



Agenda Briefing

21 August 2024

Notes

Unconfirmed Notes

These notes were approved for distribution on 22 August 2024.

Aaron Bowman

CHIEF EXECUTIVE OFFICER

When the Chief Executive Officer approves these Notes for distribution they are in essence "informal notes" that will be received at the next Ordinary Council Meeting, subject to any amendments being made by Council.

The "Received" Notes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Agenda Briefing are included in the attachments to the Ordinary Council Meeting with the exception of confidential items or attachments that are confidential which will be included in Confidential Minutes of the Ordinary Council Meeting.

Received Notes

These notes were received at an Ordinary Council Meeting held on 28 August 2024.

Signed:

Note: The Presiding Member at the meeting at which the notes were received is the person who signs above.

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Cr M McKeown, Shire President, declared the meeting open at 3.00pm.

2 RECORDS OF ATTENDANCEMembers

Cr M Dival	Deputy Shire President
Cr C Duri	Councillor
Cr R Madacsi	Councillor
Cr S McCormick	Councillor
Cr J Prater	Councillor
Cr D Wrench	Councillor

Staff

Mr A Bowman	Chief Executive Officer
Ms T Bateman	Executive Manager Corporate and Community Services
Mr H de Vos	Executive Manager Development and Regulation
Mr C Sullivan	Executive Manager Infrastructure, Assets & Services
Mrs M Rebane	Governance Coordinator
Ms J O'Driscoll	Executive Support Officer

Visitors

G Nelmes

M Noonan

A Erskine

2.1 APOLOGIES

Cr M McKeown Shire President

2.2 APPROVED LEAVE OF ABSENCE

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

3 DISCLOSURE OF INTERESTS

Cr Madacsi declared an Impartiality Interest pursuant to Regulation 22 of the Local Government (Model Code of Conduct) Regulations 2021 in regard to Agenda Item 9.4.1 EOI to lease old Tennis Club Facilities. The nature of her interest is that she is associated with the applicant Toodyay Community Garden Inc who have lodged an interest in the item and her husband is associated with Moondyne Men which have also submitted an interest. The extent of her interest is that she is a committee member of Toodyay Community Garden Inc.

4 PUBLIC QUESTIONS

4.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4.2 PUBLIC QUESTION TIME

Two public questions have been received for the meeting next week.

5 CONFIRMATION OF MINUTES

As per Council Meeting Agenda

6 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

6.1 PETITIONS

Nil.

6.2 DEPUTATIONS

Nil.

6.3 PRESENTATIONS

Nil.

6.4 SUBMISSIONS

A Erskin addressed Councillors relating to Agenda Item 9.1.2 Lot 17 (No 55) Toodyay Street, Toodyay – Proposed Holiday Home.

7 BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

8 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil.

9 OFFICER REPORTS

9.1 DEVELOPMENT AND REGULATION

9.1.1 Lot 11 Chitty Road - Renewal of Extractive Industry - Midland Brick

Nil

9.1.2 Lot 17 (No. 55) Toodyay Street, Toodyay - Proposed Holiday Home

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
<i>Duri</i>	Should the one front door key get locked inside the house, how does the tenant	<i>Response from Applicant</i>

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
	get into the house? As the owners are an hour away, will there be another key somewhere for this scenario?	<p><i>Yes, there will be a spare key in an alternate lock box located on the property. Should guests lock themselves out or lose the key, instructions are provided to access the second lockbox.</i></p> <p><i>In addition, the option of a digital keypad lock on the laundry door down the side of the house is being explored. This would provide a keyless entry to access the property with the use of a code.</i></p>
<i>McCormick</i>	As discussed in the submission the Art house just down the road how does it operate at the moment as short-term or air BnB?	<i>This is a compliance matter with that particular property.</i>
<i>Prater</i>	What is the explanation of why it is only six people?	<i>A conservative approach was taken, given that there may be broader concerns about this accommodation and any precedence it may have in the future.</i>
<i>Prater</i>	What are the concerns?	<i>The State Government is implementing reforms as this accommodation style is unregulated. The application is exceptional however there is a risk that approval will set a precedent to encourage more of these types of development in residential areas.</i>
<i>Prater</i>	When do the regulations come into force?	<i>On 1 Jan 2025 all short-term accommodation operators must register with the State Government and demonstrate that they have approvals in place with local government authorities.</i>
<i>Duri</i>	What would the difference be to having 6 adults and four children vs having ten people?	<i>The difference is subject to the type of clientele utilising the accommodation. There may be large gatherings held at the property which is why the solution of permitting 6 adults has its merits from a monitoring and compliance point of view.</i>
<i>Duri</i>	Would we lose tourism in this town?	<i>No</i>

