government (Administration) Regulations 1996* requires that a written record of each delegated decision is kept.

POLICY IMPLICATIONS:

Applications for Development Approval must be assessed against the requirements of LPS4 and Local Planning Policies adopted by Council. These Policies include Local Planning Policy *LPP5 Consultation* which details the level and scope of advertising required for Applications for Development Approval.

Each application processed under delegated authority has been processed and advertised and has been determined to be consistent with the requirements of all adopted Local Planning Policies.

FINANCIAL IMPLICATIONS:

The required planning fees have been paid for all applications for Development Approval processed under delegated authority.

STRATEGIC IMPLICATIONS:

Nil.

VOTING REQUIREMENT:

Simple majority.

OFFICER RECOMMENDATION:

That Council receives the report on Delegated Development Approvals for March 2024 as per Attachment 11.1.1.

AGENDA NUMBER & SUBJECT:	11.2 – Development Application for a Change of Use from a Single House to a Holiday House (short-term accommodation/lodging house)
LOCATION/ADDRESS:	Lot 9650 on Deposited Plan 140669 (No. 6088) Vasse Highway, Nannup
NAME OF APPLICANT:	Busselton Accommodation Pty Ltd (Wayne Leece)
FILE REFERENCE:	A765
AUTHOR:	Steve Thompson – Consultant Planner
REPORTING OFFICER:	David Taylor – Chief Executive Officer
DISCLOSURE OF INTEREST:	Edge Planning & Property receive a payment for planning advice to the Shire and declare a Financial Interest (section 5.70 of the Local Government Act 1995)
DATE OF REPORT:	5 April 2024
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENT:	<p>11.2.1 - Location map</p> <p>11.2.2 - Original information from applicant including Bushfire Management Plan and Bushfire Emergency Plan</p> <p>11.2.3 - Summary of submission plus full submissions</p> <p>11.2.4 - Response from applicant and additional information</p> <p>11.2.5 - Extract from the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i></p> <p>11.2.6 - Recommended approved plans with mark-ups in red</p>

BACKGROUND:

The Shire has received a Development Application from the owner of Lot 9650 (No. 6088) Vasse Highway, Nannup for the change of use of an existing single house to a holiday house (short-term accommodation / lodging house). In this report, the use is called a ‘holiday house’ for ease of reference whereas the number of potential guests means the use is suggested to better fit with the uses of ‘residential building’ (lodging house).

The site as shown in Attachment 11.2.1 and is located approximately 1 kilometre south of the Nannup townsite. The site is 7.8297 hectares in area and contains a single house, sheds (including an approved rural industry for cheese making), marron ponds and a dam.

The property has long standing practical vehicular access to Vasse Highway through Reserve 35981. The property does not have legal access to Vasse Highway.

Details of the proposal are provided in Attachment 11.2.2 with updated additional information provided in Attachment 11.2.4. In summary, the applicant proposes to convert

the existing single house into a holiday house consisting of 6 bedrooms accommodating a maximum of 12 guests for short term accommodation.

It is highlighted the Bushfire Management Plan shows development that is not part of this current Development Application.

Consultation

The Shire administration undertook consultation by inviting public comment on the Development Application for a period of 14 days by writing to adjoining/nearby landowners and placing details on the Shire website. The Shire received 3 submissions on the Development Application as outlined in Attachment 11.2.3 (which includes a summary of submissions plus full submissions). One submission provided advice relating to protecting the ongoing operation of the nearby winery. Two submitters objected to the proposed development. In summary, key matters raised are:

- Amenity impacts related to noise, increased rubbish pollution and dust;
- Insufficient management of the property;
- Lack of parking on the property for guests;
- Vehicle safety concerns;
- No legal access to the property;
- Bridge providing access to the property may not be able to accommodate large fire trucks;
- Potential for visitors to be unaware of the need to control activities that may increase fire risk;
- Bushfire Management Plan does not reflect what is being proposed;
- Impact of pets on neighbouring properties and wildlife;
- Trespassing concerns including theft and vandalism;
- Concerns the property will be used as a lodging house rather than a holiday house;
- Increased risk of vehicle access to the adjoining Shire reserve; and
- Increased risk of pollution to Carlotta Brook.

Some of the concerns relate to potential future proposals from the applicant, including camping, which are not part of this Development Application.

In response to the submissions, the applicant has provided a response which is set out in Attachment 11.2.4 and provided additional information.

