



Agenda

**Ordinary Council Meeting to be held Thursday 26 October
2023**

4.30 pm in Council Chambers, Nannup

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Contents

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS/ACKNOWLEDGMENT OF COUNTRY:	2
2. ATTENDANCE/APOLOGIES:	2
2.1 ATTENDANCE	2
2.2 APOLOGIES	2
3. PUBLIC QUESTION TIME:	2
4. MEMBERS ON LEAVE OF ABSENCE AND APPLICATIONS FOR LEAVE OF ABSENCE:	2
4.1 APPROVED LEAVE OF ABSENCE:	2
4.2 APPLICATION FOR A LEAVE OF ABSENCE:	2
5. CONFIRMATION OF MINUTES:	2
5.1 Shire of Nannup Ordinary Council Meeting – 28 September 2023	2
6. ANNOUNCEMENTS FROM PRESIDING MEMBER:	3
7. DISCLOSURE OF INTEREST:	3
8. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN:	3
9. PRESENTATIONS/DEPUTATIONS/PETITIONS:	3
10. REPORTS BY MEMBERS ATTENDING COMMITTEES:	3
11. REPORTS OF OFFICERS:	4
11.1 – Delegated Planning Decisions for September 2023	4
11.2 – Development Application for a Proposed Restaurant	6
11.3 – Payment of Accounts – September 2023	18
11.4 – Financial Activity Statement –September 2023	20
11.5 - Proposed Ordinary Council Meeting Dates for 2024	22
11.6 – Nannup Adopt a Name	25
12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:	27
13. MEETING MAY BE CLOSED:	27
13.1 - CONFIDENTIAL ITEM – Application for Annual Leave and Acting Chief Executive Officer	27
14. CLOSURE OF MEETING:	27

A G E N D A

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

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

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

2. ATTENDANCE/APOLOGIES:

2.1 ATTENDANCE

2.2 APOLOGIES

3. PUBLIC QUESTION TIME:

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

4.1 APPROVED LEAVE OF ABSENCE:

4.2 APPLICATION FOR A LEAVE OF ABSENCE:

5. CONFIRMATION OF MINUTES:

5.1 Shire of Nannup Ordinary Council Meeting – 28 September 2023

EXECUTIVE RECOMMENDATION:

That the Minutes from the Ordinary Meeting of Council held 28 September 2023 be confirmed as a true and correct record (attachment 5.1).

6. ANNOUNCEMENTS FROM PRESIDING MEMBER:

7. DISCLOSURE OF INTEREST:

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

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

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

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

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

Nil.

9. PRESENTATIONS/DEPUTATIONS/PETITIONS:

Nil.

10. REPORTS BY MEMBERS ATTENDING COMMITTEES:

11. REPORTS OF OFFICERS:

AGENDA NUMBER & SUBJECT:	11.1 – Delegated Planning Decisions for September 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 October 2023
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENT:	11.1.1 – Register of Delegated Development Approvals

BACKGROUND:

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

Delegated planning decisions are reported to Council 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 September 2023 is presented in Attachment 11.1.1.

COMMENT:

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

During September 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 September 2023 compared to September 2022:

	September 2022	September 2023
Delegated Decisions	5 (\$134,500)	3 (\$22,500)
Council Decisions	0	0
Total	5 (\$134,500)	3 (\$22,500)

100% of all approvals issued in the month of September 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 September 2023 as per Attachment 11.1.1.

AGENDA NUMBER:	11.2 – Development Application for a Proposed Restaurant
LOCATION/ADDRESS:	Lot 2 (No. 8) Warren Road, Nannup
NAME OF APPLICANT:	Mark Webster Design
FILE REFERENCE:	A224
AUTHOR:	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 declare a Financial Interest (Section 5.70 of the Local Government Act 1995)
DATE OF REPORT:	12 October 2023
PREVIOUS MEETING REFERENCE:	Nil.
ATTACHMENTS:	11.2.1 - Location map 11.2.2 - Aerial photograph 11.2.3 - Information from applicant 11.2.4 - Pre-lodgement advice from Department of Water & Environmental Regulation (DWER) 11.2.5 - Submissions 11.2.6 - Extract of planning framework

BACKGROUND:

This item is presented to Council given the proposed restaurant is located entirely in flood prone land and the proposed minimum floor level does not address the 100 year Annual Exceedance Probability (AEP) event. Additionally, vehicle and pedestrian access are proposed through Reserve 1788 which is vested with the Shire.

