



Agenda

Council Meeting to be held
on Thursday 23 August 2018
Commencing at 4.30pm

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Agenda

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

(previously approved)

At the July 2018 Council meeting, Council resolved to approve Cr Stevenson's Leave of Absence for this August 2018 Ordinary Council Meeting.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4. PUBLIC QUESTION TIME

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

A representative from Strategic Energy Resources will be making a presentation.

7. DECLARATIONS OF INTEREST

The Shire President will read out any declarations received relating to financial, proximity or impartiality interests and ask for any further declarations to be made.

Members should make any declarations at the start of the meeting but may declare an interest before the resolution of any agenda item.

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

8.1 July Ordinary Council Meeting

That the Minutes of the Ordinary Council Meeting of the Shire of Nannup held in Council Chambers on 26 July 2018 be confirmed as a true and correct record.

9. MINUTES OF COUNCIL COMMITTEES

9.1 Risk Management Advisory Committee

That the Minutes of the Risk Management Advisory Committee meeting held 14 July 2018 be confirmed as a true and correct record.

10. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

11. REPORTS BY MEMBERS ATTENDING COMMITTEES

12. REPORTS OF OFFICERS

Agenda No	Description	Page No.
CEO DEPARTMENT		
12.1	Delegated Planning Decisions for July 2018	4
12.2	Retrospective Development Application for Outbuilding	6
FINANCE & ADMINISTRATION		
12.3	Budget Monitoring – June 2018	12
12.4	Monthly Accounts for Payment - July 2018	14

13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

13.1 OFFICERS

13.2 ELECTED MEMBERS

- 14. MEETING CLOSED TO THE PUBLIC**
(Confidential Items)
 - 14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**
 - 14.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC**
- 15. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 16. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**
- 17. CLOSURE OF MEETING**

CEO DEPARTMENT

AGENDA NUMBER:	12.1
SUBJECT:	Delegated Planning Decisions for July 2018
LOCATION/ADDRESS:	Various
NAME OF APPLICANT:	Various
FILE REFERENCE:	TPL18
AUTHOR:	Jane Buckland – Development Services Officer
REPORTING OFFICER:	David Taylor – Chief Executive Officer
DISCLOSURE OF INTEREST:	Nil
DATE OF REPORT:	13 August 2018
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENT:	12.1.1 – 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 Application for Development Approval that meet the requirements of both Local Planning Scheme No.3 (LPS3) 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 July 2018 is presented in Attachment 12.1.1.

COMMENT:

As shown in the attachment, each application has been advertised in accordance with LPS3 and Council's adopted Local Planning Policy *LPP5 Consultation* as detailed in the Policy Implications section of this report.

During July 2018, two (2) 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 July 2018 compared to July 2017:

**Shire of Nannup
Ordinary Council Meeting Agenda: 23 August 2018**

	July 2017	July 2018
Delegated Decisions	1 (\$30,000)	2 (\$239,880)
Council Decisions	2 (\$495,000)	1 (\$195,000)
Total	3 (\$525,000)	3 (\$434,880)

STATUTORY ENVIRONMENT:

Planning and Development Act 2005, Local Government Act 1995 and LPS3.

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 LPS3 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.

RECOMMENDATION:

That Council receives the report on Delegated Development Approvals for July 2018 as per Attachment 12.1.1.

VOTING REQUIREMENTS:

Simple Majority

Shire of Nannup
Ordinary Council Meeting Agenda: 23 August 2018

AGENDA NUMBER:	12.2
SUBJECT:	Retrospective Development Application for Outbuilding
LOCATION/ADDRESS:	Lot 108 on Plan 40595 (No. 141) Dean Road, Nannup
NAME OF APPLICANT:	Mick O'Callaghan
FILE REFERENCE:	A1493
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 <i>Local Government Act 1995</i>)
DATE OF REPORT:	14 August 2018
PREVIOUS MEETING REFERENCE:	Nil
ATTACHMENTS:	12.2.1 - Location map 12.2.2 - Information from applicant 12.2.3 - Overlay of existing structure and floodplain 12.2.4 - Advice from Department of Water and Environmental Regulation 12.2.5 - Extract from <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>

BACKGROUND:

The applicant seeks retrospective development approval for an outbuilding. The key reason the Development Application is being considered by Council is that most of the existing structure (proposed outbuilding) is located within the Blackwood River Floodplain.