Planning framework

The property is zoned 'Rural' in the *Shire of Nannup Local Planning Scheme No. 4 (LPS4)* and a portion of the property is within Special Control Area 3 – Flood Prone Land. The Council has the legal power under LPS4 to approve the Development Application for a change of use to a holiday house in the Rural Zone. A holiday house is an 'A' use in the Rural Zone as set out in the LPS4 Zoning Table meaning Council can approve the Development Application after first giving special notice in accordance with Clause 64 of the Deemed Provisions (seeking community and stakeholder comment).

LPS4 defines holiday house as ‘a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast’.

The Residential Design Codes of WA defines a dwelling as:

‘A **building** or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family.’

Comparable uses that can be considered on their merits in the Rural zone include holiday accommodation (2 or more dwellings – which is an ‘A’ use in the Rural zone) and residential building (an ‘A’ use in the Rural zone). The Residential Design Codes of WA defines a residential building as:

‘A **building** or portion of a building, together with rooms and **outbuildings** separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:

- temporarily by two or more persons; or
- permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school.’

The *Shire of Nannup Local Planning Strategy* states in Section 5.4 Tourism that its aims are to:

- a) Encourage the development of a wide range of tourist and recreation facilities, tourist accommodation and activities for visitors in appropriate locations within and near the Nannup townsite and in the rural areas of the Shire that appropriately address bushfire planning, environmental assets, landscape qualities and compatibility with adjoining land uses; and
- b) Encourage the establishment of businesses, which attract and promote the Nannup townsite and the Shire as a tourist destination.

The *Shire of Nannup Community Strategic Plan 2021-2036* identifies tourism as one of the strategic drivers, it seeks to attract more people to the district and it supports a diversified economic base.

Nearly all of the property is located within a bush fire prone area as designated by the Fire and Emergency Services Commissioner and is therefore subject to *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP3.7) and the *Guidelines for Planning in Bushfire Prone Areas*.

The *Guidelines for Planning in Bushfire Prone Areas* outline that the proposed holiday house is a ‘vulnerable land use’. This includes uses, such as short stay accommodation or tourist development uses that involve people who are unaware of their surroundings, who may require assistance or direction in the event of a bushfire, and people who may be less able to respond in a bushfire emergency.

In response, the applicant has arranged a Bushfire Management Plan and a Bushfire Emergency Plan.

As outlined previously, the property is partially within SCA3 – Flood Prone Area. The house is located outside of the Flood Prone Area.

In summary, the above documents require considering amenity, addressing risk/safety, effective natural resource management, and seeking to diversify the local economy including through supporting tourism.

There are various upcoming State Government changes relating to short stay accommodation including new terminology and processes for hosted and non-hosted accommodation.

Attachment 11.2.5 is an extract from the *Planning and Development (Local Planning Schemes) Regulations* which sets out matters to be considered by local government in assessing a Development Application. Some matters raised in the submissions are outside the scope of land use planning considerations.

COMMENT:

A) Overview

Following an assessment of the Development Application against the planning framework, the submissions, and information provided by the applicant, the Development Application is generally consistent with LPS4, strategies and policies.

It is recommended that Council conditionally approve the Development Application for a change of use from single house to short-term accommodation/lodging house (based on the plans outlined in Attachment 11.2.6), for a 3 year period, given:

- It is overall consistent with the planning framework;
- It supports diversifying and growing the local economy and supports tourism;
- There are expected to be manageable environmental impacts (noting the need to upgrade the on-site sewage disposal and treatment system);
- It is a relatively modest intensification of use compared to a single house, noting likely occupancy rates throughout the year;
- Increased traffic can be accommodated on Vasse Highway and there are suitable sight distances in both directions;
- There are no objections from other Shire officers/units although there is for instance, a need to upgrade on-site sewage disposal and water supplies;
- Bushfire Prone Planning confirms the proposal generally addresses *State Planning Policy 3.7 Planning in Bushfire Prone Areas* and the *Guidelines for Planning in Bushfire Prone Areas*;
- Development conditions can assist to control the use and management of the development; and

- There is a need for registration of a lodging house under the *Shire of Nannup Health Local Laws*.

B) Key Issues

While noting the above, there are various issues associated with the proposed development which should be considered by the Council in determining the Development Application. Some of these issues are outlined below including:

- Bushfire risks and emergency management;
- Traffic impacts;
- Amenity;
- Winery operations;
- On-going management;
- Lodging house registration; and
- Possible future development.