Item 9.1.2 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
Prater	If there is no regulation presently for approvals, why are we dealing with it?	<i>An objection was received during the public consultation period.</i>

9.1.3 Lot 9000 Mercy Retreat - Temporary Placement of 40FT Shipping Container

Item 9.1.3 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
Madacsi	If the Heritage Council of WA advise that the proposal will have no impact and is therefore supported was based on the original intention of the DA. Has the HCWA been advised of the change in intention and whether this would alter their advice?	<i>Liaison with the Heritage Council of WA occurred, and their advice was that it would remain the same even with the change of circumstances. They are cognizant of the fact that the time-limited recommended approval.</i>
Madacsi	Is there any mechanism in place that would require a new owner to proceed with the restoration and development?	<i>No</i>
Madacsi	Has a mechanism as previously advised, been established to ensure timely Development application compliance is assured?	<i>Yes.</i>
McCormick	Has the Shire responded to the letter from the Architect?	<i>No.</i>
Dival	The application for a sea container is to place on lot 9000 which is a separate lot to the building in question, so building has been under	<i>The proponent owned both properties. The Shire approved the development for works and, as per the report, the building permit is yet to be issued. Council can make a variation to policy requiring both measures to be met.</i>

Item 9.1.3 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
	offer. What are the ramifications ?	<i>The disconnection of Lot 9000 to Lot 5 is not a heritage concern because the property is not part of the Catholic Church Precinct, however it is in the Toodyay Central Heritage Area so the relevant Council Policy will apply.</i> <i>The development is supportable because controls are in place. The only issue is one of precedent as once the decision is made, other residents may seek approval as well. Shire Officers are aware of many examples of non-compliance with regard to sea containers on properties.</i>
Prater	As we are aware the property is sold and a lot of times on date of settlement the property does not settle. If that is the case will this application still be in the name of the previous owner?	Yes.
Prater	Will this application be looked at as if he is the owner?	Yes.
Prater	Do we include the fact it has been sold into consideration?	Yes.
McCormick	Due to the internet listing that Lot 5 Mercy House has been sold, does that have an implication on this application based on the fact it is different?	<i>No. The application will still refer to the policy concerning temporary placement of a shipping container and specific sites where development has been proposed.</i>
McCormick	The application says it is for alterations and restoration works for Mercy House and that has changed. Is that so?	Yes.
Madacsi	What lot is the container on?	<i>Lot 9000 is where the shipping container is and the owners of that lot had also owned Lot 5 which they have put up for sale and it is now sold.</i>

The Presiding Member ruled that the meeting move directly to Item 9.2.1 List of Payments at 3.25pm.

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 List of Payments - July 2024

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Corporate and Community Services unless otherwise specified
Madacsi	Item 58 EDI Works limited Final Jubilee Street payment. Does it also include remedial works to Toodyay Road including the drainage areas where the path is very dicey around the drainage?	<i>Taken on notice.</i> Response after meeting: The Executive Manager Infrastructure, Assets and Services will provide a response to this once he returns from leave
Madacsi	Is the work undertaken for one month or one Development Approval and is more work anticipated? (63, Jacobus Nieuwoudt, Development Application, 4,950.00)	<i>Cost is for external assessment of 11 Development Applications</i>
Madacsi	May I have clarification why the Shire is paying a Northam supplier for a Toodyay community project? (70, Northam Paper Products, Support Toodyay CWA roof restoration, 359.00)	<i>Description error – Payment is for the purchase of gift bags for products sold in the visitors centre.</i>
Madacsi	What is the increase in the cost of the Landgate GRV re-evaluations compared to the last assessment? (215, Landgate, GRV General re-evaluations 2023-24, 89,475.29)	<i>\$10,147 (last revaluation 2018/19)</i>
McCormick	Blackwell Plumbing – were local plumbers in Toodyay given the opportunity to do work, quote for it, and Morangup Colocation Centre.	<i>Taken on notice.</i> Response after meeting: Blackwell Plumbing were the only contractor contacted, as it was a low value job, site familiarity, availability and satisfaction with previous service.
Wrench	What were the nature of the boots, is there a better	<i>LGGS Funded – PPE Firefighting boots</i>