Relevant matters relating to the site and application include:

- the site, shown in Attachment 12.2.1, is 8.01 hectares in area;
- the site is zoned “Special Rural” in the *Shire of Nannup Local Planning Scheme No. 3 (LPS3)* with the eastern half of the site within the Flood Risk Land Special Control Area. The western half is outside of the floodplain;

- the landowner commenced constructing the structure/building without necessary approvals. The Shire administration acted promptly on being alerted to the unauthorised construction which, in part, has led to this Development Application;
- originally the landowner intended for the building to be a dwelling, however the applicant now seeks retrospective approval for the structure to be approved as an outbuilding;
- details submitted by the applicant are provided in Attachment 12.2.2. The outbuilding has an area of 163.52m²;
- the proposed outbuilding is located outside of the bush fire prone area as set out at <https://maps.slip.wa.gov.au/landgate/bushfireprone/>;
- the Shire administration has sought written advice from the applicant as to why he decided to go ahead and build without a permit and build in the floodplain. At this stage, this has not been provided;
- the existing structure/proposed outbuilding is largely located in the floodplain as outlined in Attachment 12.2.3. The proposed outbuilding is located in the 1 in 100 year Annual Exceedance Probability (AEP) floodplain. An Average Recurrence Interval (ARI) and AEP flood event refer to the same risk, however the Department of Water and Environmental Regulation (DWER) now use the term of AEP which refers to the probability of a flood event occurring in any year; and
- the applicant has also installed a septic system and leach drain without gaining Shire approval. The location of the septic system and leach drains needs to be confirmed by a plumber, however it is expected they are located in the floodplain.

The Shire administration sought advice on the Development Application from DWER, with the advice set out in Attachment 12.2.4. In summary, DWER raise no objections to the Development Application from a flood risk, safety and damage perspective. DWER in part advise:

“The proposal will not obstruct flows and detrimentally affect the flooding regime.

A lower level of flood protection (than 1 in 100 AEP) may be considered given the non-habitable nature of the proposal. However, all electrical installations should be located above the 1 in 100 AEP flood level (or as high as practicable) to increase the resilience of the building to future flood events.

Based on the above discussion, the proposed shed is considered acceptable with regard to major flooding and will not set any precedence's at odds with the departments flood management advice."

Attachment 12.2.5 is an extract from the *Planning and Development (Local Planning Schemes) Regulations 2015* which sets out matters to be considered by local government in assessing a Development Application.

The landowner has advised the Shire that he intends to shortly submit a Building Permit for a new dwelling on the property. Importantly, the landowner advises the dwelling will be located outside of the floodplain and he will gain all necessary Shire approvals prior to work commencing.

COMMENT:

It is disappointing that the applicant undertook extensive unauthorised construction without gaining relevant Shire approvals. It is also unfortunate that the proposed outbuilding is located within the floodplain, given there is a substantial portion of the property outside the floodplain.

Following an assessment of the Development Application against the planning framework, DWER advice and available information, it is recommended that the application should be conditionally approved given:

- DWER raise no objection in terms of flood risks;
- the outbuilding is located in the 1 in 100 AEP floodplain and not in the higher risk 1 in 25 AEP floodplain. Related to this, most other flood strategies in Western Australia use the terminology of "floodway" and "flood fringe". In summary, the flood strategies seek to avoid buildings in the floodway, however buildings may be acceptable in the flood fringe if they meet required minimum floor levels and are appropriately designed and constructed;
- the proposed outbuilding is not a habitable building;
- the application is consistent with *Local Planning Policy LPP22 Outbuildings*;
- development conditions can assist to minimise risk and ensure that future owners are aware of flood risks (including a notification added to the Certificate of Title); and
- other sections of the Shire administration raise no objection to the Development Application. Other sections suggest the Shire shouldn't ask for the existing structure to be removed given the applicant has complied with the Shire's request to gain a building permit and the structure is fairly substantial.

It is highlighted that if the existing structure was located in the 1 in 25 AEP floodplain or the applicant was seeking retrospective approval for a dwelling, the Shire administration would have recommended that the application be refused.

The Council is legally able to authorise unauthorised existing development under the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

While noting the above, the Council may determine to adopt a precautionary approach regarding this Development Application. Options include deferring the Development Application and seeking additional information and justification from the applicant or refusing the Development Application. Should Council refuse the Development Application, this could be linked to foreshadowing that the Council will require the existing structure to be dismantled from its current location in the floodplain.

Should Councillors consider that the Development Application should be refused, it would be appreciated if Councillors contacted the Shire administration in advance of the Council meeting so that suggested reasons for refusal can be drafted for Council consideration.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005, Planning and Development (Local Planning Schemes) Regulations and LPS3.