The site is located in the northern part of the town centre (see Attachment 11.2.1). The site is 1,477m² in area.

Mark Webster Design have lodged a Development Application for a proposed restaurant to be located at Lot 2 (No. 8) Warren Road, Nannup. The site contains the historic Templemore building adjoining Warren Road, associated garden plus some storage sheds as shown in the aerial photograph in Attachment 11.2.2.

The proposed restaurant is a single storey and 230m² in area plus has a terrace and porch. To mitigate flood risks, the applicant proposes a 1 metre high masonry wall around the restaurant along with flood gates.

Proposed vehicle and pedestrian access is from Brockman Street via Reserve 1788. Reserve 1788 is vested with the Shire for Shire office and hall site. Two carparking bays are proposed on the application site plus the applicant proposes to change part of the existing on-street parking in the Brockman Street reserve to a disabled bay. Details of the proposal are shown in Attachment 11.2.3 including plans and a cover letter from the applicant.

Consultation

There was pre-lodgement consultation with the Department of Water and Environmental Regulation (DWER) as outlined in Attachment 11.2.4. DWER raised no objection and provided advice.

The Shire administration invited public comment on the Development Application for a period of 21 days by writing to adjoining/nearby landowners and other stakeholders, placing details on the Shire website and having details at the Shire office. The Shire received 15 submissions on the Development Application as outlined in Attachment 11.2.5. 15 submissions were supportive of the proposed development. Attachment 11.2.5 also includes the Shire's Principal Environmental Health Officer advice.

Planning framework

The site is zoned 'Commercial', is within Special Control Area 3 - Flood Risk Area and Special Control Area 6 - Heritage under the *Shire of Nannup Local Planning Scheme No.4* (LPS4). The site is also located in the *Nannup Main Street Heritage Precinct* (Local Planning Policy No. 8). Other key planning documents related to the proposal include the *Shire of Nannup Local Planning Strategy*, *Local Planning Policy No.11 Development in Flood Risk Areas*, *Local Planning Policy No.13 Car Parking and Vehicular Access* and *Local Planning Policy No. 19 Heritage Conservation*. Attachment 11.2.6 sets out an extract of the planning framework.

A 'restaurant/cafe' is a 'D' (discretionary) use in the Commercial zone. This means 'the use is not permitted unless local government has exercised its discretion by granting development approval'.

Nearly all of the application site including the entirety of the proposed restaurant are within flood prone land (1 in 100 Annual Exceedance Probability Event).

Local Planning Policy No. 11 Development in Flood Risk Areas in part states 'The local government will take a precautionary approach to flood risk.' In regards to development of flood risk land, Special Control Area No. 3 of LPS4 (Attachment 11.2.6) states in part that the purpose is 'To minimise the risk of health and safety of people and potential for flood damage resulting from decisions relating to land use and development on defined river and watercourse floodplains in and near the Nannup townsite.'

Schedule 2 – Car Parking Table of LPS4 requires 1 bay per 40m² of nla (net lettable area) for a restaurant/café.

The Local Planning Strategy seeks to promote a vibrant town centre, provide for a wide range of uses, requires a high standard of design and adopts a precautionary approach to flood risk.

The property is within a designated bushfire prone area.

COMMENT:*A) Overview*

Following an assessment of the Development Application against the planning framework, submissions and information provided by the applicant, the Development Application is generally consistent with LPS4, strategies and policies. It is accordingly recommended that Council conditionally approve the Development Application given:

- The proposed development will assist to activate the northern section of the town centre, providing a further point of interest for visitors and locals alike;
- It has the potential to draw visitors to Nannup which supports local businesses;
- It will create employment and economic development;
- The design is sympathetic to the heritage values of the town centre;
- The reasons put forward by the applicant in Attachment 11.2.3;
- DWER has not identified any 'fatal flaws' with the proposal and accepts the proposed masonry wall and flood gates if appropriately maintained;
- It will promote passive surveillance over Reserve 1788;
- There are no objections from other Shire officers/units;
- It complies with Schedule 1 – Zone Development Requirements in LPS4; and
- Development conditions can assist to control the management of the development.

B) Key issues

While noting the above, the key issues with the application are outlined below.

Flood risk

The proposed restaurant is entirely within flood prone land. DWER recommend a minimum floor level of 68.5 metres AHD to protect against the 1 in 100 Annual Exceedance Probability (AEP) level. The applicant proposes a floor level of 67.5m AHD. Accordingly, the proposed development will be approximately 1 metre below the 1 in 100 AEP floor level.

