



# **MINUTES**

**Ordinary Council Meeting held Thursday 25 May 2023**

**4.30 pm in Council Chambers, 15 Adam Street, Nannup**

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## Contents

|  |    |
|--|----|
| <b>1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS/ACKNOWLEDGEMENT OF COUNTRY:</b>      | 3  |
| <b>2. ATTENDANCE/APOLOGIES:</b>  | 3  |
| <b>2.1 ATTENDANCE</b>  | 3  |
| <b>2.2 APOLOGIES</b>   | 3  |
| <b>3. PUBLIC QUESTION TIME:</b>  | 4  |
| <b>4. MEMBERS ON LEAVE OF ABSENCE AND APPLICATIONS FOR LEAVE OF ABSENCE:</b>               | 5  |
| <b>4.1 APPROVED LEAVE OF ABSENCE:</b>  | 5  |
| <b>4.2 APPLICATION FOR A LEAVE OF ABSENCE:</b>   | 5  |
| <b>COUNCIL RESOLUTION 23057</b>  | 5  |
| <b>5. CONFIRMATION OF MINUTES:</b>   | 6  |
| 5.1 Ordinary Council Meeting – 27 April 2023   | 6  |
| <b>COUNCIL RESOLUTION 23058</b>  | 6  |
| 5.2 Western Australian Local Government Association – South West Zone – 21 April 2023      | 6  |
| <b>COUNCIL RESOLUTION 23059</b>  | 6  |
| 5.3 Shire of Nannup Bush Fire Advisory Committee – 1 May 2023                              | 6  |
| <b>COUNCIL RESOLUTION 23060</b>  | 6  |
| 5.4 Shire of Nannup Local Emergency Management Committee – 10 May 2023                     | 7  |
| <b>COUNCIL RESOLUTION 23061</b>  | 7  |
| 5.5 Shire of Nannup Audit Advisory Committee – 19 May 2023                                 | 7  |
| <b>COUNCIL RESOLUTION 23062</b>  | 7  |
| <b>6. ANNOUNCEMENTS FROM PRESIDING MEMBER:</b>   | 7  |
| <b>7. DISCLOSURE OF INTEREST:</b>  | 7  |
| <b>8. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN:</b>                         | 8  |
| <b>9. PRESENTATIONS/DEPUTATIONS/PETITIONS:</b>   | 8  |
| <b>10. REPORTS BY MEMBERS ATTENDING COMMITTEES:</b>  | 8  |
| <b>11. REPORTS OF OFFICERS:</b>  | 9  |
| 11.1 – Development Application – Proposed Tree Farm (Pine Plantation)                      | 9  |
| <b>COUNCIL RESOLUTION 23063</b>  | 20 |
| 11.10 – Development Application for a Change of Use from a Single House to a Holiday House | 26 |
| <b>COUNCIL RESOLUTION 23064</b>  | 35 |
| 11.2 – Delegated Planning Decisions April 2023   | 40 |
| <b>COUNCIL RESOLUTION 23065</b>  | 41 |
| 11.3 – Payment of Accounts – March 2023  | 42 |
| <b>COUNCIL RESOLUTION 23066</b>  | 43 |

|   |    |
|---|----|
| 11.4 – Financial Activity Statement – March 2023 .....  | 44 |
| <b>COUNCIL RESOLUTION 23067</b> .....   | 45 |
| 11.5 – 2022 Compliance Audit Return .....   | 46 |
| <b>COUNCIL RESOLUTION 23068</b> .....   | 48 |
| 11.6 – Regulation 17 Risk Management Review.....  | 50 |
| <b>COUNCIL RESOLUTION 23069</b> .....   | 51 |
| 11.7 – Regulation 5 Financial Management Review .....   | 52 |
| <b>COUNCIL RESOLUTION 23070</b> .....   | 53 |
| 11.8 –2020 - 2021 Annual Report .....   | 54 |
| <b>COUNCIL RESOLUTION 23071</b> .....   | 56 |
| 11.9 –2021-2022 Annual Report, Annual Financial Statements and Annual General Meeting of<br>Electors..... | 57 |
| <b>COUNCIL RESOLUTION 23072</b> .....   | 59 |
| 11.11 - 2023/24 Differential Rates and Minimum Rate.....  | 61 |
| <b>12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:</b> .....  | 62 |
| <b>13. MEETING MAY BE CLOSED:</b> .....   | 62 |
| <b>14. CLOSURE OF MEETING:</b> .....  | 62 |

## MINUTES

### 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS/ACKNOWLEDGEMENT OF COUNTRY:

Shire President declared the meeting open at 4.32 pm and welcomed the public gallery.

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

The Shire President used the opening of the meeting to show a video commissioned by the Shire of Nannup about stories of Nannup Timber Mill workers.

### 2. ATTENDANCE/APOLOGIES:

#### 2.1 ATTENDANCE

| Councillors                        | Officers   |
|------------------------------------|--|
| Cr Tony Dean (Shire President)     | David Taylor – Chief Executive Officer                 |
| Cr Vicki Hansen (Deputy President) | Kellie Jenkins – Deputy CEO/Manager Corporate Services |
| Cr Brown                           | Jonathan Jones – Manager Infrastructure                |
| Cr Chris Buckland                  | Sarah Dean – Governance, Risk & Assurance Officer      |
| Cr Patricia Fraser                 |  |
| Cr Ian Gibb                        |  |
| Cr Charles Gilbert                 |  |
| Cr Bob Longmore                    |  |

| Public Gallery  |
|---|
| Wayne Leece, Jim Green, Isabel Green, Vicki Lamers, Amanda Murphy, Stefan Murphy, John Jackson, Leo Brown, Heather McQueen, Alan McQueen, Maigread Nidheasuna, Cameron Bowden, Ryan Bowden, Louise Carver, Sharon Barker, Neil Garvey, Penny Garvey, Warren Smith, Von Smith. |

#### 2.2 APOLOGIES

Nil.

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### 3. PUBLIC QUESTION TIME:

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#### Heather McQueen – 199 Dean Road, Nannup

Q 1. – In regards to agenda item 11.10 - Development Application for a Change of Use from a Single House to a Holiday House; can Council confirm that the decision to approve the change of use for 191 Dean Road from a Single House to a Holiday House is reconcilable with Clause 67(2)(x) of the *Planning and Development (Local Planning Schemes) Regulations 2015*?

A 1 - Shire President responded that the change of use hadn't been approved yet and as such Council could not answer that question.

#### Leo Brown – 151 Dean Road, Nannup

Q 1 – In regards to agenda item 11.10 - Development Application for a Change of Use from a Single House to a Holiday House; will the Shire of Nannup consider implementing a twelve month review period for 191 Dean Road and other future change of use development applications?

A 1 – Shire President responded that Council were at the meeting to decide on the matter and such conditions if development approval is granted.

#### Alan McQueen – 199 Dean Road, Nannup

Q 1 – If I submit questions to David Taylor (CEO) are they submitted at the meeting?

A 1 – CEO responded that he had responded to Mr McQueen privately via email and hadn't realised he had wanted them tabled at the meeting. CEO offered Mr McQueen to read his questions to the meeting and they would be answered.

Q 2 - What is the schedule for upgrading Gracilis Road?

A 2 – CEO responded that Gracilis Road is in the pipeline to be upgraded for a gravel trafficable surface in the upcoming budget. This is subject to successfully receiving Aboriginal Heritage Approvals and Flora/Fauna Approvals.

Q 3 – Who is Edge Planning?

A 3 – CEO responded that Edge Planning is Shire's consultant strategic planner.

Q 4 – Will the Shire of Nannup consider making controls and conditions retroactively applicable to short-stay accommodation providers already operating in the Shire of Nannup?

A 4 – CEO responded that this has been spoken about informally but no formal moves have been made to date.

Q 5 – Can you clarify the definition of six adults as used in agenda item 11.10 – Development Application for a Change of Use from a Single House to a Holiday House?

A 5 – CEO responded that he had consulted with Edge Planning and Property The way Condition 5 reads is 6 adult persons, this implies excluding children.

#### Warren Smith – Thomas Road, Nannup

Q 1 – As a volunteer ambulance driver I had to respond to a call on Mowen Road and noticed several road signs are missing; could they be replaced?

A 1 – CEO responded that they are regularly stolen from Mowen Road but replacement signs could be procured.

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

##### **4.1 APPROVED LEAVE OF ABSENCE:**

Nil.

##### **4.2 APPLICATION FOR A LEAVE OF ABSENCE:**

##### **EXECUTIVE RECOMMENDATION:**

That Cr Buckland be granted a leave of absence from the 22 June 2023 Ordinary Council Meeting.

#### ***COUNCIL RESOLUTION 23057***

***MOVED: CR BROWN***

***SECONDED: CR LONGMORE***

***That Cr Buckland be granted a leave of absence from the 22 June 2023 Ordinary Council Meeting.***

***CARRIED (8/0)***

## 5. CONFIRMATION OF MINUTES:

### 5.1 Ordinary Council Meeting – 27 April 2023

#### EXECUTIVE RECOMMENDATION:

That the Minutes from the Ordinary Meeting of Council held 27 April 2023 be confirmed as a true and correct record (attachment 5.1).

#### **COUNCIL RESOLUTION 23058**

**MOVED: CR BROWN**

**SECONDED: CR LONGMORE**

***That the Minutes from the Ordinary Meeting of Council held 27 April 2023 be confirmed as a true and correct record (attachment 5.1).***

**CARRIED (8/0)**

### 5.2 Western Australian Local Government Association – South West Zone – 21 April 2023

#### EXECUTIVE RECOMMENDATION:

That the Minutes from the Western Australian Local Government Association – South West Zone meeting held 21 April 2023 be received (attachment 5.2).

#### **COUNCIL RESOLUTION 23059**

**MOVED: CR BUCKLAND**

**SECONDED: CR LONGMORE**

***That the Minutes from the Western Australian Local Government Association – South West Zone meeting held 21 April 2023 be received (attachment 5.2).***

**CARRIED (8/0)**

### 5.3 Shire of Nannup Bush Fire Advisory Committee – 1 May 2023

#### EXECUTIVE RECOMMENDATION:

That the Minutes from the Bush Fire Advisory Committee meeting held 1 May 2023 be received (attachment 5.3).