POLICY IMPLICATIONS:

Local Planning Policy LPP11 Development in Flood Prone Areas and Local Planning Policy LPP22 Outbuildings. 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 Local Planning Policies in determining Development Applications.

The key State Planning Policy relevant to this Development Application is *State Planning Policy 3.4 Natural Hazards and Disasters*.

FINANCIAL IMPLICATIONS:

None at this stage.

STRATEGIC IMPLICATIONS:

The application raises risk, liability, consistency and precedent considerations.

RECOMMENDATION:

That Council approve the retrospective Development Application for an outbuilding on Lot 108 on Plan 40595 (No. 141) Dean Road, Nannup subject to the following conditions:

1. This approval shall expire if the conditions, relating to the development hereby approved, have not been appropriately met to the satisfaction of the local government within two years. 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 submitted plans (addressing all conditions) or otherwise amended by the local government and these shall not be altered and/or modified without the prior knowledge and written consent of the local government.
3. The outbuilding is used for storage and is not used for commercial, industrial or habitable purposes.
4. The applicant arranges a notification, pursuant to Section 165 of the *Planning and Development Act 2005*, to be placed on the Certificate of Title stating "This land is partly within a flood risk area." The notification is to be finalised prior to use/occupation of the outbuilding to the satisfaction of the local government. The applicant is responsible for meeting the costs of preparing and executing the notification.
5. The septic tank and leach drains are located or relocated outside of the 1 in 100 Annual Exceedance Probability floodplain as set out in the *Blackwood River Flood Study*. This is to be confirmed, prior to the issue of a Building Approval Certificate, to the satisfaction of the local government. If required, associated relocation works are to be finalised prior to use/occupation of the outbuilding to the satisfaction of the local government.
6. All electrical installations are to be located above a height of 67.78m AHD to the satisfaction of the local government. This is to be confirmed by a licensed electrician and licensed surveyor prior to the issue of a Building Approval Certificate. Should any modifications to the electrical installations be required, they are to be finalised prior to use/occupation of the outbuilding to the satisfaction of the local government.

Advice

- A) The applicant is advised that this development approval is not a Certificate of Building Approval or a Building Permit. A Building Approval Certificate must be formally applied for and obtained to approve the existing construction. A Building Permit must be formally applied for and obtained before undertaking any additional site and/or development works.
- B) The applicant is advised that the approved development must comply with all relevant provisions of the *National Construction Code (Building Code of Australia)*.
- C) The *Blackwood River Flood Study* shows that a portion of the lot is affected by flooding during major river flows with the 1 in 100 Annual Exceedance Probability flood level estimated to be 67.07 metres AHD. In accordance with Clause 6.2.1.6 of the *Shire of Nannup Local Planning Scheme No.3* relating to flood risk land, the scheme states "Any decision made by the Shire in pursuance of this clause is deemed to be a decision made in 'good faith' and the Shire is hereby forever indemnified against any claim made by any person and relating to any loss whatsoever arising from such a decision."
- D) In relation to Condition 5, the Shire cannot issue a retrospective approval for the existing wastewater system if it is to remain in its current location.
- E) In relation to Condition 5, if the septic tanks and/or leach drains are to be relocated, an "Application to Construct or Install an Apparatus for the Treatment of Sewage" is to be submitted to the Shire prior to any works being undertaken and a licenced plumber is to be engaged to undertake the works.
- F) The property is near the Nannup Timber Mill where the property may at times be impacted by the mill's operations.
- G) Part 14 of the *Planning and Development Act 2005* provides the right to apply to the State Administrative Tribunal for review of some planning decisions and the proponent may wish to take professional advice to determine whether or not such a right exists in the present instance. The *State Administrative Tribunal Rules 2004* require that any such applications for review be lodged with the Tribunal within 28 days of the date on which notice of the decision is given.

VOTING REQUIREMENTS:

Simple Majority

FINANCE & ADMINISTRATION

AGENDA NUMBER:	12.3
SUBJECT:	Budget Monitoring – June 2018
LOCATION/ADDRESS:	Nannup Shire
NAME OF APPLICANT:	N/A
FILE REFERENCE:	FNC 15
AUTHOR:	Robin Lorkiewicz – Corporate Services Officer
REPORTING OFFICER:	Tracie Bishop – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
DATE OF REPORT:	16 August 2018
ATTACHMENT:	12.3.1 - Financial Statements for the period ending 30 June 2018

BACKGROUND:

Local Government (Financial Management) Regulation 34(1) requires that Council report monthly on the financial activity from all the various operating and capital divisions. Council has adopted a variance threshold of 10% or \$30,000, whichever is the greater on which to report. The statutory statements are appended at Attachment 12.3.1.