Bushfire and emergency management

It is acknowledged there is risk to guests staying at the property who may be unfamiliar with the area and unaware that bushfire poses a significant risk to people and properties in the area.

Bushfire Prone Planning, through their Bushfire Management Plan (BMP) and Bushfire Emergency Plan (BEP) consider the application addresses the acceptable solutions in *Guidelines for Planning in Bushfire Prone Areas* (refer to Attachment 11.2.2). Subject to implementation and on-going review of the BMP and BEP, it appears that associated risks can be managed.

It is recommended that a condition be included requiring that the holiday house is not to operate in catastrophic conditions and informing guests as soon as possible not to arrive in Nannup in catastrophic conditions.

Should Council approve the Development Application, there is a need for the applicant to implement recommendations in the BMP and BEP relevant to the holiday house.

Traffic impacts

Vasse Highway is a State road under the control of Main Roads Western Australia.

It is suggested that traffic generation for the holiday house throughout the year will be generally similar to that of a family living full-time on the property. Vasse Highway can accommodate traffic from the holiday house.

There is a need for an easement to be approved and secured through Reserve 35981. Reserve 35981 is managed by the Shire for 'Parkland & Picnic Area'. There is no objection to an easement through Reserve 35981 on the current track provided all costs associated with the easement and upgrades addressing the BMP are met by the applicant.

The Shire has previously provided an easement through Reserve 35981 to the property to the south.

Amenity

The Shire acknowledges the concerns from submitters with regards to noise and anti-social behaviour. The *Environmental Protection (Noise) Regulations 1997* apply to the site (and throughout Western Australia). Should written complaints on noise be received in the future, the Shire will separately investigate.

The proposed holiday house is approximately 115 metres from the northern property boundary and approximately 150 metres from the southern property boundary. Off-site dwellings and holiday camping areas are located further away.

The applicant's commitment, outlined in Attachment 11.2.4, to not permit holidaymakers to bring pets is noted. These commitments are proposed to be formalised in the development conditions.

It is recommended that if Council resolves to approve the holiday house that approval be granted for a period of 3 years only. If the applicant wishes to continue operating the holiday house beyond this period, a new Development Application will need to be submitted to and approved by the Shire prior to the expiry of the 3 year period or the use shall cease. A period of 3 years is considered to be a reasonable timeframe for the applicant to recover any costs associated with the establishment of the holiday house and meeting conditions while giving the Shire an opportunity to review any amenity impacts prior to potentially granting any further approval.

Winery operations

One submission was from the owner of the nearby winery on Lot 10460 Vasse Highway. The winery is an important local employer and an approved operation. The proposed holiday house is to respect the operations of the winery. It is suggested this is addressed through development conditions including adding a notification on the Certificate of Title and in the management plan.

On-going management

The applicant has advised (see Attachment 11.2.4) that it is their intention to engage a suitable local property manager. The property manager will be contactable by neighbours and guests to deal with any issues that may arise. To formalise matters, a development condition requires the applicant to confirm in writing that a local property manager has been appointed prior to occupation (commencement) of the holiday house use.

There are several recommended development conditions that seek to minimise land use impacts and encourage appropriate neighbourly relations. This includes a recommended condition requiring the applicant/landowner to prepare, gain approval and effectively implement a Management Plan. The Management Plan, amongst matters, should address

visitor behaviour and relevant management measures to avoid adverse impacts on the area's amenity.

Lodging house registration

Given the applicant seeks approval for more than 7 people to stay at the building, there is separately a need for registration of a lodging house under the *Shire of Nannup Health Local Laws*.

Possible future development

Subject to the scale and nature of the development, there may first be a need to amend the zoning of the property to 'Tourism'. The outcome of a scheme amendment request can not be guaranteed by the Shire administration, noting the Council determines whether or not to initiate a scheme amendment, and the final decision is made by the Minister for Planning.

A future Development Application for additional uses and development, such as camping, is expected to be advertised for 42 days to Main Roads Western Australia, other agencies, neighbours and the community. It is expected a future Development Application may need to be supported by a Site and Soil Evaluation (on-site sewage disposal assessment), a traffic impact statement plus an updated BMP/BEP. The Shire administration can give no guarantee that the Council or the relevant decision maker will approve the Development Application(s).

C) Conclusion

It is recommended that Council conditionally approve the Development Application for a three year period.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005, Planning and Development (Local Planning Schemes) Regulations 2015 and LPS4.