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Corporate and Community Services unless otherwise specified
	supplier?(33, Scavenger Supplies, 1 pr boots, 425.22)	
Prater	Water charges: cannot see on Information Bay standpipe not listed and normally listed.	<p><i>Taken on notice.</i></p> <p>Response after meeting:</p> <p>The tax invoice was received on 21 Aug 2024 which is why it is not listed.</p>
Prater	<p>At the previous meeting I had asked for costs of revenue and expenditure on that last account paid for the community standpipe.</p>	<p>Taken on notice.</p> <p>Response after meeting:</p> <p><i>Water Corporation Bill totals for the last financial year are as follows:</i></p> <p><i>12th June – 22nd August 2023 - \$126.39 (including service charges \$50.87)</i></p> <p><i>22nd August – 17th October 2023 - \$242.14 (including service charges of \$50.05)</i></p> <p><i>17th October – 13th December 2023 - \$1503.62 (including service charges of \$50.05)</i></p> <p><i>13th December 2023 – 16th February 2024 - \$3702.50 (including service charges of \$64.28)</i></p> <p><i>16th February – 18th April 2024 - \$4274.71 (including service charges of \$97.49)</i></p> <p><i>18th April – 12th June 2024 - \$2690.56 (including service charges of \$50.05)</i></p> <p><i>Water Corporation total for 2023/24 : \$12,539.92 (Bills can be provided via email)</i></p> <p><i>Bank Transactions total for the Community Standpipe Controller: - \$287.21</i></p> <p><i>Bank Transactions for the Community Standpipe Controller for the 2023/24 financial year included negative transactions of \$82.50 debited from the account for the monthly subscription fees, and very low or negative transactions due to the fees charged for each transaction and the standpipe not being properly calibrated.</i></p> <p><i>Shire costs for the year are approx. \$12,827.13 (bills not starting at beginning of each month).</i></p> <p><i>When initially investigated previously, liaison with the provider was around the income being received by the Shire not tallying with the usage. Being a very hot summer, usage figures were cross-referenced, and their figures were showing usage</i></p>

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Corporate and Community Services unless otherwise specified
		<p><i>on the hundreds of litres when it was 10+ kilolitres daily.</i></p> <p><i>It appeared that the usage was not being measured correctly for water going from the standpipe, and it was also discovered that the pricing was incorrect.</i></p> <p><i>As the fees and charges state the water charges are cost plus \$1, cost being the price per kL. Infrastructure was approached about this and were aware of the calibration issue.</i></p> <p><i>The problem was supposed to be rectified when the standpipe was relocated, but this did not occur. Due to the subscription fees and transaction fees plus service charges, there is very little revenue at the price that is charged even if the standpipe was calibrated correctly.</i></p>
Wrench	<i>If time lag with Toodyay Herald newspaper showing this month? There were a number of payments dated prior to June. Is that time delay</i>	<i>This follows on from last month we were chasing up old invoices and paying the remainder of those.</i>
Dival	<p><i>Line item 43 Toodyay Locals Care</i></p> <p><i>LI 86 CWA Roof Restoration</i></p> <p><i>Last year CWA were given \$10,000 through community funding round – is it a delayed payment for that?</i></p> <p><i>I do not recall funding from TLC.</i></p>	<p><i>The CWA Roof Restoration was from last year's round.</i></p> <p><i>The Toodyay Local's Care application was for white goods and that was approved for community funding rounds from last year.</i></p>
Madacsi	<i>Who were the recipients of the Rugged Tablets (32 Rugged Phone Store 4 x Rugged Tablets, 1,728.69)</i>	<i>LGGS Funded – Tablets for SES Volunteer services – Station x1, Vehicles x3</i>
Madacsi	<i>Does the works by Downer EDI include the exposed and recessed drainage in the Toodyay Rd footpath and if not, is the footpath to be corrected to reduce the risk to the Shire from misadventure in traversing this area, particularly in gophers and at night? (58, Downer EDI Works Ltd, Final</i>	<p><i>Taken on notice.</i></p> <p><u>Response after meeting:</u></p> <p>The Executive Manager Infrastructure, Assets and Services will provide a response to this once he returns from leave</p>

