



Ordinary Council Meeting

26 July 2023

Commencing at 1.00 pm

AGENDA

Notice of Meeting.

To: The President and Councillors.

The next Ordinary Council Meeting of the Shire of Toodyay will be held at the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay WA 6566 on the above-mentioned date and time.

Elected Members are requested to familiarise themselves with the Agenda and prepare notes to help address key issues for the debate during the Ordinary Council Meeting.

Elected Members are requested to email questions to the CEO via email at ceo@toodyay.wa.gov.au at the earliest opportunity so that Officers can respond to those questions prior to the Agenda Briefing.

An Agenda Briefing will be held at the same venue as above on 19 July 2023, commencing at 1.00pm to discuss the contents of this agenda.

Suzie Haslehurst

CHIEF EXECUTIVE OFFICER



Our Vision, Purpose and Values

The Shire of Toodyay works together with the community to obtain the best possible social, economic, and environmental outcomes for the people of Toodyay.

Vision: We are a vibrant rural community that respects our environment, celebrates our past and embraces a sustainable future.

Purpose: Local Government and community working together to obtain the best possible social, economic, and environmental outcomes for the people of Toodyay.

Community Values: We value highly:

- Our sense of community support and spirit;
- Our natural environment and healthy ecosystems;
- Our rural lifestyle;
- Our historic town; and
- Our local economy built on agriculture and emerging tourism, arts and cultural opportunities.

Shire Values: To progress the community's aspirations, the Shire is guided by:

Integrity: We behave honestly to the highest ethical standard.

Accountability: We are transparent in our actions and accountable to the community.

Inclusiveness: We are responsive to the community and we encourage involvement by all people.

Commitment: We translate our plans into actions and demonstrate the persistence that produces results.

Disclaimer

Members of the public should note that in any discussion regarding any planning or other application that any statement or intimation of approval made by any member or officer of the Shire of Toodyay during the course of any meeting is not intended to be and is not to be taken as notice of approval from Council. No action should be taken on any item discussed at a Council Meeting prior to written advice on the resolution of the Council being received. Any plans or documents contained in this document may be subject to copyright law provisions (*Copyright Act 1998*, as amended) and the express permission of the copyright owner(s) should be sought prior to reproduction.

Availability of Meeting Agenda and its Attachments

Information about Council Meetings is located on the website

<http://www.toodyay.wa.gov.au/Council/Council-Meetings>

Agendas & Minutes are located under the heading "Council Meetings" at

<http://www.toodyay.wa.gov.au/Council/Council-Meetings/Agendas-Minutes-and-Notes>

Public copies are available by contacting the Shire on (08) 9574 9300.



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ATTACHMENTS can be found in the Attachments Paper on the Council website alongside this agenda.

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member is to run through the Preliminaries on the previous page of the Agenda, and to declare the Ordinary Meeting of Council open.

Acknowledgement of Country: *“I acknowledge the Ballardong Noongar people, the traditional custodians of the land where we meet today and the Yued and Whadjuk people, who are traditional custodians of respective lands within the wider Shire of Toodyay. I pay my respect to their Elders, past, present and emerging.”*

2 RECORDS OF ATTENDANCE**2.1 APOLOGIES****2.2 APPROVED LEAVE OF ABSENCE**

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

3 DISCLOSURE OF INTERESTS

4 PUBLIC QUESTIONS

4.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Ordinary Meeting of Council held on 28 June 2023, the following questions were taken on notice:

4.1.1 Responses to Questions taken on notice

Questions taken notice at the Ordinary Council Meeting held on 28 June 2023 are below, with relevant responses.

Question 6

Will Council look at an education program and signage about where dogs can be walked?

Response

Yes, the Shire is always looking at ways to improve education and service to the community. The Rangers conduct a number of community education BBQs throughout the year and tend to focus on a particular theme. We will look into doing one focussing on dog attacks and also the possibility of signage.

Question 7

Last month I asked about the costings on Bindi-Bindi Toodyay Road and the answer given by the CEO was that it was on budget.

On page 141 of the attachments to the Agenda for the Ordinary Council Meeting held in May 2023, the Telegraph Road / Bindi-Bindi Road Budget was \$1,016,856 and then it says in the actuals it was \$1,135,190.

That is a difference of \$118,334. It appears to have gone over budget. Why?

- (a) Where did the other \$118,334 come from?
- (b) What other projects may have been discontinued because of this allocation of funds?

Response

This project is a fully funded Federal Blackspot project. The original budget was \$1,053,000. Due to rising costs of materials and additional project requirements etc, the Shire applied for and was granted additional funding of \$547,558. Total funding for the project is \$1,600,558. This project is complete however we are waiting on 2 outstanding invoices – one for gravel and the other for a design audit which is required as part of the funding. This project however has been completed within the approved funding amount and there is no cost from Shire funds.

As the project was fully funded, no other projects were affected.

Question 8

On page 129 of the attachments to the Agenda for the Ordinary Council Meeting held in May 2023, the List of Payments refers to a payment for Perth Arbor Services. They were paid \$33,000 for vegetation clearing for the Chitty Road upgrade, then an additional vertical clearing on Chitty Road of \$4,400. However, on page 141 for the Chitty Road upgrade and

it says Waiting on clearing permit. Carry over to 2023/2024. What is the explanation for that?

Response

The Shire of Toodyay had anticipated deferring this project to the 2023/24 financial year as there were questions whether we would receive an approved clearing permit for the works to be able to commence in the 2022/23 financial year. The clearing permit for Chitty Road was granted in late March 2023. It was determined that works would commence in 2022/23 and be completed in 2023/24.

This project is fully funded under the Roads to Recovery program.

Question 9

Is the breaking down of branches by a loader considered to be clearing on Bindoon Dewars Pool Road?

Response

Provided to Mr Foley

The construction team have done shoulder works recently on sections of Bindoon Dewars Pool Road near Hakea Road. It was pruned via a pole saw and then loaded into trucks with a front-end loader. The loader was not used to break branches off trees as far as we are aware.

4.2 PUBLIC QUESTION TIME**5 CONFIRMATION OF MINUTES****5.1 Ordinary Meeting of Council held on 28 June 2023****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 28 June 2023 be confirmed.

5.2 Agenda Briefing held on 19 July 2023**OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 19 July 2023 be received.

6 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**6.1 PETITIONS**

A petition is to be addressed to the Shire President and is to be presented by a Councillor.

6.2 DEPUTATIONS

A deputation must be applied for, to the CEO in writing at least 5 working days prior to the Meeting.

6.3 PRESENTATIONS

A presentation can only be made with prior approval of the CEO.

6.4 SUBMISSIONS

A submission can be made ad hoc, but it is preferred that notice be given by midday on the day of the Meeting.

7 BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

8 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

The Shire President may make an announcement, in accordance with the *Shire of Toodyay Standing Orders Local Law 2008* (Section 4.3).

