



# Ordinary Council Meeting

27 November 2024

Commencing at 1:00 PM

## AGENDA

### Notice of Meeting.

To: The President and Councillors.

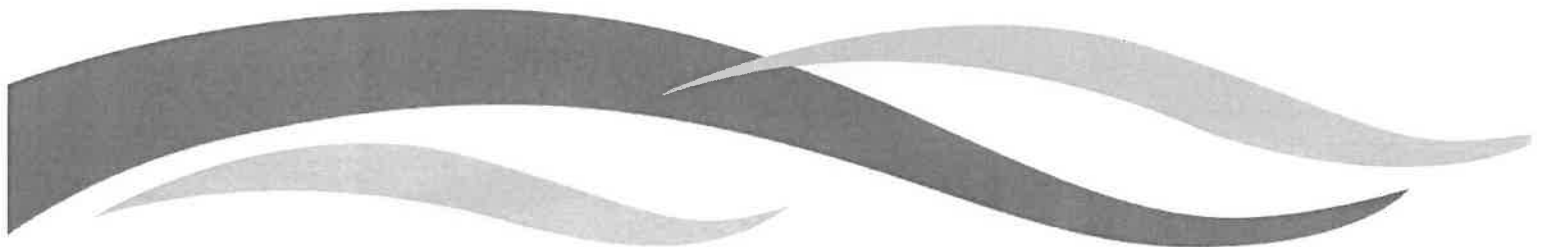
The next Ordinary Council Meeting of the Shire of Toodyay will be held at the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay WA 6566 on the above-mentioned date and time.

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 [cr.request@toodyay.wa.gov.au](mailto:cr.request@toodyay.wa.gov.au) at the earliest opportunity so that Officers can respond to those questions prior to the Council Meeting.

Aaron Bowman

**CHIEF EXECUTIVE OFFICER**



## Our Vision, Purpose and Values

The Shire of Toodyay's Plan for the Future (Council Plan 2023-2033) is the Community's Strategic Plan outlining the direction that the Shire is undertaking to meet the needs and aspirations of its community.

### Our Vision

A caring and visionary rural community, working together to preserve and enrich Toodyay's environment, character and lifestyle.

### Our Purpose

The Shire of Toodyay exists to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

### Our Values

We conduct ourselves in line with values the local community cares deeply about:

- **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; and
- **Commitment** – we translate our plans into actions and demonstrate the persistence that will provide results.

### Community Aspirations

There are five core performance areas in this plan: People, Planet, Place, Prosperity, and Performance. These areas are interrelated, and each must be satisfied to deliver excellent quality of life in the Shire of Toodyay.

For each area, there is an overarching aspirational statement and desired outcomes, summarised in the Council Plan which is available on the Shire's website at: <https://www.toodyay.wa.gov.au/documents/432/council-plan-plan-for-the-future-2023-2033>

### **Disclaimer**

Any discussion regarding a planning matter 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 a 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**

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

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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.

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**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****2.3.1 Cr R Madacsi application**

Cr R Madacsi requested to be granted Approved Leave of Absence from 28 November 2024 until the 31 January 2025 inclusive.

**OFFICER'S RECOMMENDATION**

That the Application for Leave of Absence by Cr R Madacsi from 28 November 2024 until the 31 January 2025 inclusive be granted.

**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 23 October 2024, the following questions were taken on notice:

#### 4.1.1 Questions taken on notice at the October 2024 Council Meeting

Questions taken on notice and responded to are as follows:

##### Question 2 – Mr Lamas

Why has it been reduced because as far as I am aware, Main Roads has not reduced any contribution for the regional road group and black spot program?

##### Response

*The funding varies year on year based on funding submissions approved and capacity to deliver.*

##### Question 3 – Mr Lamas

Capital expenditure budget for FY24/25 updated on the website shows a total budget for infrastructure of \$4,343,914. This figure does not match the total funding source allocated on page 6 of the tabled document. There is a difference of \$49,999. Can you explain why?

##### Response

*There was a typographical error in the capital expenditure list. This has been corrected and updated on the website.*

##### Question 1 – Mr Hefferon

The turnover for the current financial year is 5.97%. What was the turnover for the previous financial year?

##### Response

*31.28%*

#### 4.1.2 Questions from Toodyay Herald

##### Question

The capital expenditure budget 2024/2025 details:

- Grants funding of \$2,781,926 (including “reserves/other” then \$3,019,985); and

- Municipal spend forecast to be \$431,090.

The Shire advises it has budgeted “to get \$1.98 million in 2024/2025 for road funding and spend \$3.45M on road construction.” The municipal funding for road construction is forecast to be 12.2% higher than 2023/2024.

Why the difference between the grant funding amount shown in the capital expenditure budget 2024/2025 and the Shire’s stated \$1.98m?

### Response

*The \$1.98m refers to the Regional Road Group Grant Funding only, this is not the only grant funding source. \$2.7m included all grant funds.*

### Question

What was the dollar value of actual municipal funding for roads in the 2023/2024 Shire Budget - \$385K? (NB: 2023/24 Budget not as clear as the 2024/2025 budget on funding source).

### Response

*The 2023/24 Adopted Budget included grant funding for roads of \$2,703,430 with associated expenditure of \$4,403,977. Included in these amounts are a number of projects that straddled financial years. In some cases, funds were received in prior years skewing the income/expenditure ratio.*

### Question

Have the CEO and Council had discussions concerning reducing the number of current Shire facilities thereby relocating staff?

### Response

*Yes – as part of the facilities and building review*

### Question

Is the current Shire administration building “fit for purpose”?

### Response

*No*

### Question

Have the CEO and council had discussions concerning the sale of Shire of Toodyay property assets including heritage buildings?

### Response

*Yes- as part of the facilities and building review*

### Question

In a media briefing on 28/3/24 between The Herald, Cr McKeown Shire President and Tabitha Bateman Acting CEO the Herald was told the amended Shire of Toodyay Cat laws were to be brought back to Council within 3 months. As this has not occurred what is the current status of the proposed amended Cat laws?



**Response**

*At the Ordinary Council Meeting held on 27 March 2024 Cr Madacsi moved a motion that was seconded by Cr Duri and carried 7/0 (Resolution OCM097/03/24) as follows:*

*That Council defers consideration of the Shire of Toodyay Cat Local Law 2024 pending further review.*

*The current status is that this local law was reviewed and the Officer Report is due to come back to Council in February 2025.*

**Question**

Shire of Toodyay Council Plan 2023-2033:

What is the status of the following items from the Plan:

1.2.1 Public Health and Wellbeing Advisory Group

2.1.1 Seniors Advisory Group

2.2.1 Youth Advisory Group

**Response**

*No formal request has been received for the formation of these groups.*

**Question**

Agenda Briefing Notes dated 16 October 2024 show \$6,116.90 was spent on new items purchased for the CEO, being an iPhone, iPad and accessories. Please provide specific details of these items including model, storage capacity, itemised cost breakdown.

**Response**

*The breakdown is as follows:*

<b>Item</b>	<b>Price</b>
<i>iPhone 16 Pro Max Clear Case with MagSafe MA7F4FE/A</i>	<i>A\$65.00</i>
<i>Logitech Combo Touch Keyboard Case for iPad Pro 13-inch (M4) HRH52PA/A</i>	<i>A\$344.00</i>
<i>Apple Pencil Pro MX2D3ZA/A</i>	<i>A\$199.09</i>
<i>13-inch iPad Pro Wi-Fi + Cellular 512GB with standard glass — Space Black MVXU3X/A</i>	<i>A\$2,635.45</i>
<i>iPhone 16 Pro Max 512GB Black Titanium MYX03X/A</i>	<i>A\$2,271.82</i>
<i>Subtotal</i>	<i>A\$5,515.36</i>
<i>GST</i>	<i>A\$551.54</i>
<b>Order Total</b>	<b>A\$6,066.90</b>

*The Shire received a discount on the new iPhone and the difference was refunded.*

**Question**

The Shire restructure as an outcome of the Special Council Meeting held on 6 Nov 2024: Why do the restructure?

**Response**

*To consider whether the current structure for administering the Shire of Toodyay is appropriate.*

**Question**

Does it mean the CEO does not have confidence in his current executive management team?

**Response**

*No*

**Question**

Whose idea was the restructure?

**Response**

*Council resolved unanimously 7/0 the new structure. Please refer to the Special Council Meeting minutes for 6 November 2024.*

**Question**

What outcome is wanted from the restructure?

**Response**

*The most appropriate structure for administering the Shire of Toodyay.*

**4.1.3 P Hart (Morangup) questions to Council****Question**

Significant parts of the Shire's Local Laws are a mess.  
When and how does Council propose to address this issue?

**Response**

*It is difficult to respond to this question when the specific local law is not identified or what parts of the local law is being referenced. Local laws are required to be reviewed every 8 years, and this occurred in November 2023.*

**4.1.4 Further questions from Toodyay Herald Editor (18 Nov 2024)**

The following questions were received from the Editor of the Toodyay Herald.

**Question 1 – Toodyay Pool**

The Public Notice dated 12/11/24 that was authorised by the Shire President and posted on the Toodyay Shire website refers to “legacy issues inherited from the previous contractor operator” that had the potential to close the pool “immediately”. What are the specific legacy issues that the Notice is referring to?

**Response**

*That is a confidential matter.*

On what date were these legacy issues identified?