Council policy and the Local Planning Strategy adopt a precautionary approach to flood risk and approving development in flood prone areas.

Building below 68.5m AHD may raise future liability risks to the Shire given there is a known flood risk. While noting this, on balance, given that no objections were raised by DWER (the peak water management/flood risk agency in Western Australia), the proposed restaurant does not comprise any habitable buildings (such as a residential component), and the applicant has raised the constraints of addressing universal access.

The Council may determine that the possible future flood risk liabilities are acceptable. Risks can be reduced or mitigated through:

- Obtaining an indemnification/deed agreement from the landowner to the satisfaction of the Shire's Chief Executive Officer;
- Adding a notification of flood risks to the Certificate of Title;
- The applicant addressing matters raised by DWER;
- The proponent constructing and suitably maintaining the masonry wall and flood gates; and
- The landowner obtaining and holding necessary insurances relating to flood risk.

Alternatively, the Council may determine that the floor level is required to be raised by 1 metre to reduce the risk of flooding and provide protection for the 1 in 100 AEP level.

Heritage

The historic Templemore building is on the Shire of Nannup Heritage List (Management Category 'A') and the site forms part of the Nannup Main Street Heritage Precinct.

The applicant proposes to demolish some dilapidated sheds in the rear of the site (western section) as part of the proposed development. These sheds have no known heritage value. There are no changes to the Templemore building as part of this Development Application.

The restaurant's location is respectful of the Templemore building and gardens. The proposed restaurant is sympathetic to the heritage values of the site and the precinct.

The restaurant is consistent with Nannup's 'garden village' character. The site is relatively discrete in its setting and is overall screened from Warren Road.

Building form/design

Overall, the design is sympathetic to its Heritage Area setting including building form, materials and colours. The proposed restaurant walls will have a red brick base with weatherboard walls, while the roof will be colourbond. It is suggested the design will enhance the town centre. It is noted that the design incorporates materials and a design that are generally consistent with Local Planning Policy No. 8.

Most roofs in the Heritage Area have characteristically been clad with custom orb profile sheeting, and pitched between 25 and 35 degrees. The applicant has put forward a rationale for a roof pitch at 15 degrees through the inclusion of the roof lantern which is respectful of surrounding buildings.

Vehicle and pedestrian access via Reserve 1788

There has been informal vehicle access between Brockman Street and the application site, through Reserve 1788, for many years.

To minimise impacts on the existing garden and courtyard, the applicant proposes vehicle access via Reserve 1788 which is vested with the Shire.

The applicant seeks to formalise vehicular access through Reserve 1788 via a 3.25 metre wide easement. The vehicle access is proposed to be paved.

The applicant also proposes a paved pedestrian path through Reserve 1788. The pedestrian path proposes to connect a proposed disabled carparking bay to the front door of the restaurant.

It is suggested an easement is appropriate to secure vehicular access through Reserve 1788. An easement is not considered necessary for the pedestrian path. The proponent is responsible for suitable construction and addressing drainage for the vehicle access and constructing the pedestrian footpath. All proposed costs associated with establishing the easement and possible surveyor costs are also to be met by the proponent.

It is also recommended that a deed be prepared by a solicitor confirming the proponent and future owners will suitably maintain the vehicle access on Reserve 1788.

Parking

Currently, there are no formally constructed car parking bays on the site including to service the existing commercial development (Templemore building). This reflects the historic nature of the buildings. Existing carparking is provided on-street within Warren Road.

Standards and guidance are set out in LPS4 and LPP13 which includes a requirement that parking bays and vehicle access be appropriately sealed and drained by the applicant/landowner.

The applicant proposes 2 on-site car parking bays for the development plus changing part of the existing on-site parking, within the Brockman Street reserve, to create 1 disabled parking bay (for non-exclusive use). The proposed location of the on-site parking is supported which is located to the rear of the restaurant.

The proposed on-site parking provision does not address Schedule 2 of LPS4 which requires a restaurant/cafe to provide 1 space per 40m² of nla (net lettable area). Given the 230m² of gross floor area and around 170m² of net lettable area, the proposal has a short-fall of 3 parking bays.

Clause 70 of LPS4 enables variations to Scheme standards including carparking provision where the Shire has undertaken consultation with likely affected owners and where the local government is satisfied the variation will not significantly adversely effect the area. Clause 32(5) and 32(6) of LPS4 enables the local government to accept on-street parking, while Clause 32(8) allows a reduction for implementing non-motorised forms of transport including cycling facilities.