#### **COUNCIL RESOLUTION 23060**

**MOVED: CR HANSEN**

**SECONDED: CR BROWN**

***That the Minutes from the Bush Fire Advisory Committee meeting held 1 May 2023 be received (attachment 5.3).***

**CARRIED (8/0)**



#### 5.4 Shire of Nannup Local Emergency Management Committee – 10 May 2023

##### EXECUTIVE RECOMMENDATION:

That the Minutes from the Local Emergency Management Committee meeting held 10 May 2023 be received (attachment 5.4).

##### **COUNCIL RESOLUTION 23061**

**MOVED: CR GILBERT**

**SECONDED: CR FRASER**

***That the Minutes from the Local Emergency Management Committee meeting held 10 May 2023 be received (attachment 5.4).***

**CARRIED (8/0)**

#### 5.5 Shire of Nannup Audit Advisory Committee – 19 May 2023

##### EXECUTIVE RECOMMENDATION:

That the Minutes from the Audit Advisory Committee meeting held 19 May 2023 be confirmed as a true and correct record (attachment 5.5).

##### **COUNCIL RESOLUTION 23062**

**MOVED: CR BUCKLAND**

**SECONDED: CR GILBERT**

***That the Minutes from the Audit Advisory Committee meeting held 19 May 2023 be confirmed as a true and correct record (attachment 5.5).***

**CARRIED (8/0)**

#### **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](#).

Cr Gibb disclosed an impartiality interest in agenda item 11.1 – Development Application – Proposed Tree Farm (Pine Plantation) as he owns a neighbouring property that Dry Brook runs through.

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

Nil.

## **9. PRESENTATIONS/DEPUTATIONS/PETITIONS:**

Maigread Nidheasuna made a deputation regarding agenda item 11.1 – Development Application – Proposed Tree Farm (Pine Plantation).

Alan McQueen made a deputation regarding agenda item 11.10 – Development Application for a Change of Use from a Single House to a Holiday House.

Amanda Murphy made a deputation regarding agenda item 11.10 – Development Application for a Change of Use from a Single House to a Holiday House.

## **10. REPORTS BY MEMBERS ATTENDING COMMITTEES:**

| Meeting   | Date   | Councillor  |
|---|--------|---|
| Nannup Chamber of Commerce & Industry                           | 3 May  | Gibb  |
| Local Emergency Management Committee                            | 10 May | Dean, Gibb  |
| Bush Fire Advisory Committee                                    | 1 May  | Brown, Fraser   |
| Audit Advisory Committee  | 19 May | Dean, Hansen, Longmore, Buckland, Brown, Fraser, Gibb, Gilbert. |
| Warren Blackwood Alliance of Councils                           | 2 May  | Dean, Brown, Buckland, Hansen                                   |
| Western Australian Local Government Association – State Council | 3 May  | Dean  |

## 11. REPORTS OF OFFICERS:

Shire President allowed Cameron Bowden to make a deputation regarding Agenda item 11.1 – Development Application – Proposed Tree Farm (Pine Plantation) as Mr Bowden had missed the opportunity earlier in the meeting.

|                             |   |
|-----------------------------|---|
| AGENDA NUMBER & SUBJECT:    | 11.1 – Development Application – Proposed Tree Farm (Pine Plantation)   |
| LOCATION/ADDRESS:           | Lot 1 on Diagram 23683, Lot 4 on Diagram 22291 and Lots 31, 32, 33, 43, 44 & 45 on Deposited Plan 228954  |
| NAME OF APPLICANT:          | Forest Products Commission  |
| FILE REFERENCE:             | A1507 & A1844   |
| AUTHOR:                     | Jane Buckland - Development Services Coordinator<br>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:             | 9 May 2023  |
| PREVIOUS MEETING REFERENCE: | 23 March 2023   |
| ATTACHMENTS:                | 11.1.1 - Location Map<br>11.1.2 - Information from applicant<br>11.1.3 - Submissions<br>11.1.4 - Further information from applicant<br>11.1.5 - Local planning framework: extract of key documents<br>11.1.6 - Extract from <i>State Planning Policy 2.5 Rural Planning and Rural Planning Guidelines</i><br>11.1.7 - Extract from <i>Planning and Development (Local Planning Schemes) Regulations 2015</i><br>11.1.8 - Peer review of Fire Management Plan<br>11.1.9 - Lushfire & Planning Old Folly Plantation Development Application Review (prepared post Council's meeting on 23 March 2023) |

## BACKGROUND:

A Development Application has been lodged for a tree farm (*pinus radiata* plantation) to be established on Lot 1 on Diagram 23683, Lot 4 on Diagram 22291 and Lots 31, 32, 33, 43, 44 and 45 on Deposited Plan 228954, Nannup as shown in Attachment 11.1.1.

The site is located approximately 1.5 kilometres east of the Nannup townsite at its closest point. The properties have a total area of 341 hectares and the applicant proposes to develop 271 hectares across the eight parcels of land for the purpose of softwood timber production. The properties were originally purchased by the West Australian Government in the 1960s with a softwood plantation established in the late 1960s by the Forest Department. The land was sold in the early 1990s with management of the properties reverting to the owner. In recent years the management of the property has been limited to harvesting of self-seeded pine “wildlings” with a majority of the property left fallow.

Attachment 11.1.2 outlines the details submitted by FPC which were subject to public consultation.

The site is subject to various easements and contains an arboretum.

### Consultation

The Shire administration undertook consultation through inviting public comment on the Development Application for a period of 21 days by writing to 10 adjoining and nearby landowners along with the East Nannup Volunteer Bush Fire Brigade, Balingup Road Volunteer Bush Fire Brigade, Chief Fire Control Officer, Nannup Historical Society and the Nannup Chamber of Commerce and Industry, placing details on the Shire website and having details available at the Shire office.

The Shire received 7 submissions on the Development Application which are outlined in Attachment 11.1.3.

Three submissions raised objections for lack of privacy and the potential for anti-social behaviour, increased fire risk, lack of sufficient fencing and the impact of weed control methods on neighbouring properties and watercourses. Three submissions did not object to the proposal but did raise concerns surrounding increased traffic, control of pests and weeds, increased fire risk, access to the plantation by heavy vehicles, fencing and the potential future use of the plantation for mountain bike trails. One submission was in support of the proposed plantation.

In accordance with established practice, the Shire administration has liaised with the applicant since the receipt of submissions. The applicant has in turn responded with a detailed response to all issues raised by the submitters as shown in Attachment 11.1.4 along with a letter of support from Cycling Eventures Pty Ltd.

### Planning framework

Attachment 11.1.5 sets out an extract of key local planning documents relevant to this Development Application.

The whole of the application site is zoned “Rural” in the *Shire of Nannup Local Planning Scheme No.4* (LPS4).

Other key local planning documents related to the proposal include the *Shire of Nannup Local Planning Strategy (LPS)*, *Local Planning Policy LPP20 Developer and Subdivider Contributions*, *Local Planning Policy LPP21 Bush Fire Management* and *Local Planning Policy LPP23 Plantations and Agroforestry*.

“Tree farm” is a “D” use in the Rural Zone as set out in the LPS4 Zoning Table. This means that the use is not permitted unless the local government has exercised its discretion by granting development approval.

LPS4 enables a tree farm to be considered on land zoned “Rural” and on some land zoned “Priority Agriculture”. An exception is on Priority Agricultural zoned land in the Biddelia, Carlotta and Cundinup localities. Table 5 of LPS4 for ASR4 states “Tree Farms will not be supported by the Local Government.” The application site is outside of the prohibited area.

The LPS states the following in regards to tree plantations:

“The local government’s strategy in regard to tree plantations is to:

- a) support the establishment of plantations and farm forestry on land zoned Rural, and consider on its merits plantations and farm forestry on land zoned Priority Agriculture; and
- b) require relevant planning considerations to be met including bushfire management, vermin management, identification of a suitable harvesting route and appropriate arrangements to ensure the local government roads are in a similar condition post harvesting as pre-harvesting.”

The objectives of *Local Planning Policy LPP23 Plantations and Agroforestry (LPP23)* are to:

1. Promote agroforestry where integrated with other rural and/or conservation activities and where it is effectively managed.
2. Outline areas favoured for plantations along with non-preferred locations.
3. Ensure that relevant planning considerations are suitably addressed.
4. Conserve and enhance environmental assets.
5. Ensure best practice design and fire management practice for plantations and agroforestry.
6. Assist the local government in determining applications for agroforestry and plantations by setting out matters local government will have regard for in assessing applications.
7. Provide increased certainty for landowners, the community and others and to assist in providing greater consistency in decision making by the local government.

Generally however the Shire discourages:

- plantations that by virtue of their topography, physical size, their inability to access strategic water supplies for fire-fighting purposes, or their close proximity to vulnerable

uses, sensitive uses or habitable buildings, present an unacceptable fire risk or otherwise are unable to satisfy the FESA *Guidelines for Plantation Fire Protection*;

- new plantations in areas within the Landscape Values Special Control Area as set by LPS3 unless associated with a landscape assessment for land that has not been subject to a plantation which was established prior to 16 September 1983 or to a previously approved plantation; and
- new plantations within 3 kilometres of the Nannup townsite.

The onus of proof rests with the applicant to justify their application based on the requirements of this Policy. Additionally, applicants are required to justify their application if variations are proposed to this Policy.

*Local Planning Policy LPP20 Developer and Subdivider Contributions* (LPP20) provides guidance for Council in obtaining contributions in the form of land, infrastructure works, monetary payment, or agreed in-kind contributions from developers for the provision, extension or improvement of infrastructure, services or facilities.

*Local Planning Policy LPP21 Bush Fire Management* (LPP21) provides guidance for assessing development applications where the development is located in a bushfire prone area or will increase the risk of bush fire in an area.

The application and the site are also subject to a range of State planning, environmental, bushfire and servicing policies and documents. This includes *State Planning Policy 2.5 Rural Planning* (SPP2.5), *Rural Planning Guidelines*, *State Planning Policy SPP3.7 Planning in Bushfire Prone Areas* (SPP3.7) and *Guidelines for Planning in Bushfire Prone Areas*.

SPP2.5 generally supports tree farming through its policy objectives:

- “(a) support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food; and
- (b) provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses.”

“Tree farming” is an umbrella term used to describe the planting of trees to generate economic return and/or environmental benefits. An extract from SPP2.5 is shown in Attachment 11.1.6.