**Response**

*From 31 October onwards.*

**Question 2– Toodyay Pool**

The Notice refers to the “recently appointed CEO, Mr Aaron Bowman” performing routine investigations that led to the discovery of these legacy issues. What specific routine investigations were performed by the CEO and did the pool manager participate in these investigations?

**Response**

*Some examples are:*

- *Request for documentation*
- *Overseeing pool water testing*
- *Information provided by a 3rd party*
- *Review of previous operation*

If the pool manager was not involved in the investigations – why not?

**Response**

*This is a staffing matter*

**Question 3 – Toodyay Pool**

After the discovery of the legacy issues and before the Notice was issued did the Shire contact the previous contractor operator of the pool (Clublinks) to discuss these issues?

**Response**

*No.*

**Question 4 – Toodyay Pool**

Why did the Shire not complete a due diligence assessment at handover of the pool from Clublinks to the Shire to identify these legacy issues?

**Response**

*That question is taken on notice.*

**Question 5 – Toodyay Pool**

If a due diligence assessment was completed can this report be made public?

**Response**

*No.*

**Question 6 – Toodyay Pool**

How much are the annual loan repayments on the Toodyay Recreation Centre?

**Response**

*[24/25 budget](#)*

*Loan 72 Land recreation centre 51,730*

*Loan 75B Recreation precinct 192,170*

**Question 7 – Restructure**

How much extra will the four advertised Executive Manager roles cost ratepayers?

**Response**

*Up to \$204,000*

**Question 8 – Restructure**

Where are these additional funds to come from?

**Response**

*Shire Municipal funds*

**Question 9 – Restructure**

*Local Government (Administration) Regulations at 18B provides for the payout of a fixed term contract if terminated before the expiry date. As the current Executive Managers are on fixed term contracts does the Shire face the possibility of contract payouts to these employees due to the restructure?*

**Response**

*No.*

**Question 10 – Restructure**

Was external advice sought concerning the restructure and if it was, who provided this advice?

**Response**

*No.*

**Question 11 – Restructure**

Were the affected senior employees offered redeployment into another role?

**Response**

*Not applicable.*

**Question 12 – Restructure**

The 2024/25 Shire Budget shows rate revenue of \$8 million whereas in contrast the cost of the advertised Executive Manager roles and the CEO role may exceed \$1 million. How are such costs sustainable for a small shire like Toodyay?

**Response**

*The result of financial prudence managed by local government*

**Question 13 – Other**

Is the Shire considering the sale of Shire property such as for example the old tennis courts, showgrounds, or any other property?

**Response**

*The Shire continues to review it's current assets as it has done previously. Tennis Courts and Showgrounds are on crown reserves.*

**4.2 PUBLIC QUESTION TIME****5 CONFIRMATION OF MINUTES****5.1 Ordinary Meeting of Council held on 23 October 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 23 October 2024 be confirmed.

**5.2 Special Meeting of Council held on 6 November 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 6 November 2024 be confirmed.

**5.3 Agenda Briefing held on 20 November 2024****OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 20 November 2024 be received.

**6 PETITIONS / 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 PRESENTATIONS**

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

**6.3 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)**

Nil.

**9 OFFICER REPORTS**

**9.1 DEVELOPMENT AND REGULATION**

**9.1.1 Draft Local Planning Policy - Setbacks of Caravans and Similar Mobile Habitable Structures**

Date of Report:	5 November 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PLA1
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Draft LPP Setbacks of Caravans and Similar Mobile Habitable Structures <a href="#">⇒</a>

**PURPOSE OF THE REPORT**

To consider a new Draft Local Planning Policy - Setbacks of Caravans and Similar Mobile Habitable Structures for adoption for the purpose of advertising.

**BACKGROUND**

It has recently come to the Shire’s attention that there is no framework guiding the placement of caravans and other similar mobile habitable structures on private land.

Unlike a fixed structure such as a building which falls under the prescribed setback requirements of a Local Planning Scheme, a caravan or similar structure treated as a vehicle and thus no setback requirements set.

The issue is that a caravan (or similar structure) is not the same as a vehicle and when it is being used for habitable purposes – there are likely to be similar privacy and amenity issues that would be experienced in a fixed habitable structure.

The Shire is now dealing with more interest in the community about affordable housing and the Government has recently relaxed the requirements for camping and caravans by allowing a Local Government to approve their placement on a private property for up to two years. Therefore, there is a need to address this issue to help the community and decision makers in the future.

A Local Planning Policy (LPP) is an essential tool in town planning that complements statutory planning documents such as Local Planning Schemes and the Planning and Development Act. Its primary function is to provide guidance, clarity, and consistency for

both planners and applicants regarding specific issues that may not be thoroughly covered in the planning scheme or broader legislative frameworks.

The purpose of this policy is to provide guidance on the appropriate placement and setback requirements for caravans and other habitable mobile structures within the Shire of Toodyay. This ensures the preservation of visual amenity, privacy, and orderly development, while also addressing potential impacts on adjoining properties.

## **COMMENTS AND DETAILS**

The draft policy is an important step in responsibly managing the integration of mobile habitable structures into the Shire's landscape. Adoption for advertising will invite community feedback and further refine its provisions.

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

A Local Planning Policy must be advertised in accordance with Clause 4 of the Deemed Provisions for Local Planning Schemes. The Shire's Local Planning Policy – Advertising of Planning Proposals is consistent with this requirement and outlines the following:

- Minimum advertising period of 21 days; and
- Advertisement must be placed in the local newspaper.

In addition to this the Shire will make the notice available on the Public Notices section of the website and advise through its social media channels.

A further report will be brought to Council to discuss the outcomes of the community consultation.

### **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:**

*Local Planning Policy – Advertising of Planning Proposals*

The process for creating a Local Planning Policy has a mandatory advertising requirement. This is outlined in this policy.

### **Financial:**

Should the Council choose to adopt this Policy for the purposes of advertising, the Shire will incur advertising costs. This amount has been allocated in the normal budget preparation.

### **Legal and Statutory:**

*Caravan Parks and Camping Grounds Act 1995*

*Caravan Parks and Camping Grounds Regulations 1997*

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

*Shire of Toodyay Local Planning Scheme No. 5*



**Risk related:**

Risk	Likelihood	Consequence	Score	Rating	Actions
Non-compliance with setbacks	Likely (4)	Moderate (3)	12	High	Enforce setback standards; monitor and address non-compliance promptly.
Community objections	Possible (3)	Major (4)	12	High	Conduct transparent consultation; publish policy objectives clearly.
Environmental impact	Unlikely (2)	Moderate (3)	6	Moderate	Enforce screening (e.g., vegetation) to minimise visual impact.
Legal challenges	Possible (3)	Moderate (3)	9	Moderate	Ensure policy meets statutory requirements; provide clear guidance.
Enforcement costs	Possible (3)	Minor (2)	6	Moderate	Budget for enforcement; monitor adequacy of resources.
Inconsistent application	Unlikely (2)	Major (4)	8	Moderate	Standardise procedures; train staff for consistent application.
Impact on visual amenity	Likely (4)	Moderate (3)	12	High	Enforce design standards to preserve local character.
Service interruption due to enforcement	Possible (3)	Moderate (3)	9	Moderate	Allocate resources efficiently during peak periods; prioritise high-risk cases.

**Workforce related:**

A well-crafted local planning policy can significantly improve workforce efficiency by providing clear, consistent guidelines that streamline processes and support independent decision-making.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council:

1. adopts the Draft Local Planning Policy – *Setbacks of Caravans and Similar Mobile Habitable Structures (Attachment 1)* for the purpose of advertising.
2. prepares and publishes a notice for Draft Local Planning Policy - *Setbacks of Caravans and Similar Mobile Habitable Structures (Attachment 1)* for the purpose of advertising, in accordance with Schedule 2, Clauses 4 and 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. notes that any submissions received during the advertising period would be presented to Council for consideration.

**9.1.2 Modification of Delegation Register DAR8 - Development Application Delegations**

Date of Report:	25 October 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PLA1
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Current Delegation DAR8; ➡ 2. Revised Delegation DAR8. ➡

**PURPOSE OF THE REPORT**

To consider an amendment to the Shire of Toodyay Delegations Register – DAR8 – Development Application Delegations.

The amendment will give a prescribed limit in terms of a percentage of variance to the Scheme setbacks that may be approved under delegated authority.

**BACKGROUND**

Setbacks are currently dealt with under Table 6 of Section 32 – General Development standards and requirements in the *Shire of Toodyay’s Local Planning Scheme No. 5*.

In town planning, the purpose of a boundary setback is to ensure appropriate separation between buildings and property boundaries. Setbacks help manage the layout of developments to maintain privacy, access to sunlight, and ventilation for both the property and neighbouring lots. They contribute to streetscape aesthetics, reduce potential fire risks, and allow for the safe placement of utilities, drainage, and landscaping. Setbacks also support public safety by providing space for pedestrian pathways, driveways, and emergency access, ensuring developments are functional, liveable, and in harmony with the local environment.

A request to vary the setback requirements is one of the most common applications for development approval types that the Shire deals with.

In the Shire of Toodyay, applicants often seek setback variations due to irregular lot shapes, heritage considerations, or topographical constraints like steep slopes or natural features. Other reasons include existing structures, the need to enhance privacy, maximise solar access or views, and improve outdoor living areas. Variations may also be requested for

bushfire risk mitigation, alignment with existing boundary fences, protection of significant vegetation or watercourses, and accommodating agricultural infrastructure in rural areas.