Even if 5 carparking bays were provided on site, there will be, at times, insufficient car parking bays on site and immediately adjoining the site for the proposed restaurant. Accordingly, the landowner/proponent will have to manage this including encouraging staff not to use the on-site car parking bays. This may require parking a slight walk away from the site to enable use of on-site and nearby car parking bays by patrons.

The Council has various options on car parking including:

1. Accepting the application as submitted (two on-site bays plus the proponent meeting costs to change existing on-street parking to one disabled bay in Brockman Street);
2. Requiring the landowner to make a cash-in-lieu payment, based on determining that the restaurant will generate increased car parking requirements, to assist the Shire to provide nearby off-site parking; or
3. Requiring additional car parking bays being provided on Lot 2 (No. 8) Warren Road (not recommended as it will detrimentally impact heritage and amenity values).

On balance, the Shire administration is supportive of Option 1 provided that bicycle parking is also provided. It is suggested a variation to LPS4 is acceptable noting:

- There is existing on-street parking in Brockman Street including for long vehicles (caravans);
- Given the existing site characteristics with no on-site parking, currently patrons park off-site. Depending on numbers, this will require some patrons to walk a short distance. Other than major events, it is suggested there are always sufficient car parking spaces in the Nannup town centre; and
- The site's heritage values need to be considered.

Noise and amenity

At this stage, the applicant has not nominated operating days and hours. Provided patrons are respectful of adjoining and nearby development, particularly in relation to noise, it is open to the Council to not impose restrictions on operating days and times.

Subject to restaurant operating hours and associated management, there is potential for noise impacts on adjoining or nearby properties. Many of the concerns are addressed through the *Environmental Protection (Noise) Regulations 1997*.

It is recommended that a Management Plan be prepared for local government approval which is then suitably implemented. This plan should address the responsibility for the behaviour of patrons and the management measures to be implemented to minimise adverse impacts on the amenity of the locality including, outline the approach to maximise the safety and security of patrons, and seek to be a good neighbour and be considerate including noise and litter.

There is a separate need to gain necessary approvals from the Department of Local Government, Sport and Cultural Industries (liquor licencing) with regards to opening hours and the service and sale of liquor.

Economic competition and impacts on existing businesses

It is highlighted that economic competition is not a planning consideration as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015*. This reflects the decisions of tribunals and courts in Western Australia and Australia. Accordingly, the Council is unable to refuse the Development Application based on competition and impacts on existing businesses.

C) *Conclusion*

The proposed restaurant will be a welcome addition to Nannup, will support the local economy and is expected to be a visitor attractor.

It is suggested the key planning consideration is addressing flood risks and potential future liabilities on the Shire. Subject to addressing this and other matters raised in this item, it is recommended that Council approve the Development Application subject to conditions.

The Council could alternatively choose to defer making a decision on the matter and seek additional information or it may determine to refuse the Development Application.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005, Planning and Development (Local Planning Scheme) Regulations 2015, Land Administration Act 1997, Local Government Act 1995 and LPS4.

POLICY IMPLICATIONS:

Local Planning Policies LPP8 Main Street Heritage Area, LPP11 Development in Flood Risk Areas, LPP13 Car Parking and Vehicle Access and LPP19 Heritage Conservation 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.

Additionally, there are various State Planning Policies which are relevant in assessing the Development Application including *State Planning Policy 3.4 Natural Hazards and Disasters, State Planning Policy 3.5 Historic Heritage Conservation, State Planning Policy 3.7 Planning in Bushfire Prone Areas* and *State Planning Policy 7.0 Design of the Built Environment*.

FINANCIAL IMPLICATIONS:

Nil at this stage. Any Council decision is open to a Right of Review from the applicant 'appealing' to the State Administrative Tribunal.

STRATEGIC IMPLICATIONS:

The proposed restaurant offers a point of difference locally, supports the transitioning of the local economy and supports job creation.