In addition to the above objectives, SPP2.5 also states:

“WAPC policy in regard to tree farming is:

- (a) tree farming is supported and encouraged on rural land as a means of diversifying rural economies and providing economic and environmental benefit;
- (c) tree farming should generally be a permitted use on rural land, except where development of a tree farm would create an extreme or unacceptable bushfire risk

or when responding to specific local circumstances as identified in a strategy or scheme;

- (d) local governments should manage the location, extent and application requirements for tree farming in their communities through local planning strategies, schemes and/or local planning policies;
- (e) in planning for tree farming, local government considerations should include but are not limited to, potential bushfire risk, environmental and economic factors, water availability and recharge, visual landscape impacts, transport impacts of tree farming (where harvesting is proposed), planting thresholds, appropriate buffers, and location relative to conservation estates and sensitive land uses.”

The entire site is located within a bushfire prone area as designated by the Fire and Emergency Services Commissioner.

Attachment 11.1.7 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.

#### Bushfire consultant review

At its meeting of 23<sup>rd</sup> March 2023. Council considered the application based on the information provided by the applicant, submissions received and the peer review. The decision was made by Council to lay the application on the table and instruct the Shire to prepare a report from a bush fire consultant to re-examine the Fire Management Plan with particular reference, but not exclusive reference, to Lot 11 Brockman Highway and to the Urban Development Zone contained in Local Planning Scheme No.4.

The Shire administration engaged Lushfire & Planning to review the development application as presented by the applicant and prepare a report for Council which is presented in Attachment 11.1.9.

#### **COMMENT:**

##### *A) Overview*

The Development Application is in part inconsistent with LPP23 given the site is within 3km of the Nannup townsite. While noting this, it is recommended that Council approve the Development Application subject to conditions. This follows assessment against LPS4, State Planning Policy SPP2.5, the Local Planning Strategy, Local Planning Policies LPP20, LPP21 and LPP23, considering the views of the submitters, peer review of the Fire Management Plan (Attachment 11.1.8) and information provided by the applicant. It is noted, for instance, that:

- no clearing of native vegetation is proposed;
- buffers will be placed between the plantation area and identified waterways and dams;

- the planted area avoids heritage or cultural sites including Aboriginal Heritage Places and the arboretum. There is scope to ensure the arboretum is effectively conserved and managed to become an increasingly important local resource and attraction;
- there are suitable buffers to surrounding buildings;
- timber resources are important to the district and region;
- the land is not zoned or identified as priority agriculture;
- there are no objections from other Shire officers/units;
- the peer review accepted the Fire Management Plan subject to minor modifications;
- there is the potential for increased jobs compared to the current situation;
- the property was previously a tree plantation;
- the property is not located in Special Control Area 7 – Landscape Values Area in LPS4;
- there appears acceptance of a tree farm in terms of landscape change on a gateway into Nannup; and
- the proposed management of the property by Forest Products Commission (FPC) will arguably result in more effective management compared to the current situation.

While not a part of this Development Application, there are opportunities to separately review the suitability of recreation-private (bike trails) on the site via a future Development Application. If relevant issues are suitably addressed and development approval was issued, this would further increase job creation compared to the current situation.

It is suggested that if the plantation is suitably managed and planning conditions are met, that environmental considerations, bushfire management and response, and impact on the Shire road system can be appropriately addressed.

#### *B) On-going bushfire management and response*

It is suggested that fire risks are the key issue with the Development Application noting the property is near Nannup and is located on the eastern side of the townsite. In recent years there has been an increase in the frequency and severity of bushfires largely due to a drying climate. These bushfires have resulted in heavy losses to the total plantation estate in Western Australia. Accordingly, there is a need to ensure the proposed tree farm is appropriately managed in relation to bushfire.

Objections have been raised by some submitters while the peer review accepted the Fire Management Plan subject to minor modifications.

The Shire administration does not have any technical advice on the bushfire risks comparing the current situation compared to a tree farm managed by FPC.

Noting the location of the property is within 3km of the Nannup townsite, section 6 of LPP23 in part states:

Seeks to reduce fire risks in and around the Nannup townsite. As a guideline, the local government discourages new plantations within the area shown in Attachment 1 unless



the applicant provides increased fire mitigation measures to the satisfaction of the local government.

The Council needs to be satisfied that suitable increased fire mitigation measures are provided for this proposed tree farm. This could include the provision of a dedicated firefighting water tank given there is no guarantee that the dams will have an adequate supply of water all year-round. In assessing this, it is suggested consideration is given to the suitability of FPC resources (personnel and equipment such as a heavy-duty fire-fighting tanker) based in Nannup to manage fire risks for their plantations in the Shire of Nannup. Any development condition needs to meet certain legal tests including whether it fairly and reasonably relates to the proposed development.

As per LPP21, the applicant will need to address on-going bushfire management and response. This includes maintaining firebreaks in accordance with the requirements of the Bushfire Risk Compliance Notice issued by the Shire of Nannup under the *Bushfires Act 1954*, maintaining permanent onsite water resources, maintaining existing access roads and undertaking measures to protect public utilities via appropriately maintained easements.

The applicant has provided a Fire Management Plan which is overall consistent with LPP21 Section 10 subject to modifications.

#### *C) Variation to LPP23*

As outlined above, the Development Application is in part inconsistent with LPP23 given the site is within 3km of the Nannup townsite. LPS4 and LPP23 do however enable a tree farm to be considered on this site and the Development Application is required to be considered on its merits including against the planning framework in Attachment 11.1.5, Attachment 11.1.6 and Attachment 11.1.7. The Policy Implications summarise the status of Local Planning Policies. On balance, it is suggested the tree farm has planning merit subject to effective on-going management.

#### *D) Length of development approval*

The applicant estimates the project life will be approximately 30 years. It is recommended that the development approval be issued for a single rotation rather than an 'opened ended' approval period. Should FPC or any other applicant wish to replant the plantation area following final clear fell, they will be required to submit a new development application prior to beginning any works.

#### *E) Developer contributions*

Contributions are typically sought by Council for development applications for timber plantations. As per LPP20 Section 7, the applicant will need to ensure that the Shire managed roads in and around the plantation area are in a condition post-development that is at least the same condition as pre-development. To achieve this, development conditions will include a system of notification, inspection and post-development repair of the roads to the Shire's satisfaction.

*F) Aerial spraying*

There is the potential for aerial spraying due to the topography. It is the Shire's preference that ground based spraying is adopted where possible. Noting LPP23 does not prefer aerial spraying within 3km of the Nannup townsite, a recommended condition is the preparation of an Aerial Spray Application Management Plan which addresses the Code of Practice for Timber Plantations in Western Australia.

*G) Arboretum*

The applicant seeks to conserve the arboretum. There is scope to ensure the arboretum is effectively conserved and managed with appropriate public access. A recommended condition sets out for the applicant to prepare and implement a management plan to the satisfaction of the Shire.

*H) Visual impact*

This is considered suitably met noting the property is located outside of Special Control Area 7 – Landscape Values Area in LPS4 and the property previously contained a tree farm. Additionally, based on the submissions, there appears acceptance of a tree farm in terms of landscape change on a gateway into Nannup.

*I) Easements and public access*

There are a number of easements on the application site that in-turn provide access to adjoining and nearby properties. There is scope for FPC to review the easements which may include addressing duplication. This is subject to no other landowners losing legal and practical access.

There is scope for FPC to review opportunities and suitable management measures (including easements) for the public to gain access to the arboretum and Zircon Falls.

*J) Fencing*

While this is a matter for FPC and adjoining owners, it is pleasing to read that FPC will financially contribute 50% for reasonable fencing requirements.

*K) 50 metre firebreak on southern boundary and BAL assessment on Lot 11*

The response from FPC in Attachment 11.1.4 is supported. To address LPS4 setback requirements, there is scope for a future dwelling on Lot 11 to be located 20m from the property boundary. As part of a future dwelling, the owner of Lot 11 will need to arrange a BAL assessment.

*L) Based on a merit assessment, it is suggested the Development Application be conditionally approved.*

While the Development Application is in part inconsistent with LPP23 given the site is within 3km of the Nannup townsite, it is recommended that Council approve the Development Application subject to conditions. This follows assessment against LPS4, State Planning Policy SPP2.5, the Local Planning Strategy, Local Planning Policies LPP20, LPP21 and LPP23, considering the views of the submitters, peer review of the Fire Management Plan) and information provided by the applicant.

The report prepared by Lushfire & Planning concludes that the proposed plantation does not increase the bushfire risk to the Nannup townsite. A well-managed plantation when compared to the existing conditions, will potentially reduce the bushfire risk with the area of critical bushfire risk being the land between the proposed plantation and the townsite.

While noting the above, the Council is able to refuse the Development Application if it believes it has planning grounds to do so. As Councillors are aware, the applicant has the ability to lodge a Right of Review (previously called an “appeal”) to the State Administrative Tribunal should the Council refuse the Development Application.

#### **STATUTORY ENVIRONMENT:**

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

#### **POLICY IMPLICATIONS:**

Local Planning Policies LPP20, LPP21 and LPP23 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 regards to the policies in determining the Development Application.

#### **FINANCIAL IMPLICATIONS:**

Nil at this stage. A Right of Review would have cost implications for the Shire.

#### **STRATEGIC IMPLICATIONS:**

The proposed tree farm is consistent with aims of the Shire of Nannup Local Planning Strategy.

#### **VOTING REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council approve the Development Application for a 271 hectare tree farm (*pinus radiata* plantation) at Lot 1 on Diagram 23683, Lot 4 on Diagram 22291 and Lots 31, 32, 33, 43, 44 and 45 on Deposited Plan 228954, Nannup, subject to the following conditions:

1. The development hereby approved must be carried out generally in accordance with the plans and specifications submitted with the application (noting required modifications to the Fire Management Plan) and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire.
2. This development approval shall lapse and be of no further effect if the plantation development hereby permitted has not been substantially commenced within 24 months of the date hereof. Where the Development Approval has lapsed, no further development is to be carried out.
3. This development approval is for a single rotation only. The applicant will be required to submit a new Development Application prior to beginning any replanting of the plantation area.
4. A separate 'Harvesting Plan' is to be prepared in accordance with the latest 'Code of Practice for Timber Plantations' (or equivalent that is applicable at that time) and submitted to and approved by the Shire prior to the anticipated commencement of harvesting so that the proposed access haulage routes may be inspected by both parties.
5. Fire management measures outlined in the application shall be implemented in accordance with the submitted plan subject to modifications required by the Shire (including a suitably sized dedicated water and a 50m Fuel Reduction Buffer on the western boundary) and accompanying details are required to meet the performance standards in the 'Guidelines for Plantation Fire Protection' document published by the Department of Fire and Emergency Services. Required infrastructure and mitigation measures are required to be established at the same time as planting.
6. The installation and maintenance of firebreaks and low fuel zones are to be carried out around all boundaries and buildings on the subject properties, in accordance with the requirements of the Bushfire Risk Compliance Notice issued by the Shire of Nannup under the *Bushfires Act 1954*.
7. A minimum of 12 months prior to any anticipated commercial harvesting occurring, the Plantation Operator/Manager shall notify the Shire so that the proposed access/haulage routes may be inspected by both parties.
8. An Aerial Spray Application Management Plan is prepared to the satisfaction of the Shire, prior to planting, which addresses the Code of Practice for Timber Plantations in Western Australia and is then suitably implemented.