These factors often drive the need for flexibility in standard setback requirements while ensuring development remains practical and sensitive to local conditions.

## COMMENTS AND DETAILS

Currently, there is no cap on the setback variations that can be approved under delegated authority, allowing for significant deviations from prescribed standards without Council oversight. Setting a limit on this authority provides a balanced approach to streamline minor applications while maintaining transparency and consistency in decision-making.

### Proposed Limit on Delegated Authority:

It is recommended that officers be permitted to approve setback variations up to **50%** of the prescribed standard. Variations beyond this threshold would be escalated to Council for review. This approach aligns with industry best practices, where similar limits are commonly adopted to balance efficiency with governance standards.

### Benefits of a 50% Threshold:

- **Efficient Processing for Minor Variations:** A 50% limit allows planning officers to handle minor, straightforward variations efficiently, reducing delays and administrative load on Council.
- **Enhanced Oversight for Significant Deviations:** Variations over 50% would require Council approval, ensuring larger deviations are reviewed in detail and in line with community standards.
- **Consistent and Transparent Decision-Making:** A defined threshold provides clarity for both applicants and the community, promoting predictability and reducing perceptions of arbitrary or inconsistent approvals.
- **Maintaining Community Character and Standards:** By setting this threshold, Council can allow some flexibility for unique site conditions while preserving the intent of setback requirements.

The adoption of a 50% limit on setback variations under delegated authority provides a structured framework that enhances efficiency, transparency, and public confidence in the planning process.

## IMPLICATIONS TO CONSIDER

### Consultative:

In Western Australia, local governments are not legally required to conduct community consultation when amending delegations of authority. The *Local Government Act 1995* mandates that councils review their delegations at least once every financial year, but it does not stipulate a requirement for public consultation during this process.

### 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:**

Amendments to the local planning scheme  
 Central Toodyay Heritage Area Planning  
 Development in Extracts Industrial Area  
 Development in Residential Development Zone  
 Subdivisional Development Guidelines

**Financial:**

Nil

**Legal and Statutory:**

*Local Government Act 1995*

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

*s.59 of the Interpretation Act 1984*

**Risk related:**

There are three essential elements for a valid delegation under Western Australian law:

- |     |  |    |   |
|-----|--|----|---|
| (1) | Express Power to delegate:                         | to | The written law (head of power) must prescribe a power to delegate, enabling the delegator to make a delegation                         |
| (2) | Express Power or duty (Capable of being delegated) | or | The express power or duty must be written in the same law as (1) and that law does not prohibit the power or duty from being delegated. |
| (3) | Instrument of Delegation                           |    | To provide a delegation in writing so as to give it to the delegate   |

The compliance risk is moderate (3). This report mitigates the risk.

**Workforce related:**

An Officer will update the Register of Delegations and republish the register onto the Shire's website as well as inform staff through normal correspondence methods.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION 1**

That Council approves the revised delegation DAR8 Development Application Delegations, as detailed in **Attachment 1**, pursuant to s.82(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**9.1.3 Lot 239 (No. 67-89) Stirling Terrace, Toodyay - Toodyay Club Inc - Urgent Repair of Fencing**

Date of Report:	7 November 2024
Applicant or Proponent:	Shire of Toodyay / Toodyay Club Inc
File Reference:	A1979/239STIT
Author:	H de Vos – Executive Manager Development and Regulation
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	Nil
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Quasi-Judicial
Attachments:	<ol style="list-style-type: none"> <li>1. Letter from Toodyay Club Inc <a href="#">⇨</a></li> <li>2. Colour swatch - "Domain" <a href="#">⇨</a></li> </ol>

**PURPOSE OF THE REPORT**

Council is requested to consider a proposal for the urgent repair of fencing at the Toodyay Club which is located at Lot 239 (No. 67-89) Stirling Terrace in Toodyay. This matter is being brought to Council for a resolution to support a fence design which proposes a variation to the Shire’s Local Planning Policy – Central Toodyay Heritage Area. Additionally, the Council is being asked to consider a request to commit ratepayer money to partially fund the project which is being co-ordinated by the Toodyay Club Inc.

**BACKGROUND**

Lot 239 Stirling Terrace in Toodyay is a 20,991m<sup>2</sup> property which is zoned Commercial under the Shire of Toodyay’s Local Planning Scheme No. 5. Additionally, it is in the Toodyay Town Centre Precinct Special Control Area. The property is owned by the Shire, and it has the following Shire assets onsite:

- Alma Beard Medical Centre;
- Toodyay Community Resource Centre;
- Toodyay Colocation Centre / Fire Station;
- Toodyay Club and Bowling Greens.

The Shire has been meeting with representatives of the Toodyay Club over concerns they have raised about the state of the fencing. As a result of this meeting, the club has sent a formal letter to the Shire about these issues on 5 November 2024. For more details refer to **Attachment 1 – Letter from Toodyay Club Inc.**

The letter from the Toodyay Club regarding Lot 239 Stirling Terrace requests support for erecting a fence around the property. They are seeking assistance, possibly financial or logistical, to establish the fencing for security or aesthetic purposes around their premises.

The fence surrounding the Bowling Green, built in 1976, is now in a dilapidated state, raising serious concerns about its safety and durability, particularly as most bowlers are seniors. Should anyone lean on the fence, there is a risk it could fail, potentially causing injury or harm. For these reasons, replacing the fence has become an urgent priority.

The club is seeking a variation to the Central Toodyay Heritage Area Policy to allow a solid low Colorbond fence which is needed to prohibit sand and debris from blowing onto the green. The fence would be of a neutral colour, "Domain" and only 1200mm in height. Due to the topography of the Bowling Green, the fence would pose no impact on the street view or sight lines for traffic or other residences. A colour swatch has been provided in **Attachment 2**.

## COMMENTS AND DETAILS

### IMPLICATIONS TO CONSIDER

#### Consultative:

No community consultation has occurred. In this instance the elevation of the fencing from the Stirling Terrace streetscape means that the variation will have minimal impact. The project is not considered to be disruptive or intrusive and therefore consultation was not required.

#### 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:

#### ***Local Planning Policy – Central Toodyay Heritage Area***

The proposal by the Toodyay Club requests a 1200mm high solid Colorbond fence to replace an old, deteriorated fence around the Bowling Green. This fence is intended to mitigate debris from blowing onto the green, ensuring safety for senior players and addressing structural concerns with the existing fence. Although the height aligns with policy limits, the use of Colorbond in a visible front setting diverges from the policy preference for more traditional materials and open-style designs.

However, given that the site is significantly elevated from the normal street level, the impact if this on the streetscape is minimal and thus can be supported.

#### Financial:

The financial implications for the Shire in this proposal include a requested contribution of **\$3,000** towards the cost of replacing the fencing around the Toodyay Club Bowling Green

The total estimated cost of the fencing project is **\$7,950**. The Toodyay Club and Bowling Club aim to reduce costs significantly through member and volunteer labour, bringing the remaining expenses down to **\$7,950**. If the Shire contributes \$3,000, the Club will cover the

remaining **\$4,950** from its own resources. The \$3,000 dollars can be supplied through existing funds allocated into the adopted budget for the maintenance and upkeep of this Shire asset.

### **Legal and Statutory:**

#### ***Planning and Development Act 2005***

Section 6 of the *Planning and Development Act 2005* provides that public works, which are works carried out by or on behalf of a public authority (such as the Shire), are exempt from development approval requirements in certain circumstances. The Act defines “public work” broadly, covering infrastructure projects such as roads, utilities, and other community-serving facilities.

#### ***Public Works Act 1902***

The *Public Works Act 1902* further defines what constitutes public work, covering construction and maintenance of public infrastructure and facilities. When a project is classified as public work, it falls under the remit of public authorities and is thus exempt from the typical planning approvals required for private developments.

### **Risk related:**

In accordance with the Shire’s Risk Management Policy, the following risks have been identified:

<b>Risk Description</b>	<b>Risk Level (Consequence x Likelihood)</b>	<b>Mitigation Actions</b>	<b>Responsible Party</b>
Structural failure of the current fence, posing a safety hazard to seniors participating in bowls.	High (Major consequence x Likely likelihood)	Replace the fence with a new, durable fence as requested in the proposal.	Shire of Toodyay and Toodyay Club
Injury to participants or members due to fence collapse.	Extreme (Catastrophic consequence x Possible likelihood)	Install a robust fence structure; ensure regular safety checks and compliance with safety standards.	Shire of Toodyay and Toodyay Club
Reputational damage to the Shire if the safety concern is not addressed.	Moderate (Moderate consequence x Likely likelihood)	Approve and expedite the installation of a new fence to show commitment to public safety.	Shire of Toodyay Council
Continued accumulation of sand and debris on the Bowling Green,	Moderate (Minor consequence x Likely likelihood)	Allow the construction of a solid, low Colorbond	Toodyay Club and Shire of Toodyay



Risk Description	Risk Level (Consequence x Likelihood)	Mitigation Actions	Responsible Party
impacting usability and maintenance costs.		fence to minimise debris.	

**Workforce related:**

As this site is a Shire asset, it will be required to assist with ongoing periodic maintenance.