9 OFFICER REPORTS

9.1 DEVELOPMENT AND REGULATION

9.1.1 Draft Local Planning Policy - Central Toodyay Heritage Area

Date of Report:	2 May 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PLA1
Author:	M Eberle – Museum Curator and Cultural Heritage Officer
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	13 May 2010
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. CURRENT LPP.20 - Central Toodyay Heritage Area Policy; and ↗ 2. DRAFT Revised Central Toodyay Heritage Area Policy. ↗

PURPOSE OF THE REPORT

To consider the revised *Local Planning Policy – Central Toodyay Heritage Area* with a view to adoption for formal advertising.

BACKGROUND

The DRAFT Revised Local Planning Policy (LPP) was developed as part of the current review of the Shire’s policy framework. The existing *LPP.20 - Central Toodyay Heritage Area* and was last reviewed by the Council on 19 June 2012 (**Attachment 1**).

This Policy was originally adopted by Council on 14 December 2006, amended by Council on 17 April 2008 and reviewed by Council 13 May 2010.

COMMENTS AND DETAILS

The Shire has researched a range of local policies from several local government authorities to determine good policy examples. This draft policy has been developed using the best elements of these.

This iteration is a preliminary review focussing on updating the current Local Planning Policy to reflect the new styling and also refreshing it with new imagery and mapping. Future iterations will aim to incorporate a Shire-wide focus on heritage planning.

This LPP will now be known as *Central Toodyay Heritage Area* (**Attachment 2**).

Key Changes

- Update to new Local Planning Policy document style and format.
- Update to reflect Schedule 2 of the *Planning and Development (Local Planning Schemes Regulations 2015)*.
- Minor spelling, grammatical and formatting changes.
- Update of definitions.
- Change of policy name.
- New photographs have been taken for inclusion in the final document.
- Updated maps have been created for inclusion in the final document.
- Table in Appendix 3 showing significance of places has been updated.
- A section pertaining to Aboriginal Heritage has been added.
- Appendix 4 has additional text about vistas and trees.

IMPLICATIONS TO CONSIDER

Consultative:

A small working group (comprising one Shire Councillor, two Shire officers, the Shire's Heritage Advisor and two Toodyay community members) was formed in mid-March 2023 to review LPP20. The Terms of Reference developed for this working group included a timeframe for completion by end of April 2023, so that a draft for workshopping by Council could be produced in early May.

Due to the size of the Policy and the limited time available for this review a decision was made to make minimal changes to the 2012 Policy at this time and undertake a more comprehensive review with the input of the working group over the next twelve months.

Local Planning Policies Clause 4(1)-(3) of Schedule 2, Part 2, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines the statutory requirement and process for the advertising of Local Planning Policies.

If the local government resolves to create or amend a local planning policy, in accordance with the Regulations, the local government must, unless the WAPC otherwise agrees, advertise the proposed policy. Advertising of Local Planning Policies must be for a period of not less than twenty-one (21) days.

The policy was made available to Councillors via the Teams environment before being discussed at a Council workshop held on 10 May 2023, at which there were five elected members present.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 5. High Quality town planning complements our rural ambience and heritage.

O5.3: Preserve and showcase local history and heritage.

The adoption of the revised policy will demonstrate the Shire of Toodyay's continued commitment to this objective.

Policy related:*Local Planning Policy No. 20 – Central Toodyay Heritage Area*

This policy was last reviewed in 2012. At a very basic level, the current policy is inconsistent with the planning framework – for example, it does not reference the *Planning and Development (Local Planning Schemes) Regulations 2015* – (the deemed provisions) and therefore the revised policy addresses these factors.

Financial:

It is a requirement that Local Planning Policies undergo a formal advertising process which includes publication in a locally circulating newspaper. This cost to the Shire is approximately \$250 for one advertisement and is provided for within the budget.

Legal and Statutory:*Planning and Development Act 2005*

Part 5 – Local Planning Schemes

*Planning and Development (Local Planning Schemes) Regulations 2015*Local Planning Policies

Division 2 of Schedule 2 ('the deemed provisions') provides the statutory basis for local planning policies and outlines the procedure for making, amending, and revoking local planning policies.

Local planning policies are guidelines used to assist the local government in making decisions under the local planning scheme. Although local planning policies are not part of the local planning scheme, they must be consistent with, and cannot vary, the intent of the scheme provisions, including the R-Codes, unless otherwise permitted by the R-Codes and/or approved by the WAPC.

A local planning policy is not part of the local planning scheme and does not bind the local government in respect of any application for development approval, however, the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

Risk related:Reputational

The review of the policy framework is the role of Council and is essential to good governance as it demonstrates the Shire's ability to adapt to changing circumstances to ensure that its policies remain contemporary and relevant.

If the Shire ignores this requirement and does not engage in routine review of this framework it risks reputational damage which is considered a medium risk. (9)

Workforce related:

Reviews of this nature place additional, yet necessary additional demands on workforce time and resources. However, a benefit of successful and regular reviews of policies will ensure the Shire is operating as efficiently as possible by aligning these documents with the prevailing community expectations and state government frameworks of the day. This ultimately will reduce the burden on the workforce moving forward.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Adopts the draft *Local Planning Policy – Central Toodyay Heritage Area* as per Attachment 2 for the purpose of public advertising in accordance with the procedures set out in clause 4 of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to the policy prior to publication.
3. Requests that the revised *Local Planning Policy – Central Toodyay Heritage Area* is brought back to the September 2023 Ordinary Council Meeting for final review.

9.1.2 Request to close a portion of the Folewood Road road reserve permanently.

Date of Report:	26 June 2023
File Reference:	P2023-45
Author:	H de Vos – Manager Development and Regulation
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	Item 9.1.1 – 27 July 2021
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> 1. P2023-45 Application to close a portion of Folewood Road permanently; ⇒ 2. Minutes 9.1.1 Request to close portion of Folewood road reserve in Toodyay 27.7.21; and ⇒ 3. P2023-45 Schedule of Submissions. ⇒

SUMMARY

Applicant:	J & C Gibbons
Owner:	J & C Gibbons
Proposal:	Permanent closure of portion of the Folewood Rd road reserve.
Location:	Folewood Road, Toodyay

PURPOSE OF THE REPORT

To consider the permanent closure of a portion of Folewood Road reserve. The request has been submitted by J & C Gibbons (See **Attachment 1**).

BACKGROUND

This proposal has a complex history with the applicants putting forward a similar proposal to close a larger portion of the road reserve in 2021. The matter went before Council at the Ordinary Council Meeting on 27 July 2021 at which the Council resolved to support the proposal to close the portion permanently as requested (See **Attachment 2**).

Unfortunately, when the next stage of the process was undertaken, it was discovered that there had been an administrative oversight and that the adjoining landowners had not been notified.

The adjoining landowners were notified and sought to lodge a counter application rather than support the application before the Shire.

Regrettably, the relationship between the two landowners deteriorated as no agreement could be reached. The Shire and the Department of Planning, Lands and Heritage (DPLH) were assisting the two parties, however despite significant attempts, no resolution could be

reached. Eventually, the both the Shire and the DPLH agreed that no further consideration would be given without an agreement between the landowners.

2023 Application

Towards the end of May 2023, the Shire of Toodyay was once again approached by Mr and Mrs Gibbons requesting that they be permitted to submit a revised application. This application involved the closure of a smaller portion of the Folewood Road reserve.