Item 9.2.1 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Corporate and Community Services unless otherwise specified
	<i>Jubilee St pavement, 91,426.92)</i>	
<i>Duri</i>	May I have clarification of the following expenses please? <i>Credit Card MDR – Hilton Garden Inn \$390.00</i>	<i>Accommodation for EMDR to attend the PIA (Planning Institute of Australia) Regional Conference in Busselton</i>
<i>Duri</i>	May I have clarification of the following expenses please? <i>Joondalup Resort - \$1,921.50</i>	<i>Accommodation for training for Work Health and Safety Representative from Visitor Centre</i>
<i>Duri</i>	May I have clarification of the following expenses please? <i>At the Coal Face Workwear \$254.96</i>	<i>Pair of Size 16 work boots for Executive Manager Development and Regulation. First pair bought through the Shire. Others recently disintegrated.</i>
<i>Duri</i>	May I have clarification of the following expenses please? <i>Old Gaol Museum \$500</i>	<i>The Newcastle Gaol honorariums have been a long-standing arrangement to ensure the availability of volunteers for the weekends as they are gifted \$50 for their time on a Saturday or Sunday. As the Gaol is open every day of the week, weekends can be a challenge to cover.</i>
<i>Duri</i>	May I have clarification of the following expenses please? <i>Old Gaol Museum \$500</i>	<i>Volunteers have been dedicated to filling these spots, and the \$50 makes a big difference. Not having these honorariums will perhaps make it difficult to have volunteers and that could impact income (approximately \$100 per day on weekends).</i>

9.3 EXECUTIVE SERVICES

9.3.1 Approval to Participate in AROC Delegation to Canberra in 2024

The Deputy Shire President advised that this report has been withdrawn from the Agenda.

9.3.2 Department of Local Government, Sport & Cultural Industries correspondence

Item 9.3.2 - Questions and Points raised		
Councillor	Discussion	Response
Madacsi	<i>Has there been verbal contact with the DLGSC since the period last reported, relating to governance or non-compliance of the organisation or council?</i>	<u>Governance Coordinator response:</u> <i>No.</i>
Madacsi	<i>What is the reason to remove the report from Council meetings and reduce community transparency, when strong support was expressed in the community and council for its inclusion?</i>	<u>CEO response:</u> <i>Advice received from the Department of Local Government is that only items that require a decision should come to Council. Items for noting should be provided to Councillors through other mediums. With this report not only was it noting but it was also saying there was nothing to note as well. The Department's recommendation is that if there is advice or any correspondence it is quicker and timelier to provide it to Councillors directly.</i>
Madacsi	<i>When was that advice received?</i>	<u>CEO response:</u> <i>That advice has been ongoing from the Department since 1995. They always provide advice in training that only items requiring decisions should be on council meeting agendas.</i>

9.3.3 Toodyay Emergency Services Centre Licence

Questions and Points raised		
Councillor	Discussion	Response
Madacsi	Was the license reviewed to ensure the license and holding over clause in particular, is in keeping with current legislation?	<u>Governance Coordinator response:</u> Yes
Madacsi	Why is the license considered a Confidential item?	<u>CEO response:</u> Under s.5.23 (2)(e) of the Local Government Act 1995, because it is a contract being entered into there is some information in there that may need to be discussed before entering into the contract and therefore it is confidential at this stage.
Madacsi	So there is still the opportunity once the licence is settled and approved to release it from confidentiality. Is that correct?	<u>CEO response:</u> Yes that is correct

9.4 INFRASTRUCTURE AND ASSETS

9.4.1 Expression of Interest to lease Old Tennis Club Facilities

Item 9.4.1 - Questions and Points raised		
Councillor	Discussion	Response from the Executive Manager Development and Regulation unless otherwise specified
Madacsi	What is the extent of the archaeological ruins beneath the two western courts, and the extent of the remainder of Reserve R21797?	<u>Taken on notice.</u> <u>Response after meeting:</u> The evidence revealed to date indicates that the survival of intact archaeological deposits and features across the site is high. The wider site is therefore assessed as having a high degree of archaeological potential.
Madacsi	Is there any ground disturbance restriction at the two western court areas such as for footings or other excavations?	<u>Taken on notice.</u> <u>Response after meeting:</u> The Conservation Management Plan for the Archaeological Remains at Newcastle Convict