**VOTING REQUIREMENTS**

Simple Majority

<p><b>OFFICER’S RECOMMENDATION 1</b></p> <p>That Council</p> <ol style="list-style-type: none"> <li>1. notes the submission from the Toodyay Club Inc dated 5 November 2024 requesting consideration of proposed urgent fencing works for the Bowling Green at Lot 239 Stirling Terrace;</li> <li>2. supports the proposed variation to the Local Planning Policy – Central Toodyay Heritage Area by agreeing to the use of solid 1200mm solid Colorbond fencing in ‘Domain’ for the fencing repair works requested by the Toodyay Club Inc at Lot 239 Stirling Terrace in Toodyay; and</li> </ol>
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**9.2 CORPORATE AND COMMUNITY SERVICES**

**9.2.1 Monthly Financial Statements - October 2024**

Date of Report:	14 November 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	T Bateman – Executive Manager Corporate and Community Services
Responsible Officer:	T Bateman – Executive 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 Financial Statements - October 2024 <a href="#">⇒</a>

**PURPOSE OF THE REPORT**

To present to Council the Monthly Financial Reports for the month ended 31 October 2024.

**BACKGROUND**

Regulation 34(1) of the *Local Government (Financial Management) Regulations 1996* requires a local government to prepare each month a statement of financial activity including the sources and applications of funds, comparing actuals against annual budget and year-to-date budget.

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**

Local governments are required to present to Council the Statement of Financial Activity to comply with Australian Accounting Standards (AAS) and the amended *Local Government (Financial Management) Regulations 1996*.

The Statement of Financial Activity, contained within the monthly financial statements, summarises the Shire’s operating and capital activities and provides an indication of the Shire’s financial performance as the year progresses. Officers have also provided additional supplementary information.

**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.

9.2 Govern Shire finances, assets and operations responsibly.

**Policy related:**

Financial Governance

**Financial:**

Financial implications are reported in accordance with the approved material variances reporting threshold as adopted by Council; (+) or (-) \$10,000 or 10%, whichever is the greater.

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council receives the Monthly Financial Statements and Supplementary Information as attached for the month ending 31 October 2024 (**Attachment 1**).

**9.2.2 List of Payments - October 2024**

Date of Report:	15 November 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN32
Author:	T Bateman – Executive Manager Corporate and Community Services
Responsible Officer:	T Bateman – Executive 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 - October 2024 <a href="#">⇒</a>

**PURPOSE OF THE REPORT**

To present to Council the list of payments for the month of October 2024.

**BACKGROUND**

This information is provided to Council on a monthly basis in accordance with provisions of the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

A Local Government is to develop procedures for the authorisation of any payment of accounts to ensure that there is effective security for which money or other benefits may be obtained.

**COMMENTS AND DETAILS**

The schedule of payments has been compiled for the month of October 2024 and is attached.

These payments have already occurred, and Council are not making a decision as to whether payments are to be made.

**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.***

***O9.1: Govern Shire finances, assets, and operations responsibly.***

**Policy related:**

Purchasing Policy  
Delegation CS1

**Financial:**

Expenditure is in accordance with s6.8(1) (a) of the *Local Government Act 1995*.

**Legal and Statutory:**

Local Government Act 1995

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

s.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

r.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.

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER’S RECOMMENDATION 1**

That Council receives the list of accounts as presented and listed below, for the month of October 2024:

Municipal Cheques	\$12,713.06
Electronic Funds Transfer Payments	\$1,368,383.80
Payroll	\$253,659.74
Purchasing Cards	\$5,409.38
<b>TOTAL</b>	<b>\$1,640,165.98</b>

**9.2.3 Sundry Debtor Write-offs**

Date of Report:	15 November 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	T Bateman – Executive Manager Corporate and Community Services
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil.
Council’s Role in the matter:	Legislative
Attachments:	Nil

**PURPOSE OF THE REPORT**

To consider writing off charges relating to replacement bins and/or repairs.

**BACKGROUND**

Ratepayers can make request through the Shire, to Avon Waste for the repair or replacement of waste bins. Avon Waste invoices the Shire and the cost is on-charged to the ratepayer at cost.

The charges should have been raised earlier in the year but were not processed due to lapses in established procedures. As a result, the accounts were not flagged or invoiced in the usual manner, and the debts remained unaddressed for a significantly longer period than is acceptable.

Following review, officers are requesting that these debts be written off as a result of administrative error and due to the length of time since the cost was incurred. Of the 15 invoices, 13 have not been forwarded to the debtors.

**COMMENTS AND DETAILS**

This issue among others was identified as an area requiring improvement. Officers immediately reviewed the procedures and identified gaps. To prevent similar occurrences in the future, the following is being implemented;

- Regular procedure reviews are to be undertaken to ensure procedures are relevant and reflect the necessary actions involved to close out the process.
- Enhanced staff training and onboarding to ensure all staff have access to procedures relevant to their role.
- Robust monthly processes to ensure reviews are carried out in accordance with procedures.

The failure to raise these charges in a timely manner was an oversight that has now been addressed. Officers have implemented improvements to processes to ensure that such oversights do not occur in the future.

## 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.***

9.2 Govern Shire finances, assets and operations responsibly.

### Policy related:

Delegation CS6

Debt Collection Policy

### Financial:

The total amount of the debts in question is \$1,237.88. The write-off of these debts will not materially affect the overall budget.

Invoice Description	Date	Invoice Total
Rubbish Bin Replacement - A1869 - 36 Grandis Road, Morangup	28/02/2024	97.72
Rubbish Bin Replacement - A490 - 61 Folewood Road, Toodyay	4/03/2024	97.72
Rubbish Bin Replacement - A699 - 50 Boyagerring Road, Dumbarton	15/04/2024	97.72
Rubbish Bin Replacement - A3113 - 266 Harvester Drive, Toodyay	17/04/2024	97.72
Rubbish Bin Repair - A2493 - 40 White Gum Ridge, Coondle	9/05/2024	15.00
Rubbish Bin Repair - A375 - 100 Stirling Terrace, Toodyay	13/05/2024	15.00
Rubbish Bin Replacement - A889 - 90 Boyagerring Road, Dumbarton	20/05/2024	97.72
Rubbish Bin Replacement - A2497 125 Red Gum Circle, Toodyay	4/07/2024	101.04
Rubbish Bin Replacement - A3237 - 98 Railway Road, Toodyay	9/07/2024	101.04
Rubbish Bin Repair - A79 - 19 Harcourt Street, Toodyay	22/07/2024	12.00
Rubbish Bin Replacement - A939 346 Picnic Hill Road, West Toodyay	19/08/2024	101.04
Rubbish Bin Replacement - A2934 1 Mastalerz Retreat Toodyay	19/08/2024	101.04

Invoice Description	Date	Invoice Total
Rubbish Bin Replacement - A20 8 Rosedale Street, Toodyay	2/09/2024	101.04
Rubbish Bin Replacement - A1488 - 4870 Toodyay Road, Morangup	18/09/2024	101.04
Rubbish Bin Replacement - A1660 143 Grandis Road, Morangup	25/09/2024	101.04
<b>Total to be waived/written off</b>		<b>1,237.88</b>

**Risk related:**

There is a risk that this report may set a precedent for the future however the implementation of robust procedures should mitigate this risk.

**Workforce related:**

The outcomes of this report can be managed within existing resources.

**VOTING REQUIREMENTS**

Absolute Majority

<b>OFFICER'S RECOMMENDATION 1</b>		
That Council approves the write off of \$1,237.88 pertaining to aged charges as detailed below;		
Invoice Description	Date	Invoice Total
Rubbish Bin Replacement - A1869 - 36 Grandis Road, Morangup	28/02/2024	97.72
Rubbish Bin Replacement - A490 - 61 Folewood Road, Toodyay	4/03/2024	97.72
Rubbish Bin Replacement - A699 - 50 Boyagerring Road, Dumbarton	15/04/2024	97.72
Rubbish Bin Replacement - A3113 - 266 Harvester Drive, Toodyay	17/04/2024	97.72
Rubbish Bin Repair - A2493 - 40 White Gum Ridge, Coondle	9/05/2024	15.00
Rubbish Bin Repair - A375 - 100 Stirling Terrace, Toodyay	13/05/2024	15.00
Rubbish Bin Replacement - A889 - 90 Boyagerring Road, Dumbarton	20/05/2024	97.72
Rubbish Bin Replacement - A2497 125 Red Gum Circle, Toodyay	4/07/2024	101.04
Rubbish Bin Replacement - A3237 - 98 Railway Road, Toodyay	9/07/2024	101.04
Rubbish Bin Repair - A79 - 19 Harcourt Street, Toodyay	22/07/2024	12.00
Rubbish Bin Replacement - A939 346 Picnic Hill Road, West Toodyay	19/08/2024	101.04



Rubbish Bin Replacement - A2934 1 Mastalerz Retreat Toodyay	19/08/2024	101.04
Rubbish Bin Replacement - A20 8 Rosedale Street, Toodyay	2/09/2024	101.04
Rubbish Bin Replacement - A1488 - 4870 Toodyay Road, Morangup	18/09/2024	101.04
Rubbish Bin Replacement - A1660 143 Grandis Road, Morangup	25/09/2024	101.04
<b>Total to be waived/written off</b>		<b>1,237.88</b>

9.3 EXECUTIVE SERVICES

9.3.1 Council Forums Policy

Date of Report:	17 October 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman – Chief Executive Officer
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"> <li>1. Operational Guideline; and <a href="#">↔</a></li> <li>2. Current Council Forums Policy; and <a href="#">↔</a></li> <li>3. Revised Council Forums Policy (with track changes included); and <a href="#">↔</a></li> <li>4. Revised Council Forums Policy. <a href="#">↔</a></li> </ol>

**PURPOSE OF THE REPORT**

To consider the adoption of the revised Council Forums Policy (**Attachment 5**).