The proposed restaurant is consistent with aims of the Local Planning Strategy and is important to the development of tourism in Nannup and the district. The development has the potential to draw visitors to Nannup 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:

- (i) Approve an easement through Reserve 1788 to provide vehicle access to Lot 2 (No. 8) Warren Road subject to the proponent meeting all costs associated in preparing an easement and deed (to maintain the vehicle access way) to the satisfaction of the Shire's Chief Executive Officer.
- (ii) Approve the Development Application set out in Attachment 11.2.3 for a restaurant at Lot 2 on Plan 222883 (No. 8) Warren Road, Nannup subject to the following conditions:
 1. This approval shall expire if the development hereby approved has not been substantially commenced within a period of two years from the date hereof, or within any extension of that time (requested in writing prior to the approval expiring) that may be granted by the local government. Where the Development Approval has lapsed no further development is to be carried out.
 2. The development hereby approved must be carried out in accordance with the plans and documentation submitted with the application, addressing all conditions, or otherwise amended by the local government and shown on the approved plan and these shall not be altered and/or modified without the prior knowledge and written consent of the local government.
 3. The provision of details prior to occupation as to how stormwater will be addressed for the proposed development (including stormwater from roofs, car parking and other impervious areas) to the satisfaction of the local government. The stormwater facilities provided in accordance with this condition shall be permanently maintained in an operative condition to the satisfaction of the local government. All stormwater and drainage run off is to be connected through a silt

pit to a local government stormwater legal point of discharge prior to occupation to the satisfaction of the local government.

4. The development is to be connected to the reticulated water system prior to occupation.
5. The development is to be connected to the reticulated sewerage system prior to occupation.
6. The provision of a sealed crossover to Brockman Street, with the crossover being designed, constructed, and drained at the proponent's cost to the satisfaction of the local government prior to occupation.
7. All vehicle access ways (including through Reserve 1788), vehicle manoeuvring areas and car parking spaces are designed, constructed (sealed or paved) and drained (at the proponent's cost) to the satisfaction of the local government prior to occupation.
8. The proponent meets the cost of changing existing on-street parking in the Brockman Street reserve to a disabled parking bay.
9. The provision of bike racks to the satisfaction of the local government prior to occupation.
10. Rubbish bin and recycling storage areas are to be located, designed and constructed to the satisfaction of the local government prior to occupation of the development.
11. The building is clad or painted in colours consistent with Local Planning Policy LPP8 – Nannup Mainstreet Heritage Precinct and to the satisfaction of the local government prior to occupation of the development. A schedule of all materials to be used on the external surfaces of the building shall be submitted to the satisfaction of the local government prior to the issue of a Building Permit.
12. The development is constructed in accordance with the assigned construction standard in accordance with *AS3959 Construction of Buildings in Bushfire Prone Areas*. The Asset Protection Zone is permanently maintained around the restaurant in accordance with the BAL assessment.
13. A Bushfire Emergency Evacuation Plan is to be approved by the local government and then implemented prior to occupation. Following this, measures in the approved Bushfire Emergency Evacuation Plan are to be maintained to the satisfaction of the local government. This includes that the Bushfire Emergency Evacuation Plan is to be displayed at all times in the portion of the dwelling to be used by patrons.

14. The area identified as landscaping being suitably planted and maintained to the satisfaction of the local government.
15. No external signage is to be erected without the prior approval of the local government.
16. The use of the site must not adversely affect the amenity of the locality by reason of noise.
17. The proponent is to submit and gain local government approval for a Management Plan, prior to commencement of the restaurant use, which addresses the responsibility for the behaviour of patrons and the management measures to be implemented to minimise adverse impacts on the amenity of the locality. The approved management details shall be implemented on an ongoing basis to the satisfaction of the local government.
18. The proponent is to maintain appropriate public liability insurance and also maintain appropriate insurances at all times relating to damage from flooding.
19. The proponent meets the costs of adding a notification (section 70A or a memorial) to the Certificate of Title setting out that the property is at risk of flooding, to satisfaction of the local government, prior to occupation.
20. The proponent enters a Deed, to the satisfaction of the local government, which is finalised prior to occupation of the development relating to flood risks and which indemnifies the local government. The costs of preparing and executing the Deed are at the proponent's cost.
21. A minimum floor level of 67.5m AHD is provided with this level confirmed by a licensed surveyor to the satisfaction of the local government.
22. The 1 metre high masonry wall and associated flood gates being appropriately designed and certified by a suitable consulting engineer and maintained to withstand flood waters. A suitable consulting engineer to certify the construction has been suitably constructed.

Advice

- A) This is not a Building Permit. A Building Permit must be obtained before any building works commence.
- B) The applicant/landowner is advised that the approved development must comply with all relevant provisions of the *Building Act 2011* and the *Building Code of Australia*.