9. An Arboretum Management Plan is prepared to the satisfaction of the Shire, prior to planting, which addresses relevant matters including risk management and appropriate public access.

Advice Notes:

- A. With reference to Condition 4, the Shire will require the Plantation Operator/Manager to reimburse the cost of any road repairs that become necessary as a result of wear and other damage to the local road network caused by heavy haulage vehicles associated with the transport of harvested plantation trees. The Shire will undertake an audit of the local road system proposed to be used for log transport prior to, and following, plantation harvesting so as to ascertain any remedial works required (and funds recoupable).
- B. Cultivation of land, spraying of pesticides or herbicides, or the application of nitrogenous fertilisers is not recommended within 30 metres of Dry Brook or any stream. This provision does not preclude the carrying out of weed control in accordance with Department of Primary Industries and Regional Development recommendations or standard practices.
- C. With reference to Condition 2, complete preparation of the site and majority of total approved plant out would satisfy the requirements of 'substantial commencement'.
- D. The attention of the Plantation Operator/Manager is drawn to the need to comply with the requirements of any Bushfire Risk Compliance Notice issued by the Shire of Nannup under the *Bush Fires Act 1954*. Furthermore, the Plantation Operator/Manager is required to advise the Shire's Chief Bush Fire Control Officer of any commercial harvesting activities that may be proposed during restricted or prohibited burning seasons.
- E. Clearing of native vegetation in Western Australia is prohibited unless the clearing is authorised by a clearing permit issued by the Department of Water and Environmental Regulation or is of a kind that is exempt in accordance with Schedule 6 of the *Environmental Protection Act 1986* or the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.
- F. The applicant's commitment to financially contribute 50% for reasonable fencing requirements is supported.
- G. The applicant is encouraged to review the easements which may include addressing duplication. This is subject to no adjoining or nearby landowners losing legal and practical access.
- H. The applicant is encouraged to review opportunities and suitable management measures (including easements) for the public to gain access to the arboretum and Zircon Falls.

- I. The applicant is encouraged to review the appropriateness of the Dry Creek crossing.
- J. This approval does not include recreation-private including bike trails. Any proposal for bike trails is subject to a separate Development Application.
- K. Any works should ensure Aboriginal heritage values are respected and are appropriately addressed. The applicant has an obligation under the *Aboriginal Heritage Act 1972* and the *Aboriginal Cultural Heritage Act 2021*, to protect places and objects in Western Australia that are important to Aboriginal people because of the connections to their culture.
- L. If the applicant or owner 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.

#### **COUNCIL RESOLUTION 23063**

**MOVED: CR GIBB**

**SECONDED: CR BUCKLAND**

***That Council approve the Development Application for a 271 hectare tree farm (pinus radiata plantation) at Lot 1 on Diagram 23683, Lot 4 on Diagram 22291 and Lots 31, 32, 33, 43, 44 and 45 on Deposited Plan 228954, Nannup, subject to the following conditions:***

- 1. The development hereby approved must be carried out generally in accordance with the plans and specifications submitted with the application (noting required modifications to the Fire Management Plan) and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire.***
- 2. This development approval shall lapse and be of no further effect if the plantation development hereby permitted has not been substantially commenced within 24 months of the date hereof. Where the Development Approval has lapsed, no further development is to be carried out.***
- 3. This development approval is for a single rotation only. The applicant will be required to submit a new Development Application prior to beginning any replanting of the plantation area.***
- 4. A separate 'Harvesting Plan' is to be prepared in accordance with the latest 'Code of Practice for Timber Plantations' (or equivalent that is applicable at that time) and submitted to and approved by the Shire prior to the anticipated commencement of harvesting so that the proposed access haulage routes may be inspected by both parties.***

5. *Fire management measures outlined in the application shall be implemented in accordance with the submitted plan subject to modifications required by the Shire (including a suitably sized dedicated water and a 50m Fuel Reduction Buffer on the western boundary) and accompanying details are required to meet the performance standards in the 'Guidelines for Plantation Fire Protection' document published by the Department of Fire and Emergency Services. Required infrastructure and mitigation measures are required to be established at the same time as planting.*
6. *The installation and maintenance of firebreaks and low fuel zones are to be carried out around all boundaries and buildings on the subject properties, in accordance with the requirements of the Bushfire Risk Compliance Notice issued by the Shire of Nannup under the Bushfires Act 1954.*
7. *A minimum of 12 months prior to any anticipated commercial harvesting occurring, the Plantation Operator/Manager shall notify the Shire so that the proposed access/haulage routes may be inspected by both parties.*
8. *An Aerial Spray Application Management Plan is prepared to the satisfaction of the Shire, prior to planting, which addresses the Code of Practice for Timber Plantations in Western Australia and is then suitably implemented.*
9. *An Arboretum Management Plan is prepared to the satisfaction of the Shire, prior to planting, which addresses relevant matters including risk management and appropriate public access.*

**Advice Notes:**

- A. *With reference to Condition 4, the Shire will require the Plantation Operator/Manager to reimburse the cost of any road repairs that become necessary as a result of wear and other damage to the local road network caused by heavy haulage vehicles associated with the transport of harvested plantation trees. The Shire will undertake an audit of the local road system proposed to be used for log transport prior to, and following, plantation harvesting so as to ascertain any remedial works required (and funds recoupable).*
- B. *Cultivation of land, spraying of pesticides or herbicides, or the application of nitrogenous fertilisers is not recommended within 30 metres of Dry Brook or any stream. This provision does not preclude the carrying out of weed control in accordance with Department of Primary Industries and Regional Development recommendations or standard practices.*
- C. *With reference to Condition 2, complete preparation of the site and majority of total approved plant out would satisfy the requirements of 'substantial commencement'.*

- D. The attention of the Plantation Operator/Manager is drawn to the need to comply with the requirements of any Bushfire Risk Compliance Notice issued by the Shire of Nannup under the Bush Fires Act 1954. Furthermore, the Plantation Operator/Manager is required to advise the Shire's Chief Bush Fire Control Officer of any commercial harvesting activities that may be proposed during restricted or prohibited burning seasons.***
- E. Clearing of native vegetation in Western Australia is prohibited unless the clearing is authorised by a clearing permit issued by the Department of Water and Environmental Regulation or is of a kind that is exempt in accordance with Schedule 6 of the Environmental Protection Act 1986 or the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.***
- F. The applicant's commitment to financially contribute 50% for reasonable fencing requirements is supported.***
- G. The applicant is encouraged to review the easements which may include addressing duplication. This is subject to no adjoining or nearby landowners losing legal and practical access.***
- H. The applicant is encouraged to review opportunities and suitable management measures (including easements) for the public to gain access to the arboretum and Zircon Falls.***
- I. The applicant is encouraged to review the appropriateness of the Dry Creek crossing.***
- J. This approval does not include recreation-private including bike trails. Any proposal for bike trails is subject to a separate Development Application.***
- K. Any works should ensure Aboriginal heritage values are respected and are appropriately addressed. The applicant has an obligation under the Aboriginal Heritage Act 1972 and the Aboriginal Cultural Heritage Act 2021, to protect places and objects in Western Australia that are important to Aboriginal people because of the connections to their culture.***
- L. If the applicant or owner 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.***

***NOT CARRIED (7/1)***

**VOTED FOR MOTION: CR GIBB**



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***VOTED AGAINST MOTION: CR DEAN, CR HANSEN, CR LONGMORE, CR BUCKLAND, CR BROWN, CR FRASER, CR GILBERT***

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Council refuse the Development Application for the proposed 271-hectare tree farm (pinus radiata plantation) at Lot 1 on Diagram 23683, Lot 4 on Diagram 22291 and Lots 31, 32, 33, 43, 44 and 45 on Deposited Plan 228954, Nannup, for the following reasons:

1. The property is located in a designated bush fire prone area, located near the Nannup townsite, is located on the eastern side of the townsite and the proposed tree farm will add additional fuel loads to the locality. Combined with climate change impacts, including a drying climate, it is expected to result in an increase in the frequency and severity of bushfires to the Nannup townsite over the next 30 years. As a result, the local community will be placed at increased risk of fire through the proposed tree farm and the applicant's intended approach to ongoing fire management.
2. The submitted Fire Management Plan does not sufficiently demonstrate that bushfire risks will be appropriately managed on an ongoing basis this includes that most Forest Products Commission fire-fighting equipment and assets are located well outside of the Shire of Nannup and there is insufficient local capacity of fire-fighting infrastructure and fire suppression resources to manage bushfire risks and provide appropriate local fire-fighting responses. The application, if approved, would place increased risks and resource pressure on the local volunteer bush fire brigade and local residents to be responsible for fire-fighting should a fire emergency situation arise. The Fire Management Plan does not provide a suitable basis on which a decision maker can confidently approve the development.
3. The Development Application does not appropriately address matters set out in Clause 67(c), (g), (q), (r) and (s) of Schedule 2 – Deemed provisions for local planning schemes of the Planning and Development (Local Planning Schemes) Regulations 2015 given the submitted Fire Management Plan does not provide confidence that the Nannup townsite will be protected from bushfire risks arising from the tree farm. Additionally, the land is unsuitable for the proposed development given it increases the risk to human life and safety due to bushfire risk.
4. The Development Application has not addressed the objectives of State Planning Policy 3.7 Planning in Bushfire Prone Area which include to "Avoid any increase in the threat of bushfire to people, property and infrastructure. The preservation of life and the management of bushfire impact are paramount." Accordingly, the Council has applied the precautionary principle.
5. The Development Application is inconsistent with the objectives and provisions of Local Planning Policy 021 Bush Fire Management which seek to minimise bush fire

risks and ensure there are appropriate fire management measures and processes in place to mitigate fire risks.