**BACKGROUND**

In November 2023, Moore Australia conducted a Financial Management Review and found that some council policies are too focused on daily operations which should be managed by the CEO. The Auditors recommended the Shire:

- remove version control information;
- remove specific legal references from the legislation section of each policy.
- Clearly identify Shire policies and move non-policy documents to other categories (like directives, procedures, corporate documents, etc).
- Update policies to reflect Council’s strategic direction and provide high level guidance for operations, especially where laws do not offer clear instructions.

Policies should be concise statements of strategic objectives, principles, criteria, or conditions that guide a Local Government’s obligations, directions, or objectives.

They are both outcomes of decision-making processes and governance tools that guide future decisions. Policies give the Local Government’s Administration the authority to act and make decisions consistent with policy provisions.

## COMMENTS AND DETAILS

The current Council Forums policy was adopted on 25 May 2022 (**Attachment 2**). It was revised in early 2024 after discussions with Councillors. The Shire created the Council Forum Policy in 2014 to establish meeting procedures for Council Forums.

The [Local Government Operational Guidelines](#) for Council Forums (2004) help local governments conduct forums with proper procedures and controls. (**Attachment 1**).

The guidelines states that a general record of items discussed at forums should be kept, including disclosures of interest and appropriate departures/returns.

Official notes were taken at all Council Forums between 2014 and 2020 but this practice stopped due to changes in processes.

The purpose of holding separate Agenda Briefings is to provide members with the agenda for the Council meeting two weeks in advance. Notes are taken to record questions and responses; resulting in more informed meetings. Proper conduct procedures are currently in place for these meetings. Only a few local governments have a Council Forum policy. Instead, some have a governance framework that includes Council Meetings, Committee Meetings, Briefing Sessions and Forums. The [current governance framework](#) duplicated the information contained in the current Forum Policy.

In regard to Agenda Briefings, other local governments such as the City of Wanneroo, the City of Subiaco, Town of Victoria Park publish Agenda Briefing agendas however with the exception of the Cities of Perth and South Perth they do not publish formal notes from those briefing sessions. The notes from the latter two appear to only contain responses to questions taken on notice.

Officers believe that removing the requirement for formal notetaking has positive impacts on meeting efficiency. It means that administrative staff can focus on more critical tasks, potentially speeding up other processes. The briefings can proceed more smoothly without interruptions for notetaking, allowing for a more natural flow of discussion.

Officers can take informal notes as needed, briefly summarising the discussion, highlighting key points, decisions, and action items; making it more flexible and tailored to their specific needs, rather than adhering to a formal structure.

This change aims to make any type of forum more efficient by reducing unnecessary administrative tasks while still ensuring that important questions and issues are addressed.

Any questions taken on notice will be responded to by Shire Officers after each meeting via email to all Councillors.

Forums are now recorded and the Agenda Briefing in particular will continue to be live-streamed. This provides a detailed record that can be referred to if needed, while still reducing the burden of formal notetaking.

The revised policy will also avoid duplicating information contained in the Governance Framework. The track changed policy (**Attachment 3**) is provided together with (**Attachment 4**) that has had track changes accepted.

It is recommended that the revised policy (**Attachment 4**) be adopted.

## IMPLICATIONS TO CONSIDER

### Consultative:

Nil.

**Strategic:****Shire of Toodyay Council Plan 2023-2033****Outcome 9. Responsible and effective leadership and governance.**

## 9.1. Provide strong, clear, and accountable leadership.

The Governance Framework, adopted by Council in terms of representation states that the Elected Members represent the interests of and are accountable to all electors, ratepayers and residents of the Shire.

Section 9.4.4 Protection from Liability within the Governance Framework provides for an explanation of the privilege Elected Members have in the community and that they should be mindful of their responsibilities and not, in the heat of a Council debate, to make defamatory statements which could give rise to a civil action.

**Policy related:**

Corporate Documents Policy

**Financial:**

Nil.

**General Function:**

Nil.

**Legal and Statutory:**

*Local Government Act 1995.*

*The Local Government (Model Code of Conduct) Regulations 2021.*

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.

Meeting procedures are governed by the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and the *Shire of Toodyay Standing Orders Local Law 2008*. Notwithstanding these instruments Council has flexibility in how it approaches its meetings.

**Risk related:**

The risk is insignificant and although it may be perceived as a low (3) risk, this report mitigates the risk.

**Workforce related:**

A Shire Officer will update the website and distribute the revised policy list to councillors and staff via email.

A Shire Officer will also amend the governance framework and republish it once it has been amended.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION 1**

That Council:

1. adopts the Revised Council Forums Policy (**Attachment 4**); and
2. requests the Chief Executive Officer make any necessary minor typographical amendments to the policy, prior to publication.

**9.3.2 Superannuation Policy**

Date of Report:	30 October 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC2/FIN7
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Current Policy. <a href="#">⇒</a>

**PURPOSE OF THE REPORT**

To consider retiring the current Superannuation Policy (**Attachment 1**).

**BACKGROUND**

The Superannuation Policy was adopted by Council on 27 September 2023 (**Attachment 1**).

Moore Australia suggested, as part of the Financial Management Review in November 2023 that the Shire review its policies and recommended that Officers:

- remove version control information;
- remove specific legal references from the legislation section of each policy.
- Clearly identify Shire policies and move non-policy documents to other categories (like directives, procedures, corporate documents, etc).
- Update policies to reflect Council's strategic direction and provide high level guidance for operations, especially where laws do not offer clear instructions.

Staff continue to contribute to have ongoing voluntary contributions deducted from their wages and made on their behalf by the Shire as per their employment contracts and enterprise bargaining agreements which refer to the Superannuation Council Policy being in place. This is an operational management process.

**COMMENTS AND DETAILS**

The Superannuation Guarantee percentage is set by the Australian Taxation Office. Superannuation contributions for each eligible employee is required to be paid on at least a quarterly basis.

The Financial Management Review done in November 2023 asked for policies to do with employees to be reviewed to determine whether the policy is a Council policy or an Administrative process managed by the Chief Executive Officer.

It is recommended that this policy be retired as a Council Policy with the intention of it becoming an internal CEO directive, managed by the CEO.

**Consultative:**

Nil.

**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.***

**Policy related:**

Nil.

**Financial:**

There are no financial implications associated with the retirement of this policy as the superannuation guarantee percentage is something that is required to be paid by the local government within budgetary allocations.

**Legal and Statutory:**

***Local Government Act 1995***

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.

**Risk related:**

It is important to have a process in place to accurately reflect the practice of payment of superannuation and what the Shire is prepared to be bound by. The review of this policy 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.

It would be a compliance risk if the policy was not retired. The risk is considered to be low (3). This report mitigates that risk.

**Workforce related:**

An Officer will retire the policy and the directive will be provided to the CEO.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION 1**

That Council retires the Superannuation Policy (**Attachment 1**).

**9.3.3 2025 Australia Day WA Community Citizen of the Year Awards**

Date of Report:	31 October 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	EVT6
Author:	A Poulish – Community Development Officer
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Advocacy
Attachments:	1. Ballots and Nominations Forms (Confidential).

**PURPOSE OF THE REPORT**

To vote on nominations for the 2025 Australia Day Community Citizen of the Year Awards categories.

**BACKGROUND**

The Community Citizen of the Year Awards are held annually across the State, promoted, and coordinated by the Australia Day Council of Western Australia (ADCWA).

Local governments are encouraged to engage residents to nominate fellow citizens. There is no additional cost for the Shire to support the Awards, or for those wishing to submit a nomination.

The recipients will be selected from people and groups who have made community contribution and participation rather than personal achievement.

The Community Citizen of the Year Awards consist of four categories for presentation:

1. Community Citizenship of the year;
2. Community Citizen of the year (Youth under 25 years);
3. Community Citizen of the year (Senior over 65 years); and
4. Active Citizenship (Group or Event).

ADCWA and participating local governments call for nominations from community groups and individuals. Nominations are submitted to ADCWA online via the website or using the form provided by the local government. All nominations received before the close-off date are provided to the relevant local government for consideration and selection.

In choosing the recipients of the Community Citizen of the Year Awards, regard is given to the nominee’s achievements in the year immediately prior to receiving the award, as well as their past achievements and ongoing contribution to the community. A nominee need only be nominated once to be considered, though can receive numerous nominations.



Nominations for the 2025 Community Citizenship Awards opened on 1 September 2024. Posters and the link to the nomination form were published on the Shire of Toodyay website and Facebook. Additionally, an article was included in the Shire's Community Newsletter for the Toodyay Herald November edition. Nominations closed on 15 November 2024.

The winners of these awards will have been judged to have shown active citizenship and:

- Significant contribution to the local community;
- Demonstrated leadership on a community issue resulting in the enhancement of community life;
- A significant initiative which has brought about positive change and added value to community life; and
- Inspiring qualities as a role model for the community.