- C) In relation to Condition 3, stormwater is to be suitably detained on site (e.g. rainwater tanks, soakwells) before connection into a local government stormwater legal point of discharge.
- D) In relation to Condition 17, the Management Plan is to:
- address the responsibility for patron behaviour and management measures to be implemented to minimise adverse impact on the amenity of the locality;
 - outline the approach to maximise the safety and security of patrons; and
 - seek the operation to be a good neighbour and be considerate including noise and litter.
- E) The applicant is advised that the approved development including construction, fit-out and operation, must comply with all relevant provisions of the *Public Health Act 2016*, *Health (Miscellaneous Provisions) Act 1911*, *Food Act 2008*, *Food Regulations 2009*, *Food Standards Code of Australia and New Zealand*, *Health (Public Building) Regulations 1992*, *Environmental Protection (Noise) Regulations 1997*, *Health (Laundries and Bathrooms) Regulations*, *Sewage (Lighting, Ventilation and Construction) Regulations 1971*, *Australian Standard 4674: 2004 – Design, Construction and fit-out of food premises* and the Shire of Nannup Health Local Laws.
- F) The building is classified as a ‘public building’ under the *Health (Public Buildings) Regulations 1992*. An application to *Construct, Extend or Alter a Public Building* will need to be submitted with a Building Application.
- G) If amplified music is proposed for the premise, a Noise Management Plan may be required.
- H) If a licence to sell alcohol is to be sought under the *Liquor Control Act 1988*, a Section 40 Application is required.
- I) The Blackwood River Flood Study shows that the entire lot is affected by flooding during major river flows with the 1 in 100 Annual Exceedance Probability (AEP) flood level estimated to be 68.5 metres AHD. The Department of Water and Environmental Regulation advises that the proposed floor level of the restaurant at 67.5 metres AHD will provide approximately 1 in 40 year AEP flood protection.
- J) In relation to Condition 20, the local government’s decision is made in ‘good faith’ and the local government is hereby forever indemnified against any claim made by any person and relating to any loss whatsoever arising from such a decision.
- K) In relation to Condition 22, DWER advise the masonry wall and flood gates rely on effective on-going maintenance to ensure its integrity (watertight) and appropriate response actions during flood events (correct installation of flood gates).

- L) To reduce flood damages, all electrical installations should be located above 68.5m AHD and suitably installed to increase the resilience to flooding.
- M) The property and the proposed restaurant are located in an area which has been declared as bushfire prone by the Fire and Emergency Services Commissioner.
- N) The applicant is encouraged to adopt all practical measures to minimise waste and to also promote sustainable power generation.
- O) 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.

AGENDA NUMBER:	11.3 – Payment of Accounts – September 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 & Deputy Chief Executive Officer
DISCLOSURE OF INTEREST:	None
PREVIOUS MEETING REFERENCE:	None
DATE OF REPORT	13 September 2023
ATTACHMENT:	11.3.1 – Payment of Accounts – September 2023

BACKGROUND:

To advise Council of payments made for the period 1 September to 30 September 2023.

COMMENT:

Payments of \$366,054.85 as detailed in the payment of accounts listing for the period 1 September to 30 September 2023 as per Attachment 11.3.1, have been approved under delegated authority.

Municipal Account

Accounts paid by EFT	16231 - 16305	\$230,341.75
Accounts paid by cheque	20607 - 20611	\$8,185.97
Accounts paid by Direct Debit	12660.1 – 12746.19	<u>\$127,527.13</u>
<i>Sub Total Municipal Account</i>		<u>\$366,054.85</u>

Trust Account

Accounts paid by EFT	-	\$0.00
<i>Sub Total Trust Account</i>		<u>\$0.00</u>
Total Payments		<u><u>\$366,054.85</u></u>

STATUTORY ENVIRONMENT:

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

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

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

As indicated in Payment of Accounts.

STRATEGIC IMPLICATIONS:

Nil.

VOTING REQUIREMENTS:

Simple majority

OFFICER RECOMMENDATION:

That Council notes the payment of accounts totalling \$366,054.85 for the period 1 September to 30 September 2023 as per Attachment 11.3.1.

AGENDA NUMBER & SUBJECT:	11.4 – Financial Activity Statement –September 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:	19 September 2023
ATTACHMENTS:	11.4.1 – Financial Activity Statement – September 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*, stipulate that a Local Government is to prepare each month a statement of financial activity reporting on the sources and applications of funds.

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

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

As the process of finalising the 2022/23 financial year is still underway at the time of writing this report, figures shown in the attached statements are subject to change until the 2022/23 Annual Financial Statements are completed and audited.