6. The application is inconsistent with the Council's Local Planning Policy LPP23 Plantations and Agroforestry including 'the Shire discourages:
  - plantations that by virtue of their topography, physical size, their inability to access strategic water supplies for fire-fighting purposes, or their close proximity to vulnerable uses, sensitive uses or habitable buildings, present an unacceptable fire risk or otherwise are unable to satisfy the FESA Guidelines for Plantation Fire Protection; and
  - new plantations within 3 kilometres of the Nannup townsite.'

Considerable portions of the application site are within 3 kilometres of the Nannup townsite. Additionally, the tree farm is within 350 metres of zoned 'Urban Development' land (east of Dunnet Road). The tree farm will impact the potential to provide planned new housing and urban expansion; along with creating detrimental bushfire risks and increased amenity impacts on zoned Urban Development land.

7. The application is inconsistent with clause 46(e) of the Shire of Nannup Local Planning Scheme No. 4 given proposed harvesting will have detrimental safety impacts on motorists using the local road network.
8. The application proposes aerial spraying in close proximity to the Nannup townsite, sensitive uses, watercourses and water resources. The application provides no assurances that off-site environmental and human health impacts can be suitably managed. Given no social impact statement has been prepared, the precautionary principle has been applied.
9. The application does not address environmental impacts including an anticipated detrimental impact on water availability in the Blackwood River. Accordingly, the Council has applied the precautionary principle.
10. Based on community opposition to the application, with objections and concerns including amenity impacts, the application is inconsistent with the aims of orderly and proper planning.
11. The tree farm will create an undesirable precedent for other tree farms within 3 kilometres of the Nannup townsite creating the potential for further detrimental bushfire, amenity and environmental impacts.

### Advice

If the applicant or owner 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.

Shire President Dean moved agenda item 11.10 forward in the meeting to allow the members of the public attending for that particular item to witness the outcome and then leave the meeting, without having to sit through other items of no interest to them.

|                             |  |
|-----------------------------|--|
| AGENDA NUMBER & SUBJECT:    | 11.10 – Development Application for a Change of Use from a Single House to a Holiday House   |
| LOCATION/ADDRESS:           | Lot 801 (#191) on DP68663 Dean Road, Nannup  |
| NAME OF APPLICANT:          | Stefan Murphy  |
| FILE REFERENCE:             | A1687  |
| AUTHOR:                     | Jane Buckland – Development Services Coordinator and Steve Thompson – Consultant Planner   |
| REPORTING OFFICER:          | David Taylor – Chief Executive Officer   |
| DISCLOSURE OF INTEREST:     | Edge Planning & Property receive payment for planning advice to the Shire and declares Financial Interest (section 5.70 of the Local Government Act 1995)  |
| DATE OF REPORT:             | 19 May 2023  |
| PREVIOUS MEETING REFERENCE: | Nil  |
| ATTACHMENT:                 | 11.10.1 - Location map<br>11.10.2 - Original information from the applicant<br>11.10.3 - Submissions (1 <sup>st</sup> round of consultation)<br>11.10.4 - Submissions (2 <sup>nd</sup> round of consultation)<br>11.10.5 - Response from the applicant (18 May 2023)<br>11.10.6 - Extract from the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i><br>11.10.7 - Bushfire Management Plan |

## BACKGROUND:

The Shire has received a Development Application from the owner of Lot 801 (#191) Dean Road, Nannup for the change of use of an existing single house to a holiday house.

The site as shown in Attachment 11.10.1, is located on Dean Road approximately 1.3 kilometres from the intersection with Blackwood River Drive. The site is 1.7529 hectares in area and contains a single house, shed, and water tank.

Details of the proposal as provided by the applicant are shown in Attachment 11.10.2 and are supplemented by recent commitments from the applicant (outlined in Attachment 11.10.5). In summary, the applicant proposes to convert the existing single house into a holiday house accommodating a maximum of six adult persons for short term accommodation.

The Council at its Ordinary Council Meeting on 27 April resolved (Resolution No. 23042) 'That the motion lies on the table.'

### Consultation

The Shire administration initially undertook consultation by inviting public comment on the Development Application for a period of 14 days by writing to 8 adjoining/nearby landowners and the North Nannup Volunteer Bushfire Brigade. The Shire received 3 submissions on the Development Application (1<sup>st</sup> round of consultation) as outlined in Attachment 11.10.3.

The Shire administration undertook further consultation by inviting further public comment on the Development Application for a period of 14 days by writing to 19 adjoining/nearby landowners and the North Nannup Volunteer Bushfire Brigade. The Shire received 8 submissions on the Development Application (2<sup>nd</sup> round of consultation) as outlined in Attachment 11.10.4. All submitters (1<sup>st</sup> and 2<sup>nd</sup> rounds of consultation) objected to the proposed development. In summary, key matters raised are:

- limited vehicular access to the property in the event of a fire emergency;
- potential for visitors to be unaware of the need to control activities that may increase fire risk;
- increased vehicle movements on Dean Road and the surrounding Rural Residential area;
- a lack of appropriate fencing on the northern, eastern, and southern boundaries of Lot 801 Dean Road to contain visiting pets on the property;
- privacy for properties below;
- amenity impacts related to noise, anti-social behaviour, a loss of tranquillity and intensification of use;
- insufficient management of the property; and
- environmental impacts.

In response to these submissions, the applicant has provided a compressive response addressing the concerns which is set out in Attachment 11.10.5.

### Planning framework

The property is zoned 'Rural Residential' in the *Shire of Nannup Local Planning Scheme No. 4* (LPS4). 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 Residential Zone. A holiday house is an 'A' use in the Rural Residential 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 *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.

The entire property is located within a bush fire prone area as designated by the Fire and Emergency Services Commissioner and therefor is 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 summary, the above documents require effective natural resource management, addressing risk/safety and seeking to diversify the local economy including through supporting tourism.

Attachment 11.10.6 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 of the 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 (1<sup>st</sup> and 2<sup>nd</sup> rounds of consultation) and information provided by the applicant, the Development Application is considered to be generally consistent with LPS4, strategies and policies. To account for comments in the 2<sup>nd</sup> round of consultation and the applicant's response, some minor changes are recommended to the development conditions and advice.

It is recommended that Council conditionally approve the Development Application based on the plans in Attachment 11.10.2 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;
- It is not considered to be an intensification of use compared to a single house;
- Increased traffic can be accommodated on local roads;
- There are no objections from other Shire officers/units;
- Bushfire Prone Planning confirms that the proposal generally addresses *State Planning Policy 3.7 Planning in Bushfire Prone Areas* and the *Guidelines for Planning in Bushfire Prone Areas*; and
- Development conditions can assist to control the use and management of the development.

#### *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 impacts including noise
- Effective management of the holiday house.

#### Bushfire & Emergency Management

The applicant now proposes (Attachment 11.10.5) that the holiday home will have a maximum occupancy of 6 adult persons. This is consistent with a typical residential dwelling. By way of comparison, the Residential Design Codes in part define a dwelling as habitation 'by a single person, a single family, or no more than six persons who do not comprise a single family.' Accordingly, the proposed holiday house is not considered to be an intensification of use compared to a single house.

It is acknowledged there is significant 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.

In assessing a proposal against the bushfire protection criteria contained in Appendix 4 of the *Guidelines for Planning in Bushfire Prone Areas*, for each element the intent must be demonstrated by either addressing the relevant acceptable solutions. Where these acceptable solutions cannot be fully met, performance-based solutions can be developed to achieve the intent. The BMP identifies that the acceptable solutions to achieve the intent of Element 5: Vulnerable Tourism Land Uses cannot be fully met due to the location of the site at the southern end of Dean Road.

While noting this, Bushfire Prone Planning, through their Bushfire Management Plan (BMP) and Bushfire Emergency Plan (BEP) consider the application sufficiently addresses State planning requirements (refer to Attachment 11.10.7). Subject to implementation and on-going review of the BMP and BEP, it appears that associated risks can be managed.

Given that the application otherwise addresses the relevant acceptable solutions, 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.

### Traffic Impacts

Dean Road is a local road under the control of the Shire and is sealed. Based on Council's Local Planning Policy *LPP20 Developer and Subdivider Contributions*, State Government policy and legal principles, it is suggested that no financial contribution is required from the applicant to upgrade Dean Road. In summary, the traffic generation for the holiday house throughout the year will be lower than for a family living full-time on the property.

Separate to the Development Application, there are opportunities for the Shire to install advisory speed zoning signage on Dean Road and other local roads as required.

### 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 65 metres from the closest neighbouring dwelling (to the west), with the next closest dwellings being approximately 80, 97 and 131 metres away.

The applicant's commitment, outlined in Attachment 11.10.5, to limit occupancy to 6 adult persons and 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 choose 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 while giving the Shire an opportunity to review any amenity impacts prior to granting any further approval.



### On-going Management

The applicant has advised (see Attachment 11.10.5) 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.

### *C) Conclusion*

The Shire administration considers that the applicant has suitably addressed the concerns raised by submitters and will take steps to minimise any impact on the neighbouring properties.

It is recommended that Council conditionally approve the Development Application given:

- it is consistent with the planning framework including that LPS4 enables the holiday home use in the Rural Residential Zone;
- it is a low-key use which is expected to have manageable off-site impacts;
- it supports diversifying the local economy and supports tourism;
- no clearing of native vegetation is proposed;
- there are no environmental impacts if pets are controlled;
- there are no objections from other Shire officers/units;
- comprehensive Bushfire Management and Bushfire Emergency Plans are in place for the property; and
- development conditions can assist to control the use and management of the development.

### **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*, *LPP20 Developer and Subdivider Contributions* and *LPP21 Bushfire Management*.

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 holiday house on Lot 801 on Deposited Plan 68663 (No. 191) Dean Road, Nannup, subject to the following conditions:

1. This development approval is valid until 27<sup>th</sup> April 2026 after which date the use shall cease unless prior to that date a new Development Application has been submitted to and approved by the local government for the continuation of the use.
2. The development hereby approved is to be carried out in accordance with the plans and specifications submitted with the application, addressing all conditions, or otherwise amended by the Shire and shown on the approved plans and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire.
3. The applicant to confirm in writing that a local property manager has been appointed prior to occupation of the holiday house. A local property manager is to be engaged at all times while the holiday house use operates.