POLICY IMPLICATIONS:

Local Planning Policies are relevant in assessing the Development Application. Local Planning Policies are non-statutory documents which are designed to provide guidance to assist the Council in its decision making. Accordingly, the Council is not bound by the policies but is required to have regard to the policies in determining the Development Application. Relevant policies include *LPP12 Tourist Accommodation in Rural Areas* and *LPP20 Developer and Subdivider Contributions*.

Additionally, there are various State Planning Policies which are relevant in assessing the Development Application including *SPP 3.7 Planning in Bushfire Prone Areas*.

FINANCIAL IMPLICATIONS:

The applicant has paid the Development Application fee. The applicant has a right of review to the State Administrative Tribunal to review the Council's decision. If this occurred, the Shire would have associated costs.

STRATEGIC IMPLICATIONS:

The proposed holiday house is considered consistent with aims of the Local Planning Strategy and is important to the development of tourism in the Shire of Nannup. The development has the potential to draw additional visitors to the Shire which supports local businesses and employment which is consistent with the *Shire of Nannup Community Strategic Plan 2021-2036*.

VOTING REQUIREMENTS:

Simple Majority

OFFICER RECOMMENDATION:

That Council approve the Development Application for a change of use from a single house to a residential building (short-term accommodation/lodging house) on Lot 9650 on Deposited Plan 140669 (No. 6088) Vasse Highway, Nannup, subject to the following conditions:

1. The development hereby approved is to be carried out in accordance with the plans and specifications set out in Attachment 11.2.6 including the modifications in 'red', addressing all conditions, or otherwise amended by the local government and shown on the approved plans and these shall not be altered and/or modified without the prior knowledge and written consent of the local government. This approval does not include camp sites, camp kitchen, manager's residence or tiny house.
2. The development approval is valid until 18 April 2027 after which date the use shall cease unless prior to that date a new Development Application has been submitted and approved by the local government for the continuation of use.
3. The applicant to confirm in writing that a local property manager has been appointed prior to occupation of the short-term accommodation. A local property manager is to be engaged at all times while the short-term accommodation use operates.
4. Other than the owner/manager, no person is permitted to stay on the property for a period of more than 3 months in any 12 month period.

5. No more than 12 persons are to be accommodated in the short-term accommodation at any one time.
6. An adequate on-site potable water supply is provided in accordance with the *Australian Drinking Water Guidelines 2004* prior to occupation.
7. A smoke alarm must be installed in the short-term accommodation on or near the ceiling:
 - (i) in every bedroom; and
 - (ii) in every corridor or hallway associated with a bedroom or, if there is no corridor or hallway, in an area between the bedrooms and the remainder of the subject building.
8. A system of emergency lighting must be installed in the short-term accommodation to assist evacuation of occupants in the event of fire and this lighting must:
 - (i) be activated by a smoke alarm(s) (required by the previous Condition); and
 - (ii) consist of:
 - a. a light incorporated within the smoke alarm(s) itself; or
 - b. lighting located within the corridor, hallway or area served by the required smoke alarm(s).
9. A Bushfire Management Plan is to be approved by the local government and then implemented prior to occupation of the short-term accommodation. Following this, measures and recommendations in the approved Bushfire Management Plan, relevant to the approved short-term approval, are to be maintained to the satisfaction of the local government.
10. A Bushfire Emergency Plan is to be approved by the local government and then implemented prior to occupation of the short-term accommodation. Following this, measures in the approved Bushfire Emergency Plan are to be maintained to the satisfaction of the local government.
11. The short-term accommodation is not to operate on catastrophic fire danger days where the Fire Behaviour Index (FBI) is likely to exceed FBI >100. Guests due to arrive at the short-term accommodation on catastrophic fire danger days are to be directed as soon as possible not to arrive in Nannup.
12. A Section 70A Notification pursuant to the *Transfer of Land Act 1893* (or as amended) must be placed on the Certificate of Title, at the full cost of the applicant, advising landowners that the property is located in a bushfire prone area, alerting landowners to the existence of the approved Bushfire Management Plan, and advising landowners of their obligations in respect to the use and ongoing management of the land. The Notification is to be registered on the Certificate of Title by occupation.
13. The applicant is to submit and gain local government approval for a Management Plan, prior to occupation of the short-term accommodation, which addresses the responsibility for the behaviour of clients/visitors and the management measures to be implemented to minimise adverse impacts on the amenity of the locality.