COMMENT:

The Financial Statements for the period ending 30 September 2023 present the financial performance of the Shire for the 2023/24 financial year and compare year to date expenditure and revenue against the corresponding year to date budget.

Attached for consideration is the completed Monthly Financial Report as per Attachment 11.4.1.

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

STATUTORY ENVIRONMENT:

Local Government Act 1995, Section 6.4.

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

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Nil.

VOTING REQUIREMENTS:

Simple Majority.

OFFICER RECOMMENDATION:

That Council, in accordance with Regulation 34 of the *Local Government (Financial Management) Regulations 1996*, receives the Financial Activity Statement for the period ending 30 September 2023 as per Attachment 11.4.1.

AGENDA NUMBER & SUBJECT:	11.5 - Proposed Ordinary Council Meeting Dates for 2024
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	N/A
FILE REFERENCE:	ADM 18
AUTHOR:	Sarah Dean – Governance, Risk & Assurance Officer
REPORTING OFFICER:	David Taylor – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT	9 October 2023
ATTACHMENTS:	Nil

BACKGROUND:

At the Ordinary Council meeting held on 24 November 2022, with respect to meeting times, location and frequency for 2023, Council resolved as follows (Resolution No. 22174);

“That with respect to the Ordinary Meetings of Council to be held in 2023, Council;

- 1. Retain a 4.30pm commencement time for all Ordinary Council meetings in 2023; and*
- 2. Endorse the proposed dates and locations as shown in the Officer Report, with the first meeting commencing on Thursday, 19 January 2023; and*
- 3. Advertise the dates, times and locations in recommendation part 1 and 2 in the Nannup Telegraph, on Council’s website, on Council’s Public Notice Boards and on the Shire’s Facebook page.”*

COMMENT:

Regulation 12 of the *Local Government (Administration) Regulations 1996* requires that the dates, times, and place where the ordinary council meetings are to be held must be published on the local government website by the Chief Executive Officer; before the beginning of the year in which the meetings are to be held.

The proposed meeting schedule for 2024 is based on the Council’s current meeting frequency being on the fourth Thursday of every month.

Council is at liberty to amend the meeting days, times, and frequency for the next 12 months, noting that pursuant to Regulations, Council is required to provide public notice of its meeting schedule for the ensuing twelve months.

Proposed Ordinary Council meeting schedule for 2024:

DATE	LOCATION	TIME
Thursday 25 January	Nannup, Council Chambers	4.30 pm
Thursday 22 February	Nannup, Council Chambers	4.30 pm
Thursday 28 March	Nannup, Council Chambers	4.30 pm
Thursday 18 April	Carlotta Bush Fire Brigade Shed, Vasse Hwy, Carlotta	4.30 pm
Thursday 23 May	Nannup, Council Chambers	4.30 pm
Thursday 27 June	Nannup, Council Chambers	4.30 pm
Thursday 25 July	Nannup, Council Chambers	4.30 pm
Thursday 22 August	Nannup, Council Chambers	4.30 pm
Thursday 26 September	Cundinup Bush Fire Brigade Shed, Cundinup South Rd, Cundinup	4.30 pm
Thursday 24 October	Nannup, Council Chambers	4.30 pm
Thursday 28 November	Nannup, Council Chambers	4.30 pm

*** The April 2024 proposed meeting date is the third Thursday due to the fourth Thursday being Anzac Day.*

STATUTORY ENVIRONMENT:

The following legislation relates to Council meeting dates:

Local Government Act 1995

5.3 Ordinary and special council meetings

- 1) A council is to hold ordinary meetings and may hold special meetings.
- 2) Ordinary meetings are to be held not more than 3 months apart.
- 3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.

5.4 Calling council meetings

An ordinary or a special meeting of a council is to be held –

- a) If called for by either –
 - i. The mayor or president; or
 - ii. At least 1/3 of the councillors,
In a notice to the CEO setting out the date and purpose of the proposed meeting; or
- b) If so decided by the council.

Section 12(1) of the *Local Government (Administration) Regulations 1996* relates to a local government's requirement to give local public notice of the dates, and the time and place at which the ordinary council meetings are to be held in the next twelve months.

Pursuant to Section 5.5 of the *Local Government Act 1995*; Convening council meetings, the Chief Executive Officer is to provide each elected member an Agenda at least seventy two (72) hours prior to the meeting.

POLICY IMPLICATIONS:

ADM 10 – Councillor Fees & Reimbursements

FINANCIAL IMPLICATIONS:

Cost of advertising in Nannup Telegraph.