4. Other than the owner/caretaker, 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 6 adult persons are to be accommodated in the holiday house 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 holiday house 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 holiday house 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 holiday house. Following this, measures and recommendations in the approved Bushfire Management Plan 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 holiday house. Following this, measures in the approved Bushfire Emergency Plan are to be maintained to the satisfaction of the local government.
11. The holiday house is not operate on catastrophic fire danger days where the Fire Behaviour Index (FBI) is likely to exceed FBI >100. Guests due to arrive at the holiday house on catastrophic fire danger days at to be directed as soon as possible not to arrive in Nannup.
12. The applicant is to submit and gain local government approval for a Management Plan, prior to occupation of the holiday house, 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.
13. The applicant shall not erect any advertising or signage at the site without the prior approval of the Shire.

14. 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 included on the Certificate of Title by 30 November 2023.
15. Holidaymakers are not permitted to bring pets onto the property.
16. The applicant to submit a planting plan, prior to occupation, to the satisfaction of the local government. The approved planting to be undertaken prior to 30 June 2024 and then appropriately maintained to the satisfaction of the local government.

#### 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 holiday home.
- 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 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;
  - consider and address impacts from guests/visitors including amplified music and other noise;
  - address trespass and litter;
  - restricting the maximum number and type of, and/or managing 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.

- F) In relation to Condition 12, the applicant is also to make appropriate arrangements, prior to commencement of the holiday house use, 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 holiday house.
- G) In relation to Condition 13, some signs are exempt from development approval while other signs require a Development Application to the Shire. Please contact the Shire for further details.
- H) In relation to Condition 14, 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."*
- I) In relation to Condition 16, following approval of the planting plan, the applicant is encouraged to shortly commence screen planting and/or planting near the northern, western and southern boundaries. Any planting near the holiday house should ensure the Bushfire Attack Level (BAL) ratings are not increased.
- J) The applicant should ensure that a suitable Public Liability Insurance Policy is always maintained while the holiday home use is operating.
- K) 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*.
- L) The applicant should ensure that guests (and as relevant their pets) 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*.
- M) 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.

#### **COUNCIL RESOLUTION 23064**

**MOVED: CR BUCKLAND**

**SECONDED: CR GIBB**

**That Council approve the Development Application for a change of use from a single house to a holiday house on Lot 801 on Deposited Plan 68663 (No. 191) Dean Road, Nannup, subject to the following conditions:**

1. This development approval is valid until 27<sup>th</sup> April 2026 after which date the use shall cease unless prior to that date a new Development Application has been submitted to and approved by the local government for the continuation of the use.
2. The development hereby approved is to be carried out in accordance with the plans and specifications submitted with the application, addressing all conditions, or otherwise amended by the Shire and shown on the approved plans and these shall not be altered and/or modified without the prior knowledge and written consent of the Shire.
3. The applicant to confirm in writing that a local property manager has been appointed prior to occupation of the holiday house. A local property manager is to be engaged at all times while the holiday house use operates.
4. Other than the owner/caretaker, 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 6 adult persons are to be accommodated in the holiday house 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 holiday house on or near the ceiling:
  - (iii) in every bedroom; and
  - (iv) 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 holiday house to assist evacuation of occupants in the event of fire and this lighting must:
  - (iii) be activated by a smoke alarm(s) (required by the previous Condition); and
  - (iv) 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 holiday house. Following this, measures and recommendations in the approved Bushfire Management Plan 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 holiday house. Following this, measures in

the approved Bushfire Emergency Plan are to be maintained to the satisfaction of the local government.

11. The holiday house is not operate on catastrophic fire danger days where the Fire Behaviour Index (FBI) is likely to exceed FBI >100. Guests due to arrive at the holiday house on catastrophic fire danger days at to be directed as soon as possible not to arrive in Nannup.
12. The applicant is to submit and gain local government approval for a Management Plan, prior to occupation of the holiday house, 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.
13. The applicant shall not erect any advertising or signage at the site without the prior approval of the Shire.
14. 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 included on the Certificate of Title by 30 November 2023.
15. Holidaymakers are not permitted to bring pets onto the property.
16. The applicant to submit a planting plan, prior to occupation, to the satisfaction of the local government. The approved planting to be undertaken prior to 30 June 2024 and then appropriately maintained to the satisfaction of the local government.

#### **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 holiday home.

- 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 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;
  - consider and address impacts from guests/visitors including amplified music and other noise;
  - address trespass and litter;
  - restricting the maximum number and type of, and/or managing 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.
- F) In relation to Condition 12, the applicant is also to make appropriate arrangements, prior to commencement of the holiday house use, 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 holiday house.
- G) In relation to Condition 13, some signs are exempt from development approval while other signs require a Development Application to the Shire. Please contact the Shire for further details.
- H) In relation to Condition 14, 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.”*
- I) In relation to Condition 16, following approval of the planting plan, the applicant is encouraged to shortly commence screen planting and/or planting near the northern, western and southern boundaries. Any planting near the holiday house should ensure the Bushfire Attack Level (BAL) ratings are not increased.



- J) The applicant should ensure that a suitable Public Liability Insurance Policy is always maintained while the holiday home use is operating.**
- K) 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*.**
- L) The applicant should ensure that guests (and as relevant their pets) 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*.**
- M) 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.**

***CARRIED (8/0)***

|                             |  |
|-----------------------------|--|
| AGENDA NUMBER & SUBJECT:    | 11.2 – Delegated Planning Decisions April 2023       |
| 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:             | 3 May 2023   |
| PREVIOUS MEETING REFERENCE: | Nil  |
| ATTACHMENT:                 | 11.2.1 – 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 on a monthly basis 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 April 2023 is presented in Attachment 11.2.1.

### 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 April 2023, 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 April 2023 compared to April 2022:

|                            | April 2022           | April 2023          |
|----------------------------|----------------------|---------------------|
| <b>Delegated Decisions</b> | 3 (\$319,000)        | 3 (\$38,500)        |
| <b>Council Decisions</b>   | 0                    | 0                   |
| <b>Total</b>               | <b>3 (\$319,000)</b> | <b>3 (\$38,500)</b> |

100% of all approvals issued in the month of April 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 REQUIREMENTS:**

Simple Majority

**OFFICER RECOMMENDATION:**

That Council receives the report on Delegated Development Approvals for April 2023 as per Attachment 11.2.1.

**COUNCIL RESOLUTION 23065**

**MOVED: CR BROWN**

**SECONDED: CR LONGMORE**

***That Council receives the report on Delegated Development Approvals for April 2023 as per Attachment 11.2.1.***

***CARRIED (8/0)***

|                             |  |
|-----------------------------|--|
| AGENDA NUMBER & SUBJECT:    | 11.3 – Payment of Accounts – March 2023  |
| LOCATION/ADDRESS:           | Shire of Nannup  |
| NAME OF APPLICANT:          | N/A  |
| FILE REFERENCE:             | FNC 8  |
| AUTHOR:                     | Robin Lorkiewicz – Finance Coordinator   |
| REPORTING OFFICER:          | Kellie Jenkins – Manager of Corporate Services &<br>Deputy Chief Executive Officer |
| DISCLOSURE OF INTEREST:     | None   |
| PREVIOUS MEETING REFERENCE: | None   |
| DATE OF REPORT              | 16 May 2023  |
| ATTACHMENT:                 | 11.3.1 – Payment of Accounts – March 2023  |

### BACKGROUND:

To advise the Council of payments made from the municipal fund or trust fund for the period 1 March 2023 to 31 March 2023.

### COMMENT:

If Council would like to ask questions about the payment of accounts, prior notice of these questions will enable officers to provide detailed explanation in response at the Council meeting.

#### Municipal Account

|                                    |                     |                     |
|------------------------------------|---------------------|---------------------|
| Accounts paid by EFT               | 11612 to 15687      | \$271,199.57        |
| Accounts paid by cheque            | 20595 to 20596      | \$330,026.17        |
| Accounts paid by Direct Debit      | 12202.1 to 12258.16 | \$120,358.04        |
| <i>Sub Total Municipal Account</i> |                     | <u>\$721,583.78</u> |

#### Trust Account

|                                |   |                            |
|--------------------------------|---|----------------------------|
| Accounts paid by EFT           | - | \$0.00                     |
| <i>Sub Total Trust Account</i> |   | <u>\$0.00</u>              |
| <b>Total Payments</b>          |   | <u><b>\$721,583.78</b></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 meeting of the Council to which the list is to be presented.

**POLICY IMPLICATIONS:**

Nil.

**FINANCIAL IMPLICATIONS:**

As indicated in Payment of Accounts.

**STRATEGIC IMPLICATIONS:**

Nil.

**VOTING REQUIREMENTS:**

Simple majority

**OFFICER RECOMMENDATION:**

That Council endorse the payment of accounts totalling \$721,583.78 for the period 1 March 2023 to 31 March 2023 as per Attachment 11.3.1.

**COUNCIL RESOLUTION 23066**

**MOVED: CR BUCKLAND**

**SECONDED: CR FRASER**

**That Council endorse the payment of accounts totalling \$721,583.78 for the period 1 March 2023 to 31 March 2023 as per Attachment 11.3.1.**

**CARRIED (8/0)**

|                          |  |
|--------------------------|--|
| AGENDA NUMBER & SUBJECT: | 11.4 – Financial Activity Statement – March 2023                           |
| LOCATION/ADDRESS:        | Shire of Nannup  |
| NAME OF APPLICANT:       | Shire of Nannup  |
| FILE REFERENCE:          | FNC 15   |
| AUTHOR:                  | Robin Lorkiewicz – Finance Coordinator                                     |
| REPORTING OFFICER:       | Kellie Jenkins – Manager Corporate Services/Deputy Chief Executive Officer |
| DISCLOSURE OF INTEREST:  | Nil  |
| DATE OF REPORT:          | 17 May 2023  |
| ATTACHMENTS:             | 11.4.1 – Financial Activity Statement – March 2023                         |

### **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*, stipulates 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 2023 present the financial performance of the Shire for the 2022/23 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 11.4.1.

The document attached includes a 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 Statement for the period ending 31 March 2023 as per Attachment 11.4.1.

**COUNCIL RESOLUTION 23067**

**MOVED: CR GIBB**

**SECONDED: CR LONGMORE**

That Council, in accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, receives the Financial Activity Statement for the period ending 31 March 2023 as per Attachment 11.4.1.