Officers consulted with DPLH (who had also been approached by the applicants) to discuss the feasibility of accepting a new application. It was agreed that it was appropriate to do so to put the matter finally to rest.

COMMENTS AND DETAILS

It is unfortunate that the relationship between the two landowners has become so strained. As a result, it is very unlikely that there will ever be agreement on this issue. The Shire has been caught between the two parties with significant Officer time and resources required to deal with repeated claims and counter claims from both sides.

Putting aside the obvious relationship difficulties, and viewing the proposal through a planning lens, Officers remain of the opinion that it is still a supportable proposal.

The reasons for this are as follows:

1. **The current access has operated informally for decades.**

The current and previous owners of Lot 39 have used the driveway access in an informal way but without dispute or complaint from the owners of Lot 40 for decades.

2. **There is no increased impact on the frontage of Lot 40.**

In one of the submissions received objecting to the proposal, there is a claim that the proposal 'impacts on approximately 45 metres across our total frontage of 112m'. It is unclear what impact (if any) is being claimed as a result of this proposal given that the outcome is to legitimise a vehicle access which is currently operating informally and has been doing so for a long time.

Additionally, the *State Planning Policy 7.3 Residential Design Codes – Volume 1* at Table 1 specifies that the minimum frontage for an R2.5 density property is 40 metres. The proposal will not impact Lot 40's ability to comply with this figure.

3. **Legalise the gate**

The current gate is technically not permitted as it is in a public road reserve. Whilst there is an entry point on the Gibbons' property onto the actual road reserve further up, it would seem impractical and unreasonable to remove the gate back to the other location when it has been in situ for many years without complaint. It is logical to support this process and to allow the land to be resumed into Lot 39 to allow this gate to be compliant.

4. **No risk to traffic**

This proposal represents no increased risk to traffic.

IMPLICATIONS TO CONSIDER

Consultative:

Section 58(3) of the *Land Administration Act 1997* provides that local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from

the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.

The Shire of Toodyay received a total of six submissions consisting of two from servicing authorities and four from landowners. The servicing authorities and two of the landowners indicated no objection to the proposed road closure whilst two of the submitters objected to the proposal. The details of the submissions can be viewed in Attachment 3 – Schedule of Submissions. Please note that the private submissions have been redacted to remove identifying details as well as information not considered to be relevant to the proposal.

Additionally, the proposal was discussed at the Council Workshop held on 5 July 2023 with eight elected members in attendance.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 5. High quality town planning complements our rural ambience and heritage.

O5.1: Provide responsible planning and development

Policy related:

Community Consultation and Engagement

This application was advertised in accordance with this policy. The policy provides that in the instance of permanent road closures, the consultation procedure is as outlined in existing legislation. In this instance s.58 of the *Land Administration Act 1997* and r. 9 of the *Land Administration Regulations 1998*.

Risk Management Policy

This proposal was assessed against the adopted risk management policy. Further details of risk related matters will be discussed later in this report.

Financial:

The applicant has paid the required fee for the application and for the cost of advertising as outlined in the Shire of Toodyay's adopted Schedule of Fees and Charges.

There has been a significant cost to the Shire in terms of Officer time relating to the management and administration of this protracted issue.

Legal and Statutory:

Where a road dedicated for public use is proposed to be closed, it may be closed at the request of Local Government under section 58 of the *Land Administration Act 1997*. The Local Government must allow 35 days after the publication in a newspaper for objections and must consider any objection before requesting closure.

Regulation 9 of the *Land Administration Regulations 1998* specifies the procedural requirements of the Local Government prior to submitting a request to the Minister for Lands.

1. The Local Government must advertise the proposed road closure to adjoining landowners and servicing authorities in accordance with Section 58 of the *Land Administration Act 1997* (LAA) and Regulation 9 of the *Land Administration Regulations 1998*.

2. The Local Government then considers submissions received during the advertising period and must resolve to close the road and request the Department of Planning, Lands and Heritage to proceed with the road closure.
3. The Minister is then to choose whether to grant a request and if granted the land can be purchased by private parties or can become Unallocated Crown Land.

Once the above steps have taken place, the local government may then make a final resolution to close the road. If the local government resolves to close the road, it may write to the Minister and request the Minister to close the road under section 58 of the LAA by sending Department of Lands a letter and completing the Department of Lands' checklist to close a road.

Risk related:

The only area of risk that has relevance is reputational. However, the likelihood of this proposal generating reputational risk is unlikely. Therefore, this produces a risk score of two (2) which is at the low level in accordance with the policy.

Workforce related:

As has been highlighted in this report, there has already been a significant impact on Officer time related to this issue. This has resulted in staff resources being spread thinly and other projects have suffered because of the time required not only for this application but for the 2021 application and the arbitration in between.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Notes and considers the submissions received in relation to the application for permanent road closure for a portion of the Folewood Road road reserve (P2023-45).
2. Pursuant to Section 58(1) of the *Land Administration Act 1997*, requests the Chief Executive Officer to seek the approval of the Minister for Lands for permanent closure of the portion of Folewood Road as depicted in Attachment 1.

9.1.3 Local Planning Policies Review

Date of Report:	12 July 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG7/PCY2
Author:	T Prater – Planning and Compliance Officer
Responsible Officer:	H de Vos – Manager Development and Regulation
Previously Before Council:	24 May 2023
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Development in Extracts Industrial Area; ➡ 2. Road Naming; and ➡ 3. Car Parking. ➡

PURPOSE OF THE REPORT

To consider the final adoption of the following DRAFT Shire of Toodyay Local Planning Policies:

- (a) Development in Extracts Industrial Area;
- (b) Road Naming; and
- (c) Car Parking.

BACKGROUND

Council resolved to implement a review of all Shire policies in February 2022.

At the Ordinary Council Meeting (OCM) held on 24 May 2023, Council adopted the abovenamed Local Planning Policies for the purpose of public advertising in accordance with the procedures set out in clause 4 of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Council requested these policies to be brought back to the July 2023 OCM for final review.

COMMENTS AND DETAILS

After the expiry of the period within which submissions may be made, the local government must —

- (a) review the proposed policy in the light of any submissions made; and
- (b) resolve to —
 - (i) proceed with the policy without modification; or
 - (ii) proceed with the policy with modification; or
 - (iii) not to proceed with the policy.

All of the LPP's underwent the required 21-day advertising, with no submissions received. The final draft policies are provided at **Attachments 1, 2, and 3** for Council's consideration. It is recommended that the Council adopts these policies *en bloc* without modifications.

IMPLICATIONS TO CONSIDER

Consultative:

Local Planning Policies Clause 4(1)-(3) of Schedule 2, Part 2, Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines the statutory requirement and process for the advertising of Local Planning Policies.

If the local government resolves to create or amend a local planning policy, in accordance with the Regulations, the local government must, unless the WAPC otherwise agrees, advertise the proposed policy. Advertising of Local Planning Policies must be for a period of not less than twenty-one (21) days.

The policies were discussed at the Council Workshop held on 26 April 2023 and made available on the Teams environment for input by elected members.