14. The applicant shall not erect any advertising or signage at the site without the prior approval of the Shire.
15. Holidaymakers and other guests are not permitted to bring pets onto the property.
16. An access easement on Reserve 35981 is registered on the Certificate of Title, to the satisfaction of the local government, by occupation. Costs associated with the easement are to be met by the applicant.
17. A Section 70A Notification pursuant to the *Transfer of Land Act 1893* (or as amended) must be placed on the Certificate of Title, at the full cost of the applicant, stating:
- 'The use of this lot may be affected by 24-hour operation of machinery, and generation of noise, dust and odours arising from agricultural operations being carried out on surrounding land holdings.'*
- The Notification is to be registered on the Certificate of Title by occupation.
18. The short-term accommodation is to be connected to an on-site wastewater system approved by the local government prior to occupation.
19. The marron ponds and dam are suitably fenced prior to occupation.

Advice

- A) The applicant is advised that this Development Approval is not a Building Permit. A Building Permit must be formally applied for and obtained before the commencement of any site and/or development works.
- B) In relation to Condition 6, the Shire may require water samples to be taken and independently analysed. Should the Shire be required to arrange the testing, it will be at the cost of the applicant/operator.
- C) In relation to Conditions 9 and 10, these plans should be regularly reviewed to ensure they comply with best practice to assist in managing bushfire risk. As part of this, an Asset Protection Zone should always be permanently maintained around the short-term accommodation.
- D) In relation to Condition 11, this is to reduce the likelihood of human exposure to bushfire by restricting occupation when the FBI is likely to exceed FBI 100. The site is within an extreme bushfire area and the applicant has a duty of care for the safety of all persons visiting and staying at the site from the harmful effects of a bushfire affecting the site.
- E) In relation to Condition 12, the notification is to state as follows:
"This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land."

- F) In relation to Condition 13, the Management Plan is to address matters including:
- Address the responsibility for client/visitor behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
 - Seek the operation to be a good neighbour and be considerate including noise, trespass and the approach to reducing fire risks;
 - Acknowledge existing farming and rural activities on nearby properties including the winery on Lot 10460 Vasse Highway, Nannup;
 - Advise guests/visitors in advance that there may be noise and other impacts associated with a rural facility;
 - Consider and address impacts from guests/visitors including amplified music and other noise;
 - Address trespass and litter;
 - No pets;
 - Not light any outside fires during periods of restricted and prohibited burning and bushfire warnings of any level; and
 - Adhere to all fire risk regulations with terms and conditions stipulating that no candles, sparklers, flame-based décor or open fires are to be used during the restricted fire season.
- G) In relation to Condition 13, the applicant is also to make appropriate arrangements, prior to commencement of the short-term accommodation, outlining how they will advise patrons of the Management Plan. This should include information provided on the website, social media platforms, tourist accommodation booking platforms and at the short-term accommodation.
- H) In relation to Condition 14, some signs are exempt from development approval while other signs require a Development Application to the Shire. Please contact the Shire for further details.
- I) The applicant should ensure that a suitable Public Liability Insurance Policy is always maintained while the short-term accommodation use is operating.
- J) The applicant is advised that the approved development must comply with all relevant provisions of the *Health (Miscellaneous Provisions) Act 1911*, *Public Health Act 2016* and the *Shire of Nannup Health Local Laws*.
- K) The applicant should ensure that guests are considerate of neighbours at all times. In particular, activities should be especially low in volume between 7.00pm and 7.00am and are to comply with the *Environmental Protection (Noise) Regulations 1997*.
- L) If the applicant is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

AGENDA NUMBER & SUBJECT:	11.3 – Financial Activity Statement – March 2024
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	Shire of Nannup
FILE REFERENCE:	FNC 15
AUTHOR:	Robin Lorkiewicz – Finance Coordinator
REPORTING OFFICER:	Dale Putland – Acting Executive Manager Corporate Services
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	08 April 2024
ATTACHMENTS:	11.3.1 – Financial Activity Statement – March 2024

BACKGROUND:

The financial statements are presented to Council in accordance with the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, stipulate that a Local Government is to prepare each month a statement of financial activity reporting on the sources and applications of funds.

Section 6.4 of the *Local Government Act 1995*, requires that financial reports be prepared and presented in the manner and form prescribed in the *Local Government (Financial Management) Regulations*.