The eligibility criterion for these awards is as follows;

- A person must first be nominated to be considered for the Awards;
- Nominees should reside or work principally within the local authority making the award (Shire of Toodyay);
- Awards may be granted posthumously in recognition of recent achievements Groups of people will not normally be eligible except when meeting the criteria for a community group;
- A couple may be recognised in an individual category;
- A person may receive an award on more than one occasion in recognition of their particularly outstanding community contribution or involvement in an alternative initiative;
- Self-nominations are not accepted;
- Individuals must be at least 16 years of age on 26 January, though younger nominees may be considered for exceptional contribution;
- Unsuccessful nominees may be nominated in future years;
- Sitting members of State, Federal and Local Government are not eligible Nominations must be apolitical in their nature;
- Nominees should not in any way bring the awards program or local government area into disrepute.

Community Active Citizenship Awards are a means of recognising those who show outstanding commitment and contribution to their local community.

Nominees are notified in writing by the Shire of Toodyay and will receive a Certificate of Nomination, produced by the Shire of Toodyay. The nominees are invited to attend and participate in the annual Australia Day celebrations in 2025, the nominees will be announced and called up to receive their Certificate of nomination. Following the announcement of nominations, the winner will be announced. The award certificates are produced by the ADCWA free of charge.

## COMMENTS AND DETAILS

The Community Citizen of the Year Awards are an opportunity for the Shire of Toodyay to recognise and honour the efforts of many residents, who dedicate their own time to actively work for the betterment of our community.

The Shire of Toodyay produces certificates for all nominees and they are formally invited to attend and participate in the Australia Day celebrations.

ADCWA provides Certificates and Medals to the selected recipients at no cost to the Shire of Toodyay.

At the time of writing this report the nomination period has not come to an end. Ordinarily a confidential report would be attached containing ballot papers and nomination paperwork. This information will be provided to Council at their Agenda Briefing as a confidential attachment.

In respect to nominations for the two categories with more than one nominee, it is appropriate for Councillors to vote via secret ballot, with simple majority.

Although it customary for only one winner from each category to be awarded, the Shire of Toodyay has previously awarded joint recipients in Citizenship Awards.

The Australia Day Council requests that it receive Award winner names by early December 2024 to allow time for printing and forwarding the Award certificates and medals to the Shire of Toodyay.

## IMPLICATIONS TO CONSIDER

### **Consultative:**

Nominations were called for via various mediums including the Shire's Community Newsletter, distribution of posters on all notice boards, the Shire of Toodyay website, Facebook posts and all Toodyay Community groups were sent details via email.

### **Strategic:**

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

***Outcome 2 – An inclusive, connected community***

***O 2.5 Celebrate cultural diversity through art, culture and community activities***

### **Policy related:**

Nil.

### **Financial:**

There are minimal financial implications which include costs of printing certificates, and obtaining frames for those certificates, all of which can be covered through operational budgets.

### **Legal and Statutory:**

Auspire Australia Day Council Community Citizen of the year awards criteria.

**Risk related:**

The reputational risk of Council choosing to not nominate by secret ballot, recipients for the 2025 Community Citizen of the Year Awards categories, is considered minor (2) however this report mitigates the risk.

**Workforce related:**

Officers will arrange for nomination certificates and inform nominees.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council:

1. selects recipients for the 2025 Australia Day WA Community Citizen of the Year Awards by secret ballot, acknowledging that the ballot results will remain confidential until the announcement of the winners at the Australia Day breakfast which is held at the Toodyay Recreation Centre on 26 January 2025; and
2. acknowledges that in the event of a tied ballot, the Shire President and CEO will determine the ultimate recipient based on the submissions provided in that category

**9.3.4 Committee restructure**

Date of Report:	13 November 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC4, COC6, COC14
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	Aug/Sept 2019 & Feb 2020 Committees of Council Review
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Committee Book. <a href="#">⇒</a>

**PURPOSE OF THE REPORT**

To consider the disbanding of the following Committees of Council:

- (a) Environmental Advisory Committee;
- (b) Works Advisory Committee; and
- (c) Heritage Advisory Committee.

**BACKGROUND**

While committees can be valuable in addressing specific issues, they require formal meeting procedures including agendas and minutes as per the *Shire of Toodyay Standing Orders Local Law 2008*. However, informal working groups have proven more effective.

Council has successfully used informal “working groups” for projects like the Avon Link, Butterly Cottages, Foggarthorpe, and the Entry Statement. These groups operated for a limited time and were not bound by strict meeting procedures.

The current Committee Book (**Attachment 1**) suggests that committees review their effectiveness annually by considering:

- *Are the committee’s goals being met?*
- *Is the committee becoming more or less effective?*
- *Are members attending meetings regularly?*

Committees can recommend changes to their terms of reference to the Council. Council can at any time also decide on the effectiveness of a Committee.

The Committee Book will need updating once the *Local Government Amendment Bill 2024* is approved. Councillors will be informed of these changes once they come into place.

## COMMENTS AND DETAILS

The Committee Book outlines how Committees and Working Groups are structured (Attachment 1). An assessment of the Committees' effectiveness has been done by Shire Officers.

### 1. Environmental Advisory Committee

This committee last met in January 2024. Two meetings that were cancelled due to lack of attendance.

The committee consists of two Councillors and two Community Members.

Most interaction happen through Microsoft Teams.

The most recent interaction occurred as a workshop for the review of the local biodiversity strategy.

Environmental issues are managed by the Shire's Environmental Sustainability Officer and other staff.

The committee's main role was to provide advice on the implementation of the Environmental Management Strategy. The purpose of this Committee was increased through Council resolution.

The committee was never intended to be a vehicle for becoming an autonomous group pulling in members from other community driven environmental groups within the district or regional areas to drive their ideas and/or agendas not determined by Council.

Councillors who were members of the Committee passed feedback from the Committee to Councillors either via email or through the Council Forums process.

It is recommended that this Committee be disbanded as its functions are handled by the Shire's Environmental Sustainability Officer and other relevant staff.

### 2. Works Advisory Committee;

This committee was disbanded in 2020 but re-established in May 2024.

Meetings often turned into Q&A sessions about ongoing projects.

The committee consists of three Councillors and two Community Members.

It is recommended to disband the committee again as questions can be addressed through normal business correspondence. Councillors can receive updates through Council Briefings. This will allow for more direct communication between the Community, Councillors and the Executive Manager.

### 3. Heritage Advisory Committee

The Committee, previously known as the Museum Advisory Committee until November 2023, set up to provide guidance on matters affecting the selection, interpretation or display of the museum's artefacts and matters relating to the promotion of the Museum was renamed with new terms of reference.

The committee consists of two Councillors and six Community Members.

Most interactions happen through Microsoft Teams and email. It is known that members, from time to time, assist the Museum Curator outside of the committee structure as volunteers.

A separate Heritage Working Group was invited by Shire Officers to review the Central Toodyay Heritage Policy. This group included members from the Museum Advisory Committee, the Planning and Compliance Officer, the Museum and Cultural Heritage Officer and the Shire's Heritage Advisor.

Heritage matters are managed by the Shire's Executive Manager Development and Regulation with support from other Officers. Identifying places on the Heritage List is a community engagement process led by Shire Officers for the review of the Local Heritage Strategy which is scheduled to be finalised in December 2024.

Members of the Heritage Advisory Committee, like Beth Frayne from the Toodyay Historical Society, have provided valuable information for the heritage list.

### **Option 1: Disband the Committees and work with local groups**

The benefits of this option would be that Shire Officers could approach groups such as the Toodyay Historical Society, Toodyay Friends of the River, Toodyay Agricultural Alliance, Toodyay Naturalists, and the Reconciliation Action Group to utilise their local expertise. Shire Officers would continue to follow the Council Policy for Community Consultation and Engagement, ensuring community involvement.

### **Option 2: Disband the Committees and Create a Heritage and Sustainability Working Group**

This working group, managed by Shire Officers would include members from the current committees and other relevant groups. It would provide broad advice on all manner of topics, related to the brief, so long as those matters do not cross over into being operational in substance and effect.

The working group brief would be to provide advice to Shire Officers when requested to do so for general function purposes, focused on good governance. Whilst the purpose is broad, this will allow Shire Officers the opportunity to:

- obtain expert environmental advice more routinely;
- include cultural heritage reports or community consultation surveys on social impacts; and
- develop processes to involve local Aboriginal people in decision-making.

Shire Officers would continue to follow the Council Policy for Community Consultation and Engagement and provide briefings to Council through forums. Another option is to include a standing item in Council Briefings for updates on heritage, works, and environmental matters, allowing for questions and discussions.

The recommendation will ask Council to consider **Option 2** for a more integrated and efficient approach to managing heritage and sustainability matters. The approach would

streamline operations, reduce formalities and ensure that the Shire's goals in the Council Plan are met more efficiently.

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

Nil.

### **Strategic:**

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

Outcome 2: An inclusive, connected community

Outcome 7: A strong, diverse and sustainable economy

Outcome 10: Happy community members who feel heard, valued and respected.

### **Policy related:**

Museum Collection and Conservation Management Policy requires amendment to remove consultation with the Heritage Advisory (previously Museum Advisory) Committee.

Currently the CEO has a Delegation to accept items into the museum collection (accession) and to decide whether items will be removed from the collection (de-accession) upon advice received from the Museum Curator in both instances.

### **Financial:**

Council adopted its Local Government Payments and Gifts to Members Policy in March 2024 to allow for the Salaries and Allowances determination that stipulated the minimum and maximum allowance to be paid to committee members for meeting attendance.

Disbanding the Committees will result in a saving of approximately \$2,500.

### **Legal and Statutory:**

As a local government the Shire has an obligation to operate within the parameters of the legislation that governs it.