The advertising of the draft Local Planning Policies ended on 23 June 2023 with no submissions received.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 5. High Quality town planning complements our rural ambience and heritage.

O5.1: Provide responsible planning and development

The adoption of the revised policy will demonstrate the Shire of Toodyay's continued commitment to this objective.

Policy related:

These policies were last reviewed over ten years ago and are inconsistent with the current planning framework. All policies have been updated to meet the Corporate Documents Policy requirements and new definitions and diagrams/illustrations have been added where applicable.

Financial:

There are no immediate financial implications as these policies have been advertised and only need to be put onto the Shire's website.

Legal and Statutory:

Planning and Development Act 2005

Part 5 – Local Planning Schemes

Planning and Development (Local Planning Schemes) Regulations 2015

Local Planning Policies

Division 2 of Schedule 2 ('the deemed provisions') provides the statutory basis for local planning policies and outlines the procedure for making, amending, and revoking local planning policies.

Local planning policies are guidelines used to assist the local government in making decisions under the local planning scheme. Although local planning policies are not part of the local planning scheme, they must be consistent with, and cannot vary, the intent of the scheme provisions, including the R-Codes, unless otherwise permitted by the R-Codes and/or approved by the WAPC.

A local planning policy is not part of the local planning scheme and does not bind the local government in respect of any application for development approval, however, the local government is to have due regard to the provisions of the policy and the objectives which the policy is designed to achieve before making its determination.

Risk related:

The review of the policy framework is the role of Council and is essential to good governance as it demonstrates the Shire's ability to adapt to changing circumstances to ensure that its policies remain contemporary and relevant.

If the Shire ignores this requirement and does not engage in routine review of this framework it risks reputational damage which is considered a medium risk.

Workforce related:

Reviews of this nature place additional, yet necessary additional demands on workforce time and resources.

However, a benefit of successful and regular reviews of policies will ensure the Shire is operating as efficiently as possible by aligning these documents with the prevailing community expectations and state government frameworks of the day.

This ultimately will reduce the burden on the workforce moving forward.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council

1. Pursuant to clause (3)(b)(ii) of clause 4 of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts the following *Local Planning Policies*:
 - (a) Development in Extracts Industrial Area as per **Attachment 1**.
 - (b) Road Naming as per **Attachment 2**.
 - (c) Policy Car Parking as per **Attachment 3**.
2. Requests the CEO to publish notice of the policy in accordance with clause 87 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 List of Payments - June 2023

Date of Report:	6 July 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	Y Tyson – Accounts Payable/Payroll Officer
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil.
Council's Role in the matter:	Legislative
Attachments:	1. List of payments June 2023 ⇨

PURPOSE OF THE REPORT

To present cheques and electronic payments raised during June 2023.

BACKGROUND

Payments made from the municipal and trust funds are required to be reported to Council for each month, under section 13 of the *Local Government (Financial Management) Regulations 1996*.

COMMENTS AND DETAILS

The list of all payments processed under delegated authority during June 2023 are attached at **Attachment 1**.

Electronic Funds Transfers (EFT) are for payments transferred directly to creditor bank accounts.

Direct Debits are for direct debits against the bank account such as bank fees, leases, loans, and other charges.

Payroll Direct Debits are for payroll and superannuation expenditures which are paid through Council's online (internet) banking system.

IMPLICATIONS TO CONSIDER

Consultative:

Nil.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

09.1: Govern Shire finances, assets, and operations responsibly.

Policy related:

Council has delegated authority to the Chief Executive Officer to make payments from the Municipal and Trust Accounts. Creditor invoices and other charges paid have been duly incurred and authorised for payment in accordance with Shire policies F.2 Authorised Signatories and F.3 Purchasing.

Financial:

Payments made in June 2023 total \$1,302,720.26

Legal and Statutory:

Local Government Act 1995

Section 5.42 allows the local government to delegate its powers to the Chief Executive Officer.

Section 6.8(1)(a) states a local government must not incur expenditure for an additional purpose except where it is incurred before the adoption of the annual budget.

Local Government (Financial Management) Regulations 1996

Regulation 13 states that if the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared for each month and presented to Council.

Risk related:

There is a legislative requirement to present the list of payments to Council. Failure to do so would pose a minor compliance risk. This report and its attachments help to mitigate this risk and gives Council the opportunity to review and question any payments made.

Workforce related:

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council notes as being paid, payments listed and presented for the month of June 2023 as attached to this report, summarised as follows:

Direct Debits	228,058.50
EFTs	756,379.02
DD Loans	
Payroll	248,116.42
Municipal Cheques	70,166.32
TOTAL	1,302,720.26

9.2.2 Monthly Financial Statements - June 2023

Date of Report:	6 July 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	N Mwale – Finance Coordinator
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil.
Council's Role in the matter:	Legislative
Attachments:	1. Monthly Financials Statements as at 30 June 2023

PURPOSE OF THE REPORT

This report provides Council with financial information for the period ending 30 June 2023.

BACKGROUND

Local governments are required to prepare general purpose financial reports in accordance with the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996* and the *Australian Accounting Standards*.

A statement of financial activity and any accompanying documents are to be presented at an ordinary meeting of the Council within two months after the end of the month to which the statement relates.

COMMENTS AND DETAILS

The following documents, included as **Attachment 1**, comprise the statement of financial activity for the period ending 30 June 2023, **noting that all figures are subject to end of year finalisation**:

Note	Description	Page
1	Statement of Comprehensive Income by Nature or Type	1
2	Statement of Financial Activity	2
3	Variance Analysis	3-4
4	Rating Information	5
5	Debtors Report	6
6	Investments	7
7	Capital Works	8-9
8	Mid-Year Budget Review amendments	10

The Statement of Financial Activity summarises the Shire's operating and capital activities and provides an indication of the Shire's financial performance as the year progresses. In accordance with *FM Regulation 34(1)* this statement is to include comparisons with the annual budget and the year-to-date budget.

Key Financial areas

The following information provides balances for key financial areas for the Shire of Toodyay's financial position for month ending 30 June 2023.

Outstanding Rates

The notices for rates and charges levied for 2022/23 were raised on 7 September 2022 after the adoption of the budget.

The *Local Government Act 1995* provides for ratepayers to pay rates by four instalments. The due dates adopted for each instalment for 2022/23 were:

Instalment	Due Date
First Instalment	12 October 2022
Second Instalment	12 December 2022
Third Instalment	13 February 2023
Fourth Instalment	13 April 2023

The total outstanding rates and charges balance at the end of June 2023 was \$913,473.72 compared to May 2023 closing balance of \$1,017,099.13. A decrease in June was due to a number of ongoing payment arrangements with rate payers.

Outstanding Sundry Debtors

The total outstanding sundry debtors balance at the end of May 2023 was \$140,472.69 broken down as follows:

Category	31/05/2023	30/06/2023
> 90 days and over	\$ 42,307.67	\$ 41,718.36
> 60 days and over	\$ 10,314.12	\$ 10,289.30
> 30 days and over	\$ 34,809.37	\$ 18,666.82
Current	\$ 53,039.53	\$ 57,434.84
TOTAL	\$140,472.69	\$128,109.32

The table above shows a decrease in the outstanding sundry debtors balance.