Whilst this has resulted in all variances of 10% being identified and reported, it only focuses attention on the performance to the month in question and not the likely outturn at the end of the year.

Monthly reporting draws on the flexibility allowed in the Financial Management Regulations to draw attention to likely under and overspends at the end of the year.

COMMENT:

Please refer to the attachment, Financial Statements for period(s) ending 30 June 2018 for a detailed analysis of our end of year position, Note 2. This set of Financial Statements are not an indication of Council's 2017/18 End of Year Position. The Annual Report may vary from figures presented in attachment 12.3.1.

STATUTORY ENVIRONMENT:

Local Government (Financial Management) Regulation 34(1)(a).

POLICY IMPLICATIONS:

Nil.

FINANCIAL IMPLICATIONS:

The attached financial statements detail financial outcomes for 2017/18.

STRATEGIC IMPLICATIONS:

Nil.

RECOMMENDATION:

Monthly Financial Statements for the period ending 30 June 2018 be received.

VOTING REQUIREMENTS:

Simple Majority.

**Shire of Nannup
Ordinary Council Meeting Agenda: 23 August 2018**

AGENDA NUMBER:	12.4
SUBJECT:	Monthly Accounts for Payment - July 2018
LOCATION/ADDRESS:	Nannup Shire
NAME OF APPLICANT:	N/A
FILE REFERENCE:	FNC 8
AUTHOR:	Robin Lorkiewicz –Corporate Services Officer
REPORTING OFFICER:	Tracie Bishop – Manager Corporate Services
DISCLOSURE OF INTEREST:	None
PREVIOUS MEETING REFERENCE:	None
DATE OF REPORT	14 August 2018
ATTACHMENT:	12.4.1 – Accounts for Payment – July 2018

BACKGROUND:

The Accounts for Payment for the Nannup Shire Municipal Account fund and Trust Account fund from 1 July 2018 to 31 July 2018 as detailed hereunder and noted on the attached schedule, are submitted to Council.

COMMENT:

If Councillors have questions about individual payments prior notice of these questions will enable officers to provide properly researched responses at the Council meeting.

There is currently one corporate credit card in use. A breakdown of this expenditure in the monthly financial report is required to comply with financial regulations. This breakdown is included within the attachments.

Municipal Account

Accounts paid by EFT	10771 – 10827	199,033.25
Accounts paid by cheque	20299 – 20308	287,609.72
Accounts paid by Direct Debit	DD10209.1	– 35,205.05
	DD10225.10	
<i>Sub Total Municipal Account</i>		\$521,848.02

Trust Account

Accounts paid by EFT	10816 – 10817	1,392.70
Accounts Paid by cheque		0.00
<i>Sub Total Trust Account</i>		\$1,392.70
Total Payments		\$523,240.72

STATUTORY ENVIRONMENT:

LG (Financial Management) Regulation 13

POLICY IMPLICATIONS:

None.

FINANCIAL IMPLICATIONS:

As indicated in Schedule of Accounts for Payment.

STRATEGIC IMPLICATIONS:

None.

RECOMMENDATION:

That the List of Accounts for Payment for the Nannup Shire Municipal Account fund totalling \$523,240.72 1 July 2018 to 31 July 2018 in the attached schedule be endorsed.

VOTING REQUIREMENTS:

Simple Majority

**13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY
DECISION OF MEETING**

13.1 OFFICERS

13.2 ELECTED MEMBERS

14. MEETING CLOSED TO THE PUBLIC
(Confidential Items)

14.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

**14.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE
PUBLIC**

**15. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS
BEEN GIVEN**

16. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

17. CLOSURE OF MEETING



Agenda Attachments

Item	Attach	Title
8.1		July 2018 Shire of Nannup Ordinary Council Meeting Minutes
9.1		Risk Management Advisory Committee Minutes 14 July 2018
12.1	1	Register of Delegated Development Approvals
12.2	1	Location map
	2	Information from applicant
	3	Overlay of existing structure and floodplain
	4	Advice from Department of Water and Environmental Regulation
	5	Extract from <i>Planning and Development (Local Planning Schemes, Regulations 2015)</i>
12.3	1	Financial Statements for the period ending 30 June 2018
12.4	1	Monthly Accounts for Payment - July 2018