The requirement is for a Statement of Financial Activity with a report detailing material variances. The Financial Report presented includes this as well as other statements and supplementary information.

COMMENT:

The Financial Statements for the period ending 31 March 2024 present the financial performance of the Shire for the 2023/24 financial year and compare year to date expenditure and revenue against the corresponding year to date budget.

Attached for consideration is the completed Monthly Financial Report as per Attachment 11.3.1.

The document attached includes Statement of Financial Activity by Nature or Type, Notes to the financial statements and an explanation of material variances.

STATUTORY ENVIRONMENT:

Local Government Act 1995, Section 6.4.

Local Government (Financial Management) Regulations 1996, Regulation 34.

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Nil.

VOTING REQUIREMENTS:

Simple Majority.

OFFICER RECOMMENDATION:

That Council, in accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, receives the Financial Activity Statements for the period ending 31 March 2024 as per Attachment 11.3.1.

AGENDA NUMBER & SUBJECT:	11.4 – Payment of Accounts – March 2024
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	N/A
FILE REFERENCE:	FNC 8
AUTHOR:	Robin Lorkiewicz – Finance Coordinator
REPORTING OFFICER:	Dale Putland – Acting Executive Manager Corporate Services
DISCLOSURE OF INTEREST:	None
PREVIOUS MEETING REFERENCE:	None
DATE OF REPORT	08 April 2024
ATTACHMENT:	11.4.1 – Payment of Accounts – March 2024

BACKGROUND:

To advise Council of payments made for the period 1 March to 31 March 2024.

COMMENT:

Payments of \$558,589.89 as detailed in the payment of accounts listing for the period 1 March to 31 March 2024 as per Attachment 11.4.1 have been approved under delegated authority.

Municipal Account

Accounts paid by EFT	16834 - 16978	\$391,284.27
Accounts paid by cheque	20623-20625	\$3,309.15
Accounts paid by Direct Debit	13043.1 – 13114.19	\$163,996.47
<i>Sub Total Municipal Account</i>		<u>\$558,589.89</u>

Trust Account

Accounts paid by EFT	-	\$0.00
<i>Sub Total Trust Account</i>		<u>\$0.00</u>
Total Payments		<u><u>\$558,589.89</u></u>

STATUTORY ENVIRONMENT:

Regulation 13(2) of the *Local Government (Financial Management) Regulations 1996*, requires a local government to prepare a list of accounts approved for payment under delegated authority showing the payee's name; the amount of the payment; and sufficient information to identify the transaction, and the date of the payment; this list is to be presented to council at the next ordinary meeting of the Council after the list is prepared.

Regulation 13A of the *Local Government (Financial Management) Regulations 1996*, requires a local government to prepare a list of payments made using the purchasing cards showing the payee's name; the amount of the payment; and sufficient information to identify the transaction and the date of the payment; this list is to be presented to council at the next ordinary meeting of the Council after the list is prepared.

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

As indicated in Payment of Accounts.

STRATEGIC IMPLICATIONS:

Nil.

VOTING REQUIREMENTS:

Simple majority.

OFFICER RECOMMENDATION:

That Council notes the payment of accounts totalling \$558,589.89 for the period 1 March to 31 March 2024 as per Attachment 11.4.1.

AGENDA NUMBER & SUBJECT:	11.5 – Reallocation of Roads to Recovery Funds
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	Shire of Nannup
FILE REFERENCE:	ROA 116 and WRK 5
AUTHOR:	Damon Lukins – Manager Infrastructure
REPORTING OFFICER:	Damon Lukins – Manager Infrastructure
DISCLOSURE OF INTEREST:	NA
DATE OF REPORT:	10 th April 2024
ATTACHMENT:	Nil

BACKGROUND:

During 2023/24 Budget deliberations, Council approved expenditure of the Roads To Recovery (RTR) allocation of \$308,000 to Mowen Road Drainage – Upgrade (RTR047)

Construction works on Mowen Road was completed in March 2024. There were significant cost savings due to completing the works well within scheduled timeframe and the Works Department purchasing traffic signals and carrying out traffic management in-house. This resulted in an underspend of \$119,800. As a result, the unspent 2023/24 RTR funds initially allocated for the Mowen Road project can now be reallocated to another project.

COMMENT:

The Manager of Infrastructure has identified Leschenaultia Road as a potential project for the reallocation of the Mowen Road RTR funds.

The road has a narrow seal, extensive edge break and uneven road surface profile in places.