The composition of outstanding debtors is included in **Attachment 1**.

IMPLICATIONS TO CONSIDER

Consultative:

Consultation with Datacom is ongoing in the preparation of the monthly financial statements. Dry Kirkness (auditor contracted by the Office of the Auditor-General)

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

9.2 Govern Shire finances, assets and operations responsibly

Policy related:

Authorised Signatories

Purchasing

Corporate Credit Cards

Financial Governance

Delegation

CS1 Payments from the municipal or trust fund (referred to in Section 6.10 "Financial management regulations" of the *Local Government Act 1995*)

Financial:

Financial implications are reported, and explained, in the attached financial statements.

The Shire's surplus funds are invested in bank term deposits for various terms to facilitate maximum investment returns in accordance with the Shire's investment policy.

As at 30 June 2023, the total funds held in the Shire's operating accounts was \$289,790.54 and the total of all interest bearing term deposits invested for the period ended 30 June 2023 was \$3,452,070.58

Of the \$3,452,070.58 invested in interest bearing deposits, \$1,825,220.20 relates to reserve funds.

Legal and Statutory:

Local Government Act 1995

Section 6.4 requires a local government to prepare financial reports.

Section 6.8(1)(a) states a local government must not incur expenditure for an additional purpose except where it is incurred before the adoption of the annual budget.

Local Government (Financial Management) Regulations 1996

Regulation 34 sets out the form and content of the financial reports.

Risk related:

There is a compliance risk in relation to this report, as it is a requirement of the *Local Government (Financial Management) Regulations 1996* that local governments prepare a Statement of Financial Activity within two months after the end of the reporting period.

This report mitigates the risk of non-compliance with the regulations.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives the Monthly Financial Statements for the month ending 30 June 2023.

9.2.3 Disability Access and Inclusion Plan Progress Report 2022/2023

Date of Report:	11 July 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	DSB2
Author:	W Sutton – Community Development Officer
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	No
Author's Disclosure of Interest:	N/A
Council's Role in the matter:	Review
Attachments:	1. 2022-23 Progress Report - draft v0.4 ⇒

PURPOSE OF THE REPORT

A review of the Shire's Disability Access and Inclusion Plan (DAIP) has been conducted by officers and the draft 2022/23 Progress Report is presented for Council's consideration prior to submission to the Disability Services Commission.

BACKGROUND

In accordance with the *Disability Services Act 1993 (amended 2004)*, public authorities are required to develop and implement a DAIP that identifies barriers to access and propose solutions to ensure equitable access to services and facilities for people with disabilities. The Shire of Toodyay adopted its current DAIP 2020-2025 on 25 February 2020.

Local governments are required to report annually on their progress in implementing their Disability Access and Inclusion Plans (DAIPs). The Minister for Disability Services uses the information to produce a report detailing the progress made by public authorities across Western Australia. This report is provided to the Western Australian Parliament and made publicly available by the Department of Communities.

The Shire of Toodyay aims to improve accessibility and inclusiveness for people with disability and their carers/families through the strategies outlined in the Disability Access and Inclusion Plan (DAIP) 2020-2025.

COMMENTS AND DETAILS

Disability Access and Inclusion Plans are an important way of ensuring that public authorities continue to improve access and inclusion outcomes for people with disability.

The Progress Report (**Attachment1**) provides information regarding the extent to which inclusion is effectively integrated into Shire operations and the influence of access and inclusion measures on the community.

The 2022/23 DAIP Progress Report must be submitted no later than 31 July 2023 addressing the Shire's progress in the following key areas;

- Outcome 1: People with disability have the same opportunities as other people to access the services of, and any events organised by, a public authority.
- Outcome 2: People with disability have the same opportunities as other people to access the buildings and other facilities of a public authority.
- Outcome 3: People with disability receive information from a public authority in a format that will enable them to access the information as readily as other people are able to access it.
- Outcome 4: People with disability receive the same level and quality of service from the staff of a public authority as other people receive from the staff of that public authority.
- Outcome 5: People with disability have the same opportunities as other people to make complaints to a public authority.
- Outcome 6: People with disability have the same opportunities as other people to participate in any public consultation by a public authority.
- Outcome 7: People with disability have the same opportunities as other people to obtain and maintain employment with a public authority.

Progress has been made in relation to footpaths, townsite and recreation areas accessibility. Additionally, projects have been identified and included as part of the 2023/24 budget planning process. Officers acknowledge however, that there is further work to be done in the areas of training and awareness of those living with disability. Further information is detailed within the DAIP Progress Report 2022/23 (attached).

IMPLICATIONS TO CONSIDER

Consultative:

Disability Services Commission (DSC)

The DSC provides a reporting tool for completion by public authorities. The information is collated by the DSC and provided to the Minister and a summary report is provided to WA Parliament.

Community members and visitors

The Shire considers feedback from the community, to improve awareness of those living with disability. Action on feedback, however, can be subject to budgetary limitations.

Strategic:

Disability Access and Inclusion Plan (DAIP) 2020-2025

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 2: An inclusive connected community

O2.3: Advance opportunities, community participation and quality of life for people with disability.

Financial:

The implementation of DAIP actions is considered as part of the annual budget process.

Legal and Statutory:***Disability Services Act 1993***

Section 29C of the *Disability Services Act 1993* requires the Disability Services Commission to provide the Minister with a report on the effectiveness of disability access and inclusion plans. Public authorities in Western Australia are requested to provide a progress report to the Commission annually with key information in order that they meet their legislative requirements.

Risk related:

Whilst it isn't legislated that the Shire must submit a progress report, it is a requirement of the Disability Services Commission for an agency to meet its statutory obligations. Failure to submit a progress report could result in a reputational risk to the Shire.

Workforce related:

The development and administration of the Shire's DAIP is led by the Corporate and Community Services team as access and inclusion falls within this portfolio. However, responsibility for implementing the actions within the DAIP lies with relevant officers across the organisation.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Adopts the Disability Access and Inclusion Plan Progress Report 2022/23 as attached, noting the progress made to date.
2. Requests the Chief Executive Officer to submit the 2022/23 DAIP Progress Report to the Department of Communities by 31 July 2023.

9.2.4 Pioneers' Pathway - Extension of Memorandum of Understanding 2023/24

Date of Report:	12 July 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC17
Author:	T Bateman – Manager Corporate and Community Services
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	24/03/2020 – Resolution No. 78/03/20
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Pioneers' Pathway MOU - 2020-2023; and ⇨ 2. Pioneers' Pathway Advisory Group meeting minutes - 8 June 2023. ⇨

PURPOSE OF THE REPORT

This report presents the extension of the Pioneers' Pathway Memorandum of Understanding (MOU) for Council's consideration and support.

BACKGROUND

The Pioneers' Pathway was established as a self-drive trail that runs from Toodyay to Merredin and follows the trail taken by early prospectors from Perth to the Goldfields.