**CARRIED (8/0)**

|                          |  |
|--------------------------|--|
| AGENDA NUMBER & SUBJECT: | 11.5 – 2022 Compliance Audit Return  |
| LOCATION/ADDRESS:        | Not applicable   |
| NAME OF APPLICANT:       | N/A  |
| FILE REFERENCE:          | ADM 14   |
| AUTHOR:                  | Sarah Dean – Governance, Risk & Assurance Officer                            |
| REPORTING OFFICER:       | Kellie Jenkins – Manager Corporate Services / Deputy Chief Executive Officer |
| DISCLOSURE OF INTEREST:  | N/A  |
| DATE OF REPORT:          | 13 March 2023  |
| ATTACHMENT:              | 11.5.1 - 2022 Compliance Audit Return  |

### **PURPOSE OF REPORT:**

To provide the Audit Advisory Committee with the Shire of Nannup's (Shire) 2022 Compliance Audit Return (CAR).

### **BACKGROUND:**

Western Australian local governments are required to complete an annual Compliance Audit Return (CAR) in accordance with the provisions of the *Local Government (Audit) Regulations 1996 (Regulations)*.

The CAR is to be submitted to the Department of Local Government, Sport and Cultural Industries (Department) by 31 March 2023.

The period examined by this audit is 1 January 2022 to 31 December 2022. The completed return is required to be:

- Reviewed by the Audit Advisory Committee
- Considered and adopted by Council
- Certified by the Shire President and Chief Executive Officer following Council adoption, and
- Submitted together with a copy of the Council Minutes to the Department by 31 March 2023.

The CAR assists the Shire to monitor legislative compliance by examining a range of prescribed requirements under Regulation 13 of the Regulations in detail.

The draft 2022 Compliance Audit Return is attached for the Audit Advisory Committee's review and report to Council.



**COMMENT:**

A desktop audit was conducted to complete 2022 CAR. All supporting evidence of compliance was found within, and extracted from, the Shire's information management system (ECM). In instances where evidence could not be located in ECM, relevant officers were requested to provide necessary information.

The 2022 CAR comprised of 94 questions, grouped into 11 categories of which:

- 52 were complied with;
- 40 were not applicable to the Shire of Nannup during the year under review, and;
- 2 matters were deemed to be non-compliant.

The 2 areas of non-compliance detected:

**Finance**

**Question 3** – Was the auditor's report for the financial year ended 30 June 2022 received by the local government by 31 December 2022?

**Comment** – The auditor's report was held up by the Office of the Auditor General and therefore was not adopted by Council by 31 December 2022. This delay was not caused by Shire of Nannup administration officers and has been a common theme since the appointment of the Auditor General.

**Other**

**Question 8** – By 30 September 2022, did the local government submit to its auditor the balanced accounts and annual financial report for the year ending 30 June 2022?

**Comment** – A ministerial extension for submission was granted pre 30 September 2022.

**STATUTORY ENVIRONMENT:**

Section 7.13(1)(i) of the *Local Government Act 1995* requires local governments to carry out an audit of compliance with statutory requirements prescribed in the *Local Government (Audit) Regulations 1996*.

Regulation 13 of the *Local Government (Audit) Regulations 1996* sets out the statutory requirements which may be included in the compliance audit.

Regulation 14 provides that the Compliance Audit is for the period 1 January to 31 December in each year and that after carrying out the audit, the local government is to prepare a Compliance Audit Return in the form approved by the Minister for Local Government.

The local government's Audit Committee is then to review the Compliance Audit Return and is to report the results to that review to Council, for adoption.

Regulation 15 requires that after Council has adopted the Return, it must be certified by the Shire President and the Chief Executive Officer, and submitted to the Director General of the Department of Local Government, Sport and Cultural Industries with a copy of the relevant Council Minutes, by 31 March following the period to which the return relates.

**POLICY IMPLICATIONS:**

Nil.

**FINANCIAL IMPLICATIONS:**

Nil.

**STRATEGIC IMPLICATIONS:**

Nil.

**VOTING REQUIREMENTS:**

Simple Majority.

**OFFICER RECOMMENDATION:**

That with respect to the 2022 Compliance Audit Return, Council:

1. Note the two areas of non-compliance;
2. Endorse the 2022 Compliance Audit Return as per Attachment 11.5.1; and
3. Submit a certified copy to the Director General of the Department of Local Government, Sport and Cultural Industries.

***COUNCIL RESOLUTION 23068***

***MOVED: CR BUCKLAND***

***SECONDED: CR BROWN***

***That with respect to the 2022 Compliance Audit Return, Council:***

- 1. Note the two areas of non-compliance;***
- 2. Endorse the 2022 Compliance Audit Return as per Attachment 11.5.1; and***

- 
- 3. *Submit a certified copy to the Director General of the Department of Local Government, Sport and Cultural Industries.***

***CARRIED (8/0)***

|                          |   |
|--------------------------|---|
| AGENDA NUMBER & SUBJECT: | 11.6 – Regulation 17 Risk Management Review                     |
| LOCATION/ADDRESS:        | Shire of Nannup   |
| NAME OF APPLICANT:       | Shire of Nannup   |
| FILE REFERENCE:          | ADM 17  |
| AUTHOR:                  | Sarah Dean – Governance, Risk & Assurance Officer               |
| REPORTING OFFICER:       | David Taylor – Chief Executive Officer                          |
| DISCLOSURE OF INTEREST:  | Nil   |
| DATE OF REPORT:          | 30 March 2023   |
| ATTACHMENTS:             | 11.6.1 - Report prepared by Paxon titled “Regulation 17 Review” |

### BACKGROUND:

Regulation 17 of the *Local Government (Audit) Regulations 1996* requires the Chief Executive Officer (CEO) to review the appropriateness and effectiveness of their local government’s systems and procedures in relation to risk management, internal control, and legislative compliance no less than once every three financial years.

Regulation 16(c) of the *Local Government (Audit) Regulations 1996* requires the Audit Advisory Committee to review a report given to it by the CEO under Regulation 17(3) of the *Local Government (Audit) Regulations 1996*.

### COMMENT:

A review of the Shire of Nannup’s (Shire) systems and procedures in relation to risk management, internal control, and legislative compliance was due in 2022. In December 2021 the Shire sought quotes from audit firms to undertake this review and appointed Paxon Group (Paxton) to undertake this work.

Paxon commenced its audit in January 2022 and submitted its final report 30 March 2023. The report was expected to be completed by 30 June 2022, however, was delayed for several reasons including illnesses (Shire staff and Auditors) and staff changes.

The timing of completion of the report meant that it could not be presented to the Audit Advisory Committee and Council in 2022. The report is therefore presented to the first meeting of the Audit Advisory Committee in 2023.

A copy of the review undertaken by Paxon is attached as Attachment 11.6.1.

**STATUTORY ENVIRONMENT:**

Regulation 17 of the *Local Government (Audit) Regulations 1996* requires the Chief Executive Officer (CEO) to review the appropriateness and effectiveness of systems and procedures in relation to risk management, internal control, and legislative compliance.

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**STRATEGIC IMPLICATIONS:**

Nil

**VOTING REQUIREMENTS:**

Simple Majority.

**OFFICER RECOMMENDATION:**

That Council receives the Chief Executive Officer's triennial review of the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management as detailed in Attachment 11.6.1.

**COUNCIL RESOLUTION 23069**

**MOVED: CR HANSEN**

**SECONDED: CR BROWN**

***That Council receives the Chief Executive Officer's triennial review of the appropriateness and effectiveness of the Shire's systems and procedures in relation to risk management as detailed in Attachment 11.6.1.***

**CARRIED (8/0)**

|                          |   |
|--------------------------|---|
| AGENDA NUMBER & SUBJECT: | 11.7 – Regulation 5 Financial Management Review                               |
| LOCATION/ADDRESS:        | Shire of Nannup   |
| NAME OF APPLICANT:       | Shire of Nannup   |
| FILE REFERENCE:          | ADM 17  |
| AUTHOR:                  | Sarah Dean – Governance, Risk & Assurance Officer                             |
| REPORTING OFFICER:       | David Taylor – Chief Executive Officer  |
| DISCLOSURE OF INTEREST:  | Nil   |
| DATE OF REPORT:          | 13 May 2023   |
| ATTACHMENTS:             | 11.7.1 - Report prepared by Paxon titled “Regulation 5 Internal Audit Review” |

### **BACKGROUND:**

Regulation 5 of the *Local Government (Financial Management) Regulations 1996* (Regulations) requires the Chief Executive Officer (CEO) to review the appropriateness and effectiveness of the City’s systems and procedures in relation to financial management.

The reviews are required to be undertaken at least once every three years. The Regulations require a report on the results of a review undertaken to be reported to the local government’s Audit Advisory Committee and Council.

### **COMMENT:**

A review of the Shire of Nannup’s (Shire) systems and processes in relation to financial management was due in 2022. In December 2021 the Shire sought quotes from audit firms to undertake this review and appointed Paxon Group (Paxton) to undertake this work.

Paxon commenced its audit in January 2022 and submitted its final report 9 May 2023. The report was expected to be completed by 30 June 2022, however, was delayed for several reasons including illnesses (Shire staff and Auditors), staff changes, and an overlap between this audit and the Officer of the Auditor General’s audit of the Shire’s financial statements.

The timing of completion of the report meant that it could not be presented to the Audit Advisory Committee and Council in 2022. The report is therefore presented to the first meeting of the Audit Advisory Committee in 2023.

A copy of the review undertaken by Paxon is attached as Attachment 11.7.1.

**STATUTORY ENVIRONMENT:**

Regulation 5(2) of the *Local Government (Financial Management) Regulations 1996* requires the Chief Executive Officer (CEO) to review the appropriateness and effectiveness of the Shire's systems and procedures in relation to financial management at least once every three financial years. The results of that review are to be presented to the Audit Advisory Committee and Council.

**POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**STRATEGIC IMPLICATIONS:**

Nil

**VOTING REQUIREMENTS:**

Simple Majority.

**OFFICER RECOMMENDATION:**

That Council receives the Chief Executive Officer's triennial review of the appropriateness and effectiveness of the Shire's financial management systems and procedures as detailed in Attachment 11.7.1.