Item 9.4.1 - Questions and Points raised		
Councillor	Discussion	Response from the Executive Manager Development and Regulation unless otherwise specified
		<p>Depot (Toodyay) lists the following recommendations:</p> <p>That any earth disturbance within the precinct as defined here take into account the potential for archaeological deposits related to the Convict Depot and are supervised by a suitably qualified historical archaeologist.</p> <ul style="list-style-type: none"> • Any disturbance should develop a management strategy for the proposed work detailing the: <ul style="list-style-type: none"> ○ chain of responsibility; ○ role of the archaeologist; ○ communication strategy; and ○ a plan for dealing with the discovery of archaeological deposits and features. • Before any digging takes place the Heritage Council must be contacted and give approval.
Madacsi	What is the level of Heritage rating of the two western courts?	<p><i>Taken on notice.</i></p> <p><u>Response after meeting:</u></p> <p>Place number 2560 (Toodyay Court House (fmr) and former Convict Depot Archaeological Sites) is a Category 1 on the Local Heritage Survey and listed on the State Register.</p>
Madacsi	Does the western courts have a separate water and electricity meter?	<p><i><u>Cr Dival response:</u></i></p> <p><i>No the whole site is on the one power and water service.</i></p>
Madacsi	Ascentive is understood to be conducting the Facilities and Buildings review, how far has the review progressed and what is the expected completion date?	<p><i><u>Executive Manager Corporate and Community Services response:</u></i></p> <p><i>Workshops are yet to be held with Councillors, after which the report will be written.</i></p>
Madacsi	Is there a draft report or do we need to workshop to inform the report	<p><i><u>Executive Manager Corporate and Community Services response:</u></i></p>

Item 9.4.1 - Questions and Points raised		
Councillor	Discussion	Response from the Executive Manager Development and Regulation unless otherwise specified
		<i>The workshop will be held before the report is drafted.</i>
Madacsi	<i>Was Ascentive instructed to start the review with crown reserve No 21797, given resolution OCM144/04/24 point 2 Considers the future use of this portion of Crown Reserve No 21797 and the whole reserve, in line with the Shire’s long-term planning and Plan for the future; was the second of three steps to provide the information for point 4 to bring a report back to Council for consideration by the August 2024 OCM?</i>	<u>Executive Manager Corporate and Community Services response:</u> Yes.

9.5 COMMITTEE REPORTS

9.5.1 Bush Fire Advisory Committee Recommendations - 07 August 2024.

Nil.

9.5.2 Audit and Risk Committee Recommendation

Nil.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

11 NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING

Nil.

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

The Presiding Member called for the meeting to go behind closed doors at 3.43pm in order for confidential business to be discussed in accordance with s.5.23 (b) and (e)(iii) of the Local Government Act 1995.

The meeting moved behind closed doors at 3.44pm and the public gallery departed the Council Chambers.

9.1.4 Lot 102 Lovers Lane, Toodyay - Proposed Rural Home Business

Item 9.1.4 - Questions and Points raised		
Councillor	Discussion	Response from Executive Manager Development and Regulation unless otherwise specified
McCormick	How do we address noise pollution?	<i>The applicant will adhere to the Noise Regulations. The Environmental Health Officer will manage the compliance.</i>
Dival	How does one determine what normal trading hours are?	<i>This decision is up to Council. There is no issue with a 9am to 5pm arrangement.</i>
Dival	If Planning Approval has a commencement date of 2 years and we are looking at an initial valid approval for 12 months when does it start?	<i>The two years refers to the development being substantially commenced because he already has permission from the Shire to store the items. Should Council approve it, the date would start from the approval date.</i>
Prater	Can we tell him what hours he can open?	Yes

9.3.3 Toodyay Emergency Services Centre Licence

No more questions

The Presiding Member called for the meeting to come from behind closed doors at 3.57pm.

15 NEXT MEETINGS

As per Council Meeting Agenda.

16 CLOSURE OF MEETING

The Shire President declared the meeting closed at 3.58pm.