The Pioneers' Pathway Advisory Group (the Group) currently comprises six (6) member councils, including the Shires of Toodyay, Goomalling, Dowerin, Wyalkatchem, Nungarin and Merredin. Each member council contributes annually towards the marketing and promotion of the trail. The MOU for Pioneers' Pathway has come to an end and the group is asking member Councils to recommit for a further 12 months.

The Shire's Economic Development Coordinator and Visitor Centre Team Leader attend the Pioneers' Pathway Advisory Group meetings as Shire of Toodyay representatives.

COMMENTS AND DETAILS

The Pioneers' Pathway MOU expired on 30 June 2023. The Advisory Group met in June 2023 to discuss:

- renewal of the MOU;
- future direction of Pioneers' Pathway, and;
- annual financial contribution.

It was recommended to extend the MOU for a 12-month period to 30 June 2024 and retain the annual financial contribution of \$3,500, which supports product development and the employment of a part time executive officer.

The initial group who instigated the project has changed over time and the project lost momentum. Additionally, the website and promotional material are out-of-date and require a refresh. The Advisory Group's target for the next six months is to determine the future direction of the Pioneers' Pathway. Signage along the trail and the existing website require improvements in order to rejuvenate the Pioneers' Pathway and capitalise on this marketing opportunity.

Officers note that while it is difficult to measure the usage of the trail, the Toodyay Visitors Centre continue to receive many enquiries regarding the route. Officers are of the opinion that this is a valuable tourism asset for Toodyay and if managed correctly will gain momentum and become more valuable as time transcends between the pioneering years and present time. Once the website is updated, it should take little effort by councils involved to promote through social media.

A copy of the expiring MOU is provided at **Attachment 1**. Minutes of the Advisory Group meeting held 8 June 2023 are attached at **Attachment 2**.

IMPLICATIONS TO CONSIDER

Consultative:

Member Councils – Toodyay, Goomalling, Dowerin, Wyalkatchem, Nungarin and Merredin
Pioneers' Pathway Advisory Group

This matter was discussed at a Workshop held on 12 July 2023, attended by seven Councillors.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 8: Toodyay is a popular tourism destination.

08.1: Collaborate with local businesses to promote and deliver exceptional tourism experiences.

Policy related:

Nil

Financial:

Extension of the Pioneers' Pathway project will require an allocation of \$3,500 in the 2023/24 draft budget. This amount has been accommodated in the Shire's marketing and promotion budget since 2017.

Legal and Statutory:

Nil

Risk related:

Financial or reputational risks associated with this report are considered low.

Workforce related:

Extension of the MOU is not expected to impact existing resources.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Approves the extension of the Pioneers' Pathway Memorandum of Understanding for an additional 12 months to expire on 30 June 2024.
2. Requests the CEO to include an allocation of \$3,500 in the 2023/24 draft budget as the Shire of Toodyay's contribution to the Pioneers' Pathway.

9.2.5 Compliance and Enforcement Policy

Date of Report:	14 July 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Executive Assistant S Schafers – Governance Officer
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Inquiry Litigation Policy Recommendation; ⇒ 2. CURRENT Compliance and Enforcement Policy; and ⇒ 3. REVISED Compliance and Enforcement Policy. ⇒

PURPOSE OF THE REPORT

To consider the adoption of the REVISED Compliance and Enforcement Policy.

BACKGROUND

During the Ordinary Council Meeting held on 28 June 2023, clarification was sought about the Authorised Inquiry compelling the Shire of Toodyay (the Shire) to review the Shire's Litigation Policy (refer to **Attachment 1**).

It was identified within the Hammond Woodhouse Advisory report dated 19 July 2021 that the Shire's Litigation Policy was in fact the Compliance and Enforcement Policy, adopted in October 2020.

The current Compliance and Enforcement Policy was reviewed and adopted by Council in April 2022 (refer to **Attachment 2**) as a result of Council implementing a review of all Shire policies in February 2022.

COMMENTS AND DETAILS

Officers have reviewed the Compliance and Enforcement Policy and, other than minor typographical updates, are not recommending any significant changes.

The REVISED policy is provided at **Attachment 3** and is recommended for adoption.

IMPLICATIONS TO CONSIDER**Consultative:**

The policy was provided to Councillors through Microsoft Teams and discussed at a workshop held on 12 July 2023 attended by seven elected members.

Strategic:***Plan for the Future: Shire of Toodyay Council Plan 2023-2033******Outcome 9 Responsible and effective leadership and governance.******O9.1 Provide strong, clear and accountable leadership*****Policy related:**

[Legal Representation Costs Indemnification](#)

[Purchasing Policy](#)

[Compliance](#)

[Risk Management](#)

Financial:

Nil.

Legal and Statutory:

s.9.56 of the *Local Government Act 1995* (the Act).

s.3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district.

Local Government Act 1995 and its subsidiary legislation.

Risk related:

The review of the policy framework is the role of Council and is essential to good governance as it demonstrates the Shire's ability to adapt to changing circumstances to ensure that its policies remain contemporary and relevant. If the Shire ignores this requirement and does not engage in routine review of this framework it risks reputational damage which is considered a medium risk.

Workforce related:

The policy has been reviewed in-house within existing resources.

VOTING REQUIREMENTS

Simple Majority

OFFICERS RECOMMENDATION 1

That Council:

1. Adopts the REVISED Compliance and Enforcement policy, as amended; and
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes to policy, prior to publication.

9.2.6 Toodyay Recreation Centre - Management Reporting

Date of Report:	26 June 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	PRO15
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	Not applicable
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	<ol style="list-style-type: none"> 1. Management Packs - April to June 2023; and ⇒ 2. Marketing Reports - April to June 2023. ⇒

PURPOSE OF THE REPORT

To receive Management reporting Packs and Marketing Reports for the June 2023 quarter, submitted by Clublinks Management Pty Ltd in accordance with the management contract.

BACKGROUND

Clublinks Management Pty Ltd manages the Toodyay Recreation Centre (TRC) on behalf of the Shire of Toodyay and is required to submit reports to the Shire detailing monthly activities, in accordance with the contract. Council receives these reports quarterly.

COMMENTS AND DETAILS

The Venue Manager of the Toodyay Recreation Centre has provided the following:

1. Management Packs (**Attachment 1**) which includes a summary of activities for the months of April, May and June 2023.
2. Marketing Reports (**Attachment 2**) which provide further detail on visitation and usage in addition to key financial information.

Clublinks has also provided monthly reports that contain financial information which is considered commercial in confidence. These reports have been placed on the Council Hub and are not included as confidential attachments to this report.

IMPLICATIONS TO CONSIDER**Consultative:**

Clublinks and Shire Officers meet monthly.

Strategic:***Plan for the Future: Shire of Toodyay Council Plan 2023-2033******Outcome 1: A safe and healthy community***

O1.3: Grow participation in sport and recreational activities.

Policy related:

Nil.

Financial:

The Shire invests significantly in the operational costs of the TRC, with the expectation that Clublinks will operate the TRC to best practice standards; meeting community needs.

Legal and Statutory:

The Venue Manager is required to provide monthly reports to the Shire in accordance with the Management Contract.