**COUNCIL RESOLUTION 23070**

**MOVED: CR HANSEN**

**SECONDED: CR FRASER**

***That Council receives the Chief Executive Officer's triennial review of the appropriateness and effectiveness of the Shire's financial management systems and procedures as detailed in Attachment 11.7.1.***

**CARRIED (8/0)**

|                          |   |
|--------------------------|---|
| AGENDA NUMBER & SUBJECT: | 11.8 –2020 - 2021 Annual Report   |
| LOCATION/ADDRESS:        | Shire of Nannup   |
| NAME OF APPLICANT:       | Shire of Nannup   |
| FILE REFERENCE:          | ADM 17  |
| AUTHOR:                  | Sarah Dean – Governance, Risk & Assurance Officer   |
| REPORTING OFFICER:       | Kellie Jenkins – Acting Chief Executive Officer   |
| DISCLOSURE OF INTEREST:  | Nil   |
| DATE OF REPORT:          | 16 May 2023   |
| ATTACHMENTS:             | 11.8.1 –Annual Report including Audited Financial Statements for the 2020/21 financial year |

### **PURPOSE OF REPORT:**

The purpose of this report is for Council to accept the Annual Report, including the Audited Financial Statements for the 2020/21 financial year.

### **BACKGROUND:**

Each year, as part of the Council’s audit process, an independent audit is undertaken to assess the Annual Financial Report and the legitimacy and accuracy of the Shire’s accounts.

An Independent Audit Report is then issued by the Auditor. The Auditor, after completing the audit, is to forward a copy of the audit and/or management report to:

- a) The Shire President
- b) The Chief Executive Officer
- c) The Minister, via the Department of Local Government, Sport and Cultural Industries

A Local Government, in accordance with Section 5.54(2) of the *Local Government Act 1995*, is to prepare an Annual Report for each financial year. The Annual Report is a record of the Council’s activities for the financial year and forms part of the accountability principles established for local government and is to be presented to an Annual General Meeting of Electors. The Independent Audit Report is also required to be included in Council’s Annual Report.

The Shire prepared its Annual Financial Report for the year ending 30 June 2021, in accordance with the Australian Accounting Standards and the specific requirements of the *Local Government Act 1995* and associated Regulations.



**COMMENT:**

The audited Annual Financial Report for the year ended 30 June 2021 and the Officer of the Auditor General's Report were received by Council at the 10 March 2022 Special Council Meeting (Council resolution # 22034).

The draft 2020/2021 Annual Report including the audited Annual Financial Statements is presented to Council in Attachment 11.8.1 to be endorsed.

**STATUTORY ENVIRONMENT:***Local Government Act 1995*

Section 5.53 – Local governments are to prepare an Annual Report each financial year.

Section 5.54 – Local government is required to accept the Annual Report by an absolute majority

Section 5.55 – CEO to give notice of the availability of an accepted Annual Report.

Section 7.12A – Duties of local government with respect to audits.

*Local Government (Financial Management) Regulations 1996**Local Government (Audit) Regulations 1996 – Regulation 16**Local Government (Administration) Regulations 1996***POLICY IMPLICATIONS:**

Nil

**FINANCIAL IMPLICATIONS:**

Nil

**STRATEGIC IMPLICATIONS:**

Taken from the Shire of Nannup Strategic Community Plan 2021 – 2036

*6.3 Lead, Listen, Advocate, Represent and Provide*

- We will communicate the plans and decisions of the Shire with our residents, and seek input and insight from all our diverse groups.

*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.*

- Incorporate and deliver balanced outcomes including social, environmental, and financial, through triple bottom-line decision-making.
- Provide a stable, consistent and honest government.

**VOTING REQUIREMENTS:**

Absolute Majority

**OFFICER RECOMMENDATION:**

That Council accepts the Annual Report including Audited Annual Financial Statements for the 2021/22 financial year, attached as Attachment 11.8.1.

***COUNCIL RESOLUTION 23071******MOVED: CR HANSEN******SECONDED: CR LONGMORE******That Council accepts the Annual Report including Audited Annual Financial Statements for the 2021/22 financial year, attached as Attachment 11.8.1.******CARRIED BY ABSOLUTE MAJORITY (8/0)***

|                         |   |
|-------------------------|---|
| AGENDA NUMBER & SUBJEC: | 11.9 –2021-2022 Annual Report, Annual Financial Statements and Annual General Meeting of Electors |
| LOCATION/ADDRESS:       | Shire of Nannup   |
| NAME OF APPLICANT:      | Shire of Nannup   |
| FILE REFERENCE:         | ADM 17  |
| AUTHOR:                 | Sarah Dean – Governance, Risk & Assurance Officer   |
| REPORTING OFFICER:      | Kellie Jenkins – Acting Chief Executive Officer   |
| DISCLOSURE OF INTEREST: | Nil   |
| DATE OF REPORT:         | 16 May 2023   |
| ATTACHMENTS:            | 11.9.1 –Annual Report including Audited Financial Statements for the 2021/22 financial year       |

### **PURPOSE OF REPORT:**

For Council to accept the 2021-2022 Annual Report, including the Annual Financial Statements, and determine a date for the Annual General Meeting of Electors.

### **BACKGROUND:**

Each year, as part of the Council’s audit process, an independent audit is undertaken to assess the Annual Financial Report and the legitimacy and accuracy of the Shire’s accounts.

An Independent Audit Report is then issued by the Auditor. The Auditor, after completing the audit, is to forward a copy of the audit and/or management report to:

- a) The Shire President
- b) The Chief Executive Officer
- c) The Minister, via the Department of Local Government, Sport and Cultural Industries

A Local Government, in accordance with Section 5.54(2) of the *Local Government Act 1995*, is to prepare an Annual Report for each financial year. The Annual Report is a record of the Council’s activities for the financial year and forms part of the accountability principles established for local government

The Independent Audit Report is also required to be included in Council’s Annual Report. Any issues arising from the Independent Audit Report are to be reviewed by management and, where applicable, action taken to resolve those issues.

The Shire has prepared its Annual Financial Report for the year ending 30 June 2022, in accordance with the Australian Accounting Standards and the specific requirements of the *Local Government Act 1995* and associated Regulations.

**COMMENT:****Annual Financial Report**

On 19 May 2023 the Audit Advisory Committee received the audited Annual Financial Report for the year ended 30 June 2022 and the Officer of the Auditor General's Report. These reports are included within the Annual Report for year ended 30 June 2022 (attachment 11.9.1) and is recommended to be accepted by Council.

**Annual Report 2021/2022**

In accordance with section 5.53(1&2) of the *Local Government Act 1995*, the Shire is to prepare an annual report of each financial year that contains –

- i. A report from the president; and
- ii. A report from the CEO; and
- iii. The financial report for the financial year; and
- iv. Such other information as may be prescribed.

The Annual Report is attached at 11.9.1 and is recommended to be accepted by Council.

**Annual Electors Meeting**

Section 5.27 of the *Local Government Act 1995* requires that the Annual General Meeting of Electors be held on a day and time selected by the local government, but not more than 56 days after the annual report is accepted by Council. The Shire also needs to give 14 days public notice of the meeting.

In order to comply with its statutory obligations, following the adoption of the 2021/22 Annual Report, it is recommended that the Annual General Meeting of Electors be held on 29 June 2023, commencing at 5pm.

**STATUTORY ENVIRONMENT:***Local Government Act 1995*

Section 5.27 – An Annual General Meeting of Electors must be held within 56 days of Council accepting the Annual Report with appropriate notice of the meeting to be given

Section 5.29 – fourteen (14) days public notice is to be given of the time and place of the Annual Electors Meeting.

Section 5.53 – Local governments are to prepare an Annual Report each financial year.

Section 5.54 – Local government is required to accept the Annual Report by an absolute majority

Section 5.55 – CEO to give notice of the availability of an accepted Annual Report.

Section 7.12A – Duties of local government with respect to audits.

**POLICY IMPLICATIONS:**

Nil.

**FINANCIAL IMPLICATIONS:**

Nil

**STRATEGIC IMPLICATIONS:**

Taken from the Shire of Nannup Strategic Community Plan 2021 – 2036

*6.3 Lead, Listen, Advocate, Represent and Provide*

- We will communicate the plans and decisions of the Shire with our residents, and seek input and insight from all our diverse groups.

*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.*

- Incorporate and deliver balanced outcomes including social, environmental, and financial, through triple bottom line decision making.
- Provide a stable, consistent and honest government.

**VOTING REQUIREMENTS:**

Absolute Majority

**OFFICER RECOMMENDATION:**

That Council:

1. Accepts the Annual Report including the Audited Financial Statements for the 2021/22 financial year, attached as Attachment 11.8.1.
2. That Council determines that the Annual General Meeting of Electors be held on Thursday 29 June 2023, commencing at 5pm.

***COUNCIL RESOLUTION 23072***

***MOVED: CR HANSEN***

***SECONDED: CR LONGMORE***

***That Council:***

1. ***Accepts the Annual Report including the Audited Financial Statements for the 2021/22 financial year, attached as Attachment 11.8.1.***

**2. That Council determines that the Annual General Meeting of Electors be held on Thursday 29 June 2023, commencing at 5 pm.**

**CARRIED BY ABSOLUTE MAJORITY (8/0)**

|                             |   |
|-----------------------------|---|
| AGENDA NUMBER & SUBJECT:    | 11.11 - 2023/24 Differential Rates and Minimum Rate |
| LOCATION/ADDRESS:           | Shire of Nannup                                     |
| NAME OF APPLICANT:          | N/A   |
| FILE REFERENCE:             | N/A   |
| AUTHOR:                     | Kellie Jenkins – Acting Chief Executive Officer     |
| REPORTING OFFICER:          | Kellie Jenkins – Acting Chief Executive Officer     |
| DISCLOSURE OF INTEREST:     | Nil   |
| DATE OF REPORT:             | 2022  |
| PREVIOUS MEETING REFERENCE: | N/A   |
| ATTACHMENT:                 | Nil   |

***In accordance with the [Shire of Nannup Local Law – Standing Orders, Part 4.11\(4\)](#); The Shire President withdrew agenda report 11.11 – 2023/24 Differential Rates and Minimum Rate at the request Chief Executive Officer, David Taylor.***

**12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:**

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Nil.

**13. MEETING MAY BE CLOSED:**

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Nil.

**14. CLOSURE OF MEETING:**

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Shire President declared the meeting closed at 6.14 pm.

The next Ordinary Council Meeting is to be held Thursday, 22 June 2023.