#### 5.8. Establishment of committees

*A local government may establish\* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

Sections 5.9 and 5.10 provide for the types of committees and Appointment of Committee Members.

Section 11 provides for the tenure of Committee Membership.

The *Local Government Act 1995* is silent on the formation of Working Groups.

The *Local Government Amendment Act 2023* was passed on May 11, 2023, changing section 3.1(1) of the *Local Government Act 1995*. Section 21 of the Amendment Act added a new provision:

Section 3.1(1A): Local governments must consider the following when performing their functions:

**Sustainability:** Promote economic, social, and environmental sustainability, plan for climate change risks, and consider long-term impacts on future generations.

**Aboriginal Interests:** Recognize and involve Aboriginal people in decision-making.

**Collaboration:** Consider working with other local governments.

These changes align the Local Government Act with the Planning and Development Regulations, which require consideration of environmental, social, and cultural impacts. The new provision goes further by specifically addressing Aboriginal interests and climate risks.

### **Risk related:**

Disbanding committees may present several challenges:

1. **Resistance to change:** Committee members might resist the change if they feel their roles or input are being reduced. Clear communication about the reasons for the change is essential to prevent misunderstandings.
2. **Loss of Expertise:** The new approach might be perceived as losing specialized knowledge. There may be an adjustment period to adapt to new policies and procedures, which could temporarily affect service delivery. However, this change offers an opportunity to improve focus on governance and strategic goals.
3. **Reputational Risk:** The risk to the Shire's reputation is low (3). However, since two committees were established in the last year, the risk is moderate (8) due to potential community concerns.

This report addresses and mitigates these risks.

### **Workforce related:**

Any policies that are affected by the decision to disband the committees will be updated and brought to Council at the February 2025 Council Meeting.

The Committee Book will be updated and published onto the Shire's website the day after Council makes its decision.

## **VOTING REQUIREMENTS**

Absolute Majority

### **OFFICER'S RECOMMENDATION 1**

That Council:

1. disbands the Environmental Advisory Committee effective immediately; and
2. disbands the Works Advisory Committee effective immediately; and
3. disbands the Heritage Advisory Committee effective immediately; and
4. requests the Chief Executive Officer inform all committee members about the decision, the reasons behind it, and the benefits of the new approach.



**OFFICER'S RECOMMENDATION 2**

That Council establishes a Heritage and Sustainability Working Group whose terms of reference will be at the discretion of the CEO.

**9.3.5 Toodyay Recreation Centre**

Date of Report:	13 November 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PRO15
Author:	A Bowman – Chief Executive Officer
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	24 July 2024 (OCM218/07/24)
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> <li>1. Ascentive Report. <a href="#">⇨</a></li> <li>2. Maintenance Schedule. <a href="#">⇨</a></li> <li>3. Quote from Contract Aquatic Facilities. (confidential) Section 5.23(2) <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></li> </ol>

**PURPOSE OF THE REPORT**

To ensure the Toodyay aquatic facility can remain open and that the Shire work towards full compliance being achieved.

**BACKGROUND**

Clublinks, the previous external contractor, relinquished management of the facility on 30 June 2024, prior to the contract end date of 29 November 2024.

Following this there was a need to investigate potential operational models for the facility to guide the decision around future facility management. Ascentive was contracted to

undertake the review and their report was presented to Council (**Attachment 1**) at the July 2024 Ordinary Council meeting where Council resolved the following:

*That Council:*

1. *Receives the Operational Management Review Report (Attachment 1);*
2. *Accepts the recommendations made within the report and adopts the preferred operational model for management of the Toodyay Recreation Centre, which includes:*
  - a. *Shire-managed aquatic areas, and*
  - b. *Shire and Community Hybrid-managed dry sports facilities.*
3. *Requests the Acting Chief Executive Officer to include the costings of the preferred hybrid operational model in the 2024/2025 Annual Budget process; and*
4. *Requests the Acting Chief Executive Officer to develop an operational management plan to include risk management, maintenance schedules, and defined roles and responsibilities that may form part of future user agreements.*

A former employee of Clublinks that previously worked at the Toodyay Aquatic Centre was employed by the Shire as a Recreation Facilities Manager to assist with the transition from external management of the facility to internal management.

The decision was made to retain the existing facilities manager from 1 July 2024 to allow appropriate time to carry out the requirements of the July Council Meeting. This position was tasked amongst other things to develop an operational management plan to include risk management, maintenance schedules, and defined roles and responsibilities that may form part of future user agreements. An additional responsibility was recruiting staff and ensuring relevant training and qualifications were obtained to enable the Aquatic Centre to operate.

An initial review by the CEO of the Aquatic Facility resulted in a number of questions and queries raised which resulted in some concerning issues being identified. On further research and investigation, it became evident that there were compliance and safety issues that needed urgent attention.

The Recreation Facilities Manager tendered his resignation on Monday 4 Nov 2024 with a finish date of Friday 8 Nov 2024.

Without the required qualified and trained staff, the Aquatic Centre would be required to close after the first week of the swimming pool season.

Immediate action was taken to source relevant expertise to manage the Aquatic Centre to ensure it remained open and compliance issues were addressed.

Due to the emergency of the situation the Shire President authorised the CEO to engage Contract Aquatic Services to manage the Aquatic Centre in order to prevent the pool from having to be closed for an extended period of time. It should be noted that the action taken to rectify the urgent situation complies with the relevant purchasing policy and procedures.

The Shire of Toodyay Purchasing policy provides the following in relation to purchases of an urgent nature:

***Emergency Purchases within Budget (Refer to Clause 6.5)***

*Where goods or services are required for an emergency response and are within scope of an established Panel of Pre-qualified Supplier or existing contract, the emergency supply must be obtained from the Panel or existing contract using relevant unallocated budgeted funds. If there is no existing Panel or contract, then clause 6.3.1 (1) Supplier Order of Priority will apply wherever practicable.*

*However, where due to the urgency of the situation; a contracted or tender exempt supplier is unable to provide the emergency supply OR compliance with this Purchasing Policy would cause unreasonable delay, the supply may be obtained from any supplier capable of providing the emergency supply. However, an emergency supply is only to be obtained to the extent necessary to facilitate the urgent emergency response and must be subject to due consideration of best value and sustainable practice. The rationale for policy non-compliance and the purchasing decision must be evidenced in accordance with the Shire's Record Keeping Plan.*

Clause 6.5 of the Purchasing policy provides the following;

### **6.5 Emergency Purchases**

*Emergency purchases are defined as the supply of goods or services associated with:*

- (a) *a local emergency and the expenditure is required (within existing budget allocations) to respond to an imminent risk to public safety, or to protect or make safe property or infrastructure assets;*

### **COMMENTS AND DETAILS**

The operation and management of the Aquatic Centre (the facility) for the 2024/25 season entirely by Shire employed staff is no longer a feasible option for the following reasons:

1. There was not the appropriate resources allocated to ensure the compliant operation of the facility;
2. There was not the required aquatic experience and knowledge to manage the facility, despite retention of some staff;
3. There are historical issues from the previous operations that have not been addressed;
4. There has been a lack of the required maintenance schedule to ensure the effective and efficient running of the pool; and
5. Professional external management of the facility was required for the 2024/25 season if the pool was to remain open.

The schedule of Aquatic Centre Maintenance (**Attachment 2**) that forms part of the previous contract for the management of the Toodyay Recreation Centre outlined the contractor responsibility, for example "do all that is necessary to ensure correct operation and pool chemical levels remain correct in accordance with all manufacturing specifications and Australian standards" would be difficult to achieve when there is no evidence of the required calibration of the Palin Test unit.

A summary of some basic examples of non-compliance issues that are patron and employee safety related that were identified by Contract Aquatic Services are:

1. **Electrical Test and Tag:** Out of 30 items, only one had a valid test tag. Twenty-nine items lacked tags, and one lead had exposed wires due to an altered plug (modified from 15-amp to 10-amp). Additionally, electrical equipment, such as the blower used on inflatable days, has not been tested since 2021.
2. **Palin Test Calibration:** No evidence of calibration for the Palin Test unit.
3. **First Aid Kits:** Three first aid kits (two wall-mounted and one portable) contained multiple expired items, and many necessary items were missing.
4. **Defibrillator:** Child defibrillator pads expired in 2022.

5. **Signage:** Numerous facility signs are damaged, with some obscured or not clearly visible.
6. **Staff Instructions:** Staff, particularly lifeguards, have not received clear guidance on roles and responsibilities, with instructions limited to remaining in shaded areas.
7. **Staff Qualifications:** Certain staff members lack current Health Department accreditation required for pool management roles.
8. **Certification Documentation:** Records could not be provided for staff qualifications or current certifications.
9. **Emergency Evacuation Drill:** No evacuation drill was conducted before the season started.
10. **Facility Operations Manual:** The facility does not have an operations manual (distinct from the plant room manual). Policies, procedures, risk assessments, and documentation of regular reviews are also missing, or lack the required level of detail.

A review of the ongoing management and operation of the Aquatic Centre facility will be required to be undertaken in early 2025.

## IMPLICATIONS TO CONSIDER

### Consultative:

Royal lifesaving

LGIS

Legal advisor

### Strategic:

#### **Shire of Toodyay Plan for the Future – Council Plan 2023-2033**

#### Outcome 1: A safe and healthy Community

1.1 Facilitate Community Safety

1.3. Grow participation in sport and recreational activities

### Policy related:

Purchasing policy

### Financial:

The cost paid to Clublinks for site management for the 2022/23 season was \$538,662 plus additional incidental costs, and in 2023/24 it was \$537,601 plus additional incidental costs.