Risk related:

Receiving and reviewing the financial performance of the TRC assists the effective oversight of the management and mitigates risk.

Workforce related:

The Shire has an ongoing commitment to the contract for the management and operation of the TRC.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Receives the Management reporting Packs for the June 2023 quarter (Attachment 1); and
2. Receives the Marketing Reports for the June 2023 quarter (Attachment 2).

9.3 EXECUTIVE SERVICES

9.3.1 Correspondence - Department of Local Government, Sport & Cultural Industries

Date of Report:	12 July 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG7
Author:	M Rebane – Executive Assistant
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Correspondence from and to the Department. ⇨

PURPOSE OF THE REPORT

To present details of correspondence with the Department of Local Government, Sport and Cultural Industries (DLGSC) from 14 April 2023 to 14 July 2023.

BACKGROUND

Council resolved in 2018 the following:

That the CEO submit a report to Council at each Ordinary Council Meeting detailing correspondence of a Local Government governance nature or non-compliance matters between the Shire of Toodyay and the Government of Western Australia's Department of Local Government, Sport and Cultural Industries (including with the relevant Minister) since the report to the previous Ordinary Council Meeting.

COMMENTS AND DETAILS

Officer have not reported to Council since April as no correspondence was entered into with the DLGSC during May and June. In July, the Shire received correspondence from the DLGSC in respect to Annual Financial Report Audit 2020-2021 non-compliance.

The Shire President and senior officers will meet with the DLGSC on 21 July to discuss the Shire's response.

IMPLICATIONS TO CONSIDER

Consultative:

Department of Local Government, Sport and Cultural Industries.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9: Responsible and effective leadership and governanceO9.1 Provide strong, clear and accountable leadership**Policy related:**

Nil.

Financial:

Nil.

Legal and Statutory:Local Government Act 1995

It is a function of CEO to give effect to the decisions of Council in accordance with s.5.41 of the *Local Government Act 1995*.

Risk related:

Council may invoke a high reputational and compliance risk if the recommendation below is not resolved.

Workforce related:

Officers are required to formally report on all correspondence with the DLGSC.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council notes the correspondence with the Department of Local Government, Sport and Cultural Industries from 14 April 2023 to 14 July 2023, as attached to this report.

9.3.2 Chief Executive Officer Performance Review 2023

<p>Date of Report:</p> <p>Applicant or Proponent:</p> <p>File Reference:</p> <p>Author:</p> <p>Responsible Officer:</p> <p>Previously Before Council:</p> <p>Author’s Disclosure of Interest:</p> <p>Council’s Role in the matter:</p> <p>Attachments:</p>	<p>3 July 2023</p> <p>Shire of Toodyay</p> <p>HR421</p> <p>T Bateman – Manager Corporate and Community Services</p> <p>S Haslehurst – Chief Executive Officer</p> <p>N/A</p> <p>Nil</p> <p>Executive</p> <p>1. Performance Review Outline 2023; ⇨</p> <p>2. Quotation 1; and (confidential) <i>Section 5.23(2)</i> <i>(a) a matter affecting an employee or employees</i> <i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting</i> <i>(e)(iii) a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government</i> <i>(e)(i) a matter that if disclosed, would reveal a trade secret where the trade secret or information is held by, or is about, a person other than the local government</i> <i>(e)(ii) a matter that if disclosed, would reveal information that has a commercial value to a person where the trade secret or information is held by, or is about, a person other than the local government. (under separate cover)</i></p> <p>3. Quotation 2 (confidential) <i>Section 5.23(2)</i> <i>(a) a matter affecting an employee or employees</i> <i>(e)(iii) a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government</i> <i>(e)(i) a matter that if disclosed, would reveal a trade secret where the trade secret or information is held by, or is about, a person other than the local government</i> <i>(e)(ii) a matter that if disclosed, would reveal information that has a commercial value to a</i></p>
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	<i>person where the trade secret or information is held by, or is about, a person other than the local government.</i>
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PURPOSE OF THE REPORT

To appoint a Consultant who will:

- (a) undertake the annual review of the CEO's performance;
- (b) Review the CEO's remuneration for 2023/24; and
- (c) Determine the CEO's performance criteria for 2023/24.

BACKGROUND

In 2021 and 2022, Council engaged Price Consulting to undertake the annual review of the CEO's performance and to develop key performance indicators for each year.

Officers developed an outline of the process for the 2023 review of the CEO's performance based on the process adopted for 2021 and 2022 reviews which is provided at **Attachment 1**.

This process was emailed to all Councillors on 3 July 2023 and discussed at a workshop held on 5 July attended by all Councillors. The proposal was sent to two consultants for quotation in accordance with the Shire's *Purchasing* policy. Two quotations were received and are attached at **Confidential Attachments 2 and 3**.

Council is now requested to consider the process for a review of the CEO's performance and remuneration and the selection of an independent consultant to undertake the review and to assist Council to determine the CEO's performance criteria for 2023/24.

COMMENTS AND DETAILS

Officers asked for quotations based on the outline developed and utilised in 2021 and 2022 with the following as optional additions:

Council Training Session

Training for *CEO Performance Appraisals* was attended by five of the currently elected members in August 2021. The three new members elected in October 2021 have not undertaken this training.

360-degree Assessment

This is intended to provide the option to invite executive staff to provide comment, adding further depth to the appraisal process. This is generally useful where there are perceived cultural issues within the organisation.

CEO Remuneration Report

A review report that provides benchmarking of the CEO total remuneration package and consideration of other relevant factors.

Options

The officer recommendation proposes none of the above additional options for inclusion. However, Council could choose to include all, some or none of the above options, noting that each option will incur an additional cost.

Council could if it wished, establish a CEO Employment Committee with Councillors appointed to work with the Consultant to finalise the review. Alternatively, all Councillors

could participate in the process. The quotations attached are based on all Councillors participating.

IMPLICATIONS TO CONSIDER

Consultative:

The proposed process for the CEO Performance and Remuneration Review 2023 was discussed at a workshop with Council held on 5 July 2023 attended by 8 Councillors.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

09.1: *Provide strong, clear and accountable leadership.*

09.2: *Govern Shire finances, assets, and operations responsibly.*

Policy related:

Standards for CEO Recruitment and Selection, Performance Review and Termination: Part 3 (adopted by Council on 23 November 2022).

Financial:

The Annual Budget includes an on-going operational allocation for consultants' fees. It is recommended that Council considers the proposed fee for the CEO Performance and Remuneration Review from this allocation.

Legal and Statutory:

Local Government Act 1995 (WA): s5.38 – s5.40

Local Government (Administration) Regulations 1996: Reg 18FA

CEO Contract of Employment: clauses 4.3 and 4.4

Risk related:

There is a compliance risk if Council chooses to delay the process that is the subject of this report. This risk is rated 'high'.