STRATEGIC IMPLICATIONS:

Shire of Nannup Community Strategic Plan 2017 – 2027 – Our Council Leadership – Strategy 6.1 Lead, Listen, Advocate, Represent and Provide.

VOTING REQUIREMENTS:

Simple majority.

OFFICER RECOMMENDATION:

With respect to the Ordinary Meetings of Council to be held in 2024, Council;

1. Retain a 4.30 pm commencement time for all Ordinary Council meetings in 2024; and
2. Endorse the proposed dates and locations as shown in the Officer Report, with the first meeting commencing on Thursday, 25 January 2024; and
3. Advertise a public notice of the schedule of dates, times, and venues for 2024 for the Ordinary Councils and Committee meetings, in accordance with the *Local Government (Administration) Regulations 1996 (r.12(1))*.

AGENDA NUMBER & SUBJECT:	11.6 – Nannup Adopt a Name
LOCATION/ADDRESS:	Lot 1 Brockman Street and Lot 31 Forrest Street
NAME OF APPLICANT:	Nil
FILE REFERENCE:	RES 1788 / RES 3708
AUTHOR:	Andrea Jenkins – Communications Officer
REPORTING OFFICER:	David Taylor – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	20 October 2023
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENT:	11.6.1 – Nannup Adopt a Name Shortlist

BACKGROUND:

The Adopt a Name Competition is a result of Recommendation 11 from the Shire of Nannup Cultural Plan 2021-2026 :

To undertake community consultation to formally adopt a name for the area between the Old Roads Board Building and Melo Velo as well as the open space behind the Town Hall and to signpost it appropriately.

In June 2023, the Shire of Nannup opened community consultation in the form of a competition for the locations. There were 15 submitters who made name suggestions to the *Nannup Adopt a Name Competition*. Submitters could choose to suggest a name for one reserve or both reserves within their response.

These name suggestions were then sent to Landgate to be assessed. Attachment 11.6.1 has the shortlist of supported names and further comments from Landgate. Landgate have requested council decide the reserve names.

COMMENT:

Shire officers proposes the following names be considered by council for the following reasons:

1. Lot 31 Forrest Street (Open space behind Town Hall)

Proposed name: Village Green

Reason: The Nannup community often refers to this area as the Village Green. In the naming competition, this name was identified more times than any other name. Reasons given by submitters indicate that this name is linked to Nannup's history, events and community gatherings. The name, Village Green, has already, informally, been adopted by many members of the community.

2. Lot 1 Brockman Street (Area next to Old Roads Building)

Proposed name: The Depot

Reason: Historically this space was the depot for the Shire. In the naming competition, more submitters referred to this name, or a variation of it, than any other name

suggested. It is a name that has already been informally adopted by many members of the community.

STATUTORY ENVIRONMENT:

Policies and Standards for Geographical Naming in Western Australia (Landgate)

Land Administration Act 1997 – Sections 26 and 26A

POLICY IMPLICATIONS:

ADM 19 – Community Consultation

FINANCIAL IMPLICATIONS:

Cost of signage for both locations.

STRATEGIC IMPLICATIONS:

Shire of Nannup Community Strategic Plan 2017 – 2027 –

Our Shire

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

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

VOTING REQUIREMENTS:

Simple Majority

OFFICER RECOMMENDATION:

That council endorse the proposed names:

1. *Village Green being the open space behind Town Hall (Lot 31 Forrest Street);*
2. *The Depot being the area next to Old Roads Building (Lot 1 Brockman Street).*

12 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:

13. MEETING MAY BE CLOSED:

AGENDA NUMBER & SUBJECT:	13.1 - CONFIDENTIAL ITEM – Application for Annual Leave and Acting Chief Executive Officer
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	David Taylor – Chief Executive Officer
FILE REFERENCE:	Employee File
AUTHOR:	David Taylor – Chief Executive Officer
REPORTING OFFICER:	David Taylor – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	15 October 2023
ATTACHMENTS:	Nil

14. CLOSURE OF MEETING:

Attachments

Item #	Attach	Title
5.1		28 September 2023 Ordinary Council Meeting Minutes
11.1	1	Register of Delegated Development Approvals
11.2	1	Location map
	2	Aerial photograph
	3	Information from applicant
	4	Pre-lodgement advice from DWER
	5	Submissions
	6	Extract of planning framework
11.3	1	Payment of Accounts – September 2023
11.4	1	Financial Activity Statement – September 2023
11.6	1	Nannup Adopt a Name Shortlist