The works will include importing gravel to widen road. Rip, import gravel and reform uneven and damaged sections of road. Recut and form batters and table drains.

Item Description	Cost per item	Quantity	No of Employees	Overheads	Unit	Total
Cartage						
Gravel Carting (Labour)	\$31.61	40	3	1.8	\$/Hour	\$6,828.41
Gravel Carting (Plant)	\$51.30	40	3		\$/Hour	\$6,156.00
Gravel Supply	22	1100			\$/Tonne	\$24,200.00
						\$37,184.41
Formation						
Gravel Formation (Labour)	\$41.72	80	3	1.8	\$/Hour	\$18,023.04
Gravel Formation (Plant)	\$76.23	72	3		\$/Hour	\$16,465.68
Final trim (Labour)	\$41.72	18	3	1.8	\$/Hour	\$4,055.18
Final trim (Plant)	\$76.23	18	3		\$/Hour	\$4,116.42
						\$42,660.32
Misc.						
Traffic Management	\$72.25	120			\$/hour	\$8,670.00
Setout/survey	\$54.00	36			\$/hour	\$1,944.00
						\$10,614.00
Seal						
Seal (5mm first coat)	\$5.85	2000			m ²	\$11,700.00
Seal (5mm second coat)	\$5.85	2000			m ²	\$11,700.00
						\$23,400.00
Subtotal						\$ 113,858.73
Contingency	5%					\$ 5,692.94
TOTAL						\$119,551.67

STATUTORY ENVIRONMENT:

Nil

POLICY IMPLICATIONS:

Nil

FINANCIAL IMPLICATIONS:

Reallocation will affect the 2023/24 Annual Budget.

STRATEGIC IMPLICATIONS:**VOTING REQUIREMENTS:**

Simple Majority

OFFICER RECOMMENDATION:

That Council reallocate \$119,800 from Budget item "4120145 R2R047 Mowen Road Drainage – upgrade to a new Budget item "Leschenaultia Road".

AGENDA NUMBER & SUBJECT:	11.6 – Councillor Vacancy – Extraordinary Election
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	N/A
FILE REFERENCE:	ADM 2
AUTHOR:	Sarah Dean – Governance, Risk Assurance Officer
REPORTING OFFICER:	David Taylor – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	12
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENT:	11.6.1 – Western Australian Electoral Commission Cost Estimate 2024 Extraordinary Election

BACKGROUND:

A vacancy now exists on Council following the resignation of Councillor Chris Buckland. Made in accordance with section 2.31 of the *Local Government Act 1995*, Cr Buckland's resignation was effective 31 March 2024.

The Chief Executive Officer (CEO) of a local government is responsible for the conduct of local government elections unless arrangements are made in accordance with section 4.20 of the *Local Government Act 1995* (the Act) to appoint another person.

COMMENT:

Vacancy of Office

Section 4.17 of the Act provides for options to apply to the Electoral Commissioner to leave an office vacant in certain circumstances:

- When a member's office becomes vacant under section 2.32 on or after the third Saturday in July in an election year in which the term of office would have ended;
- If a member's office becomes vacant under section 2.32 –
 - After the third Saturday in October in the year before the election year in which the term of office would have ended; but
 - Before the third Saturday in July of that election year.

Neither of these sections applies to the current Council vacancy.

Recent local government reforms removed section 4.17(3) of the Act which allowed Council to apply to the Electoral Commissioner to keep an office of Council unfilled until the next ordinary election. As such there is no option for Council to consider keeping the vacancy unfilled and an Extraordinary Election is required under section 2.32 of the Act.

Backfilling, introduced in the latest tranche of reforms, is also not applicable in this situation as the 4-year term of the office ends in October 2025. Backfilling only relates to vacancies for seats whose term concluded in October 2023.

Conduct and Method of Extraordinary Election

Under section 4.20(1) of the Act the Chief Executive Officer (CEO) maintains the role of returning officer of a local government. This affords Council the option of conducting the Extraordinary Election directly.

Section 4.20(4) allows Council, having first obtained written agreement, to declare the Electoral Commissioner responsible for the conduct of an election. If such a declaration is made the Electoral Commissioner is responsible for the appointment of a Returning Officer, and Council is required to meet the expenses of the Commissioner in connection with the election.

Council have previously requested that the Electoral Commissioner conduct the election utilising an external returning officer (RO) to eliminate any perception of political or personal influence by sitting members and the administration. This provides increased assurance to the candidates and the community that the election process is undertaken openly and transparently. The WAEC was most recently engaged to conduct the ordinary election for the Shire of Nannup in 2023.