The cost of engaging Contract Aquatic Facilities for the 2024/25 pool season is \$157,800. (**confidential attachment**).

Officers have undertaken a detailed analysis of the adopted budget which shows that costs relating to the engagement of Contract Aquatic Services can be accommodated within the existing allocations including an allocation of \$50,000 to undertake urgent action to address compliance matters.

For the most part, the cost of the contract can be catered for by utilising the salaries and wages allocations which were estimated based on previous years' staffing levels. In

consultation with Contract Aquatic Services a review of the staffing budget in relation to the required staffing levels was conducted revealing that staffing levels were grossly overstated given the existing patronage.

Accordingly, officers are proposing the following budget amendments resulting in a nil impact to the adopted budget:

Ledger Account	Description	Budget adjustment
113.300.10	Recreation & Sport - Salaries & Wages	(54,569)
112.300.10	Swimming Pool - Salaries & Wages	(104,795)
112.319.10	Swimming Pool - Other Leave Expenses	(40,171)
112.321.10	Swimming Pool - Superannuation - Council Contribution	(16,848)
112.336.10	Swimming Pool - Contractors	157,800
112.339.10	<i>Compliance audit matters</i>	50,000
112.339.10	<i>POS system purchase and install</i>	(7,500)
112.351.10	Swimming Pool - Materials Purchased	4,766
112.366.10	Swimming Pool - Advertising and Promotion	(9,683)
112.381.10	Swimming Pool - Printing, Stationery & Office Consumables	(3,000)
112.390.10	Swimming Pool - Minor Equipment Purchases (<\$5,000)	3,000
112.429.10	Swimming Pool - Electricity	(15,000)
112.447.10	Swimming Pool - Other Materials and Contracts	15,000
112.169.10	Swimming Pool - Income from Retail Sale of Stock	21,000
	<b>Net impact</b>	<b>\$Nil</b>

### Legal and Statutory:

#### *Local Government Act 1995*

#### 6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
- is incurred in a financial year before the adoption of the annual budget by the local government; or
  - is authorised in advance by resolution\*; or
  - is authorised in advance by the mayor or president in an emergency.

*\* Absolute majority required.*

- (1a) In subsection (1) —

**additional purpose** means a purpose for which no expenditure estimate is included in the local government's annual budget.

- (2) Where expenditure has been incurred by a local government —
- pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
  - pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

**Risk related:**

The risk in doing nothing is considered Extreme (20) considering public safety, compliance management, risk management, potential financial implications and reputational damage. The Shire’s Risk Management Framework considers that any risk that is in the extreme range should be contained and addressed immediately once issues about risk are identified. This report mitigates the risk.

**Workforce related:**

Shire Officers will manage the contract and amend the Shire’s Compliance Calendar with any reporting that is required as part of the contract.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER’S RECOMMENDATION**

That Council:

1. Notes the expenditure of \$157,800 to Contract Aquatic Services to manage and operate the Toodyay Aquatic Centre for the 2024/25 season; and
2. Authorises the following budget amendments resulting in a nil impact to the adopted budget:

Ledger Account	Description	Budget adjustment
113.300.10	Recreation & Sport - Salaries & Wages	(54,569)
112.300.10	Swimming Pool - Salaries & Wages	(104,795)
112.319.10	Swimming Pool - Other Leave Expenses	(40,171)
112.321.10	Swimming Pool - Superannuation - Council Contribution	(16,848)
112.336.10	Swimming Pool - Contractors	157,800
112.339.10	<i>Compliance audit matters</i>	50,000
112.339.10	<i>POS system purchase and install</i>	(7,500)
112.351.10	Swimming Pool - Materials Purchased	4,766
112.366.10	Swimming Pool - Advertising and Promotion	(9,683)
112.381.10	Swimming Pool - Printing, Stationery & Office Consumables	(3,000)
112.390.10	Swimming Pool - Minor Equipment Purchases (<\$5,000)	3,000
112.429.10	Swimming Pool - Electricity	(15,000)
112.447.10	Swimming Pool - Other Materials and Contracts	15,000
112.169.10	Swimming Pool - Income from Retail Sale of Stock	21,000

**9.4 INFRASTRUCTURE AND ASSETS**

Nil.

**9.5 COMMITTEE REPORTS**

**9.5.1 Bush Fire Advisory Committee Recommendations and the Adoption of Bush Fire Brigades Local Law 2024**

Date of Report:	3 September 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	LAW1
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	Nov 2023 – Local Law Review
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> <li>1. Minutes from Committee Meeting; <a href="#">⇨</a></li> <li>2. Bush Fire Brigades Local Law 2024; <a href="#">⇨</a></li> <li>3. Gazettal 1946; and <a href="#">⇨</a></li> <li>4. Gazettal 1970; and <a href="#">⇨</a></li> <li>5. Proposed Advertisement. <a href="#">⇨</a></li> </ol>

**PURPOSE OF THE REPORT**

To receive the minutes of the Bush Fire Advisory Committee meeting held on 6 Nov 2024 (**Attachment 1**) and to consider the adoption of the Bush Fire Brigades Local Law (**Attachment 2**).

**BACKGROUND**

Local laws can only be made when authorised by the *Local Government Act 1995* (the Act) or other written laws but cannot be inconsistent with any State or Federal law.

Under the *Bush Fires Act 1954* a local government may establish and maintain one or more bush fire brigades for the purpose of carrying out normal brigade activities. The *Bush Fires Act 1954* also prescribes that a local government may, and in another circumstance shall, operate its bush fire brigade in accordance with local laws.

Two Bush Fire Brigades Local Law entries in the government gazette have been located as follows:

- GG 15 July 1970, page 2101
- GG 6 Dec 1946, page 1499. By-laws Toodyay Rd Board.

Research indicates that neither of these have been repealed.



## COMMENTS AND DETAILS

The Bush Fire Advisory Committee met in November 2024 and made a recommendation to Council.

Pursuant to section 3.12 of the *Local Government Act 1995* (the Act) the Shire of Toodyay, in making a local law, must follow the procedure described, in the sequence in which it is described. Now that the Bush Fire Brigades local law has been amended significantly, through a desktop review by Shire Officers, the local law is presented to Council for consideration to make it a local law pursuant to section 3.12 of the Act.

It is recommended that Council resolve its intent to adopt the Bush Fire Brigades Local Law 2024.

Section 3.12 (2) states:

*"At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner."*

**It is recommended that the Presiding Person read out the following:**

### Bush Fire Brigades Local Law

1. Pursuant to section 3.12 of the *Local Government Act 1995* the Shire of Toodyay resolves its intent to adopt the *Shire of Toodyay Bush Fire Brigades Local Law 2024*:
  - (a) The **purpose** of which is to provide for the establishment, organisation and maintenance, administration and funding of bush fire brigades.
  - (b) The **effect** of which will repeal the previous local laws and ensure that bush fire brigades will be organised and managed to comply with this local law.
  - (c) The **justification** of which is that it will provide rules to a bush fire brigade governing the operation of a bush fire brigade pursuant to the *Bush Fires Act 1954* and the provisions of its subsidiary legislation.

## IMPLICATIONS TO CONSIDER

### **Consultative:**

National Competition Policy: Local Laws Review Guidelines

WALGA

### **Strategic:**

#### **Shire of Toodyay Council Plan 2023-2033**

The Shire regulates compliance with legislation, regulations, local laws and policies.

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

### **Policy related:**

Bush Fire Operational Procedures

### **Financial:**

This proposal will require local notice/advertisement to the value of approximately \$455.00.

**Legal and Statutory:**

Section 3.12 Procedure for making local laws of the *Local Government Act 1995*

Section 62. Local government may make local laws of the *Bush Fires Act 1954*.

**Risk related:**

If Council chooses to delay the making of this amended local law there would be moderate reputational and compliance risks. This report mitigates the risk.

**Workforce related:**

Shire Officers will implement Council's decision.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council receives the minutes of the Bush Fire Advisory Committee as attached (**Attachment 1**).

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION 2**

That Council, under absolute majority, pursuant to the provisions of section 3.12(3) of the *Local Government Act 1995*:

1. Resolves its intent to adopt the *Shire of Toodyay Bush Fire Brigades Local Law 2024*:
  - (a) The **purpose** of which is to provide for the establishment, organisation and maintenance, administration and funding of bush fire brigades.
  - (b) The **effect** of which will repeal the previous local laws and ensure that bush fire brigades will be organised and managed to comply with this local law.
  - (c) The **justification** of which is that it will provide rules to a bush fire brigade governing the operation of a bush fire brigade pursuant to the *Bush Fires Act 1954* and the provisions of its subsidiary legislation.
2. Requests the CEO to advertise a local public notice (**Attachment 5**);
3. Requests the CEO to send to the Minister a copy of:
  - (a) The proposed local law – Refer to **Attachment 2**; and
  - (b) A copy of the public Notice – Refer to **Attachment 5**.
4. Requests the CEO to provide a copy of the proposed local law, in accordance with the notice to any person requesting it.

**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**

Audit & Risk Committee Meeting	4 December 2024
Ordinary Council Meeting	18 December 2024

**16 CLOSURE OF MEETING**