Workforce related:

The timely setting of CEO Key Performance Indicators is important to allow for (a) the setting of operational KPI's across the organisation; and (b) sufficient time for achievement.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council

1. Appoints _____ to assist Council to:
 - (a) Undertake the annual review of the CEO's performance;
 - (b) Review the CEO's remuneration for 2023/24; and

- (c) Determine the CEO's performance criteria for 2023/24;
2. Endorses the methodology proposed by the selected Consultant for the CEO Performance and Remuneration Review and development of Performance Criteria.
3. Determines that all Elected Members may participate in the CEO Performance and Remuneration Review and development of Performance Criteria.
4. Notes that a report will be presented to Council as soon as is practicable to endorse the outcomes of the CEO's probation and remuneration review.

9.3.3 19A Clinton Street - Recommended Use

Date of Report:	12 July 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	LEG204
Author:	S Schafers – Governance Officer
Responsible Officer:	T Bateman – Manager Corporate and Community Services
Previously Before Council:	Item 14.2 OCM 21 December 2022
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	Nil

PURPOSE OF THE REPORT

To consider the future use of 19A Clinton Street, Toodyay.

BACKGROUND

The Shire of Toodyay (the Shire) owns a residential duplex property at 19A and 19B Clinton Street, Toodyay.

Unit 19A Clinton Street (19A) is fully furnished and has been occupied by the Shire's Chief Executive Officer (CEO) under a Residential Property Agreement since January 2023. The CEO has now vacated the property and Officers are requesting Council's consideration of its future use.

Following basic refurbishment, Unit 19B Clinton Street has been publicly advertised for rental under the management of Tony Maddox Real Estate.

COMMENTS AND DETAILS

The availability of worker accommodation is an issue for many regional local governments. Located in close proximity to Perth, the Shire of Toodyay often has to consider Perth-based candidates, particularly for specialist or senior roles. While the Shire is generally not able to offer subsidised on-going rental accommodation for employees, the provision of casual accommodation for senior officers at 19A is recommended.

This would offer the opportunity to address Work Health and Safety issues associated with travelling long distances, particularly at night, following long workdays and/or after-hours meetings or events.

It is proposed that the CEO be requested to develop procedures and protocols to guide the use and management of 19A to protect the Shire's asset and to provide clarity around roles and responsibilities.

IMPLICATIONS TO CONSIDER**Consultative:**

Tony Maddox Real Estate

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2022-2033

Outcome 9. Responsible and effective leadership and governance

09.1 Provide strong, clear and accountable leadership

09.2 Govern Shire finances, assets and operations responsibly

Policy related:

Financial Governance Policy

Asset Management Policy

Financial:

The Shire has, since January, accommodated Project Manager, Mr Maurice Werder at the Victoria Hotel one night per week at a cost of \$165 per night. This arrangement will cease should Council accept the Officer recommendation.

Legal and Statutory:

s.3.5 - Local Government Act 1995

s.30 (1) and s.30 (2) (d) - Local Government (Functions and General) Regulations 1996

Part 2, section 2.2(1) - Local Government Property Local Law

Risk related:

There is inherent risk in having employees commute to and from Toodyay on a daily basis, with some travel times exceeding an hour each way. However, in the current employment market, the ability to attract and retain senior employees is increasingly difficult. The Officer recommendation proposes to mitigate the risks of fatigue, wildlife accidents and potential road trauma.

Workforce related:

Shire Officers will undertake the functions of a 'self-managing landlord' for 19A, which may place additional pressure on already limited resources.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Approves the use of 19A Clinton Street, Toodyay for worker accommodation as required.

2. Requests the CEO to develop procedures and protocols to govern the use and management of the premises.

9.4 INFRASTRUCTURE AND ASSETS

9.4.1 Recommendation to Demolish - Toodyay Showgrounds Bar

Date of Report:	14 July 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	AGR4
Author:	N Rodger – Operations Officer
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	Nil

PURPOSE OF THE REPORT

To seek Council approval to demolish the bar located at the Toodyay Showgrounds, Toodyay Street.

BACKGROUND

The bar located at the Toodyay showgrounds is believed to have been built in c1979 and is currently utilised one day per year for the annual Toodyay Agricultural Show.

COMMENTS AND DETAILS

There have been extensive discussions over the years between the Shire of Toodyay and the Toodyay Agricultural Society (Ag Society) regarding the ongoing maintenance issues at the bar.

In July 2022, the Shire’s Building Maintenance Officer engaged a builder from Northam to attend the bar and provide a quote for repairs. The builder declined to provide a quote and advised that the building should be demolished.

As the timeframe was close to the Agricultural Show Day, minor repairs were conducted with the installation of a support beam and as requested by the Ag society, replacement bench tops were installed in August 2022.

On 10 May 2023, a specialised company was engaged to inspect the Showgrounds bar relating to its structural integrity. This confidential report has been provided to Council via the Council Hub for information and consideration.

The report detailed issues with rotted and termite damaged timber uprights, tie down & rafter integrity as well as bearer failure.

Officers attempted to obtain quotes for repairs from a number of builders. However, one declined due to timeframes required, two did not respond, one advised that the work was beyond their skill set but estimated it would be \$30,000 or above to repair and one builder

advised that the building should be demolished and would provide a quote for a like for like replacement.

Due to the indicated cost for repairs, it is recommended that the bar be demolished in the short term so that the Ag Society can utilise the area for 2023 Agricultural Show. It is proposed that Council gives further consideration to whether the structure should be replaced in the longer term.

IMPLICATIONS TO CONSIDER

Consultative:

Officers have consulted with industry professionals and Shire management. This matter was then discussed at a workshop held on 12 July attended by seven elected members.

Officers have informed the Ag Society of the Officer recommendation and will provide the outcome following Council's decision.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2022-2033

Outcome 1: A safe and healthy community

O1.1. Facilitate community safety.

O1.3. Grow participation in sport and recreational activities.

Outcome 9: Responsible and effective leadership and governance

O9.2 Govern Shire finances, assets, and operations responsibly

Policy related:

Risk Management

Asset Management

Financial Governance

Financial:

The Shire invests significantly in the maintenance costs of all Shire owned buildings.

Legal and Statutory:

Local Government Act 1995

Building Act 2011

Risk related:

The current condition of the bar warrants action to be address risks to public safety. To not do so would pose a Major (4) compliance risk. This report seeks to mitigates that risk.

Workforce related:

The Shire has an ongoing commitment to the upgrade, renewal and maintenance of Shire buildings. The demolition of this structure would utilise Officer resources.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Approves the demolition of the bar structure at the Toodyay Showgrounds.
2. Requests the Chief Executive Officer to liaise with the Toodyay Agricultural Society about the need for a new structure and schedule for discussion at a Council workshop no later than 31 December 2023.

9.5 COMMITTEE REPORTS

Nil.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

11 NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING**12 QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil.

13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**13.1 MEMBERS**

Nil.

13.2 EMPLOYEES

Nil.

14 CONFIDENTIAL BUSINESS

Nil.

15 NEXT MEETINGS

Ordinary Council Meeting	23 August 2023
Agenda Briefing	16 August 2023
Audit & Risk Committee Meeting	6 September 2023
Bushfire Advisory Committee Meeting	2 August 2023
Environment Advisory Committee Meeting	2 August 2023
Local Emergency Management Committee Meeting	8 November 2023
Museum Advisory Committee Meeting	6 September 2023

16 CLOSURE OF MEETING