Overseeing local government elections by the WAEC was recommended in the Local Government Act Review Final Report issued in May 2020; in which the Panel decided “that the WAEC was the most appropriate organisation to coordinate local government elections. Having the one body responsible for conducting elections would allow for greater consistency across local governments”.

Utilising the WAEC resources and expertise reduces the risk of non-compliance and ensures a high level of impartiality and transparency.

The WAEC has estimated the cost to conduct the extraordinary election as a postal election at approximately \$16,000 (inc GST). The estimate is based on the assumption that a local Returning Officer will be appointed, the response rate being approximately 50% of 1,230 electors and the count to be conducted at the Shire of Nannup office using CountWA software.

Under sections 4.20(4) and 4.61(2) of the Act, Council is required to provide written confirmation that it agrees to the WAEC cost estimate as provided. The WAEC will subsequently provide Council with a written agreement to conduct the Extraordinary Election. Council is then required to declare the WAEC responsible for the conduct of the election and decide on the method of election by absolute majority.

STATUTORY ENVIRONMENT:

Local Government Act 1995

4.8. Extraordinary elections

(1) If the office of a councillor or of an elector mayor or president becomes vacant under section 2.32, an election to fill the office is to be held, except if the vacancy is filled under Schedule 4.1A or 4.1B.

(2) An election is also to be held under this section if section 4.57 or 4.58 so requires.

(3) An election under this section is called an extraordinary election.

[Section 4.8 amended: No. 2 of 2012 s. 10; No. 11 of 2023 s. 25.]

4.9 Election day for extraordinary election

(3) If at the end of one month after the vacancy occurs an election day has not been fixed, the CEO is to notify the Electoral Commissioner and the Electoral Commissioner is to —

(a) fix a day for the holding of the poll that allows enough time for the electoral requirements to be complied with; and

(b) advise the CEO of the day fixed.

4.20. CEO to be returning officer unless other arrangements made

(4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election or elections.*

** Absolute majority required.*

4.61. Choice of methods of conducting election

(1) The election can be conducted as a —

postal election which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or

voting in person election which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

(2) The local government may decide to conduct the election as a postal election.*

** Absolute majority required.*

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

Funds in current financial year budget.

STRATEGIC IMPLICATIONS:

Our Shire:

We listen to our community, are transparent, and act with integrity.

6.4 We are One

We will strive to make decisions and deliver outcomes that are in the best interest of the majority of the community.

Provide a stable, consistent and honest government.

VOTING REQUIREMENTS:

Absolute Majority

OFFICER RECOMMENDATION:

That Council:

1. Agrees to the cost estimate of approximately \$16,000 (inc GST) provided by the Electoral Commissioner to conduct the Shire of Nannup 2024 Extraordinary Election as a postal election, and
2. Requests the Chief Executive Officer to provide written confirmation to the Western Australian Electoral Commission of Council's acceptance of their offer.

12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:

Nil.

13. MEETING MAY BE CLOSED:

AGENDA NUMBER & SUBJECT:	13.1 – CONFIDENTIAL ITEM – Seniors Housing Development – Charles Gilbert Property
LOCATION/ADDRESS:	17 and 19 Adam Street (Lots 4 and 5 of Lot 29)
NAME OF APPLICANT:	Shire of Nannup and Charles Gilbert
FILE REFERENCE:	PRO 001
AUTHOR(S):	David Taylor – Chief Executive Officer
REPORTING OFFICER:	David Taylor – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	10 April 2024
ATTACHMENT:	Nil

14. CLOSURE OF MEETING:

Attachments

Item #	Attach	Title
5.1		26 March 2024 Ordinary Council Meeting Minutes
5.2		Audit Advisory Committee 26 March 2024
5.3		Warren Blackwood Alliance of Councils 2 April 2024
11.1	1	Register of Delegated Development Approvals
11.2	1	Location map
	2	Original information from applicant including Bushfire Management Plan and Bushfire Emergency Plan
	3	Summary of submission plus full submissions
	4	Response from the applicant and additional information
	5	Extract from the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
	6	Recommended approved plans with mark-ups in red
11.3	1	Financial Activity Statement – March 2024
11.4	1	Payment of Accounts – March 2024
11.6	1	Western Australian Electoral Commission Cost Estimate