



# Ordinary Council Meeting

## 18 December 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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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

Cr R Madacsi Councillor

### 2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

## 3 DISCLOSURE OF INTERESTS

## 4 PUBLIC QUESTIONS

### 4.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

#### 4.1.1 Questions taken on notice from the November 2024 Council Meeting

Questions from the community taken on notice, and responded to as follows:

#### Toodyay Herald Editor

##### Question 5

How much of the \$538,662 was actual management fee versus coverage for operating deficit?

##### Response

*This information is considered confidential under Section 5.23 (2)(c) and (e)(i), (e)(ii) and (e)(iii) of the Local Government Act 1995 and cannot be divulged.*

##### Question 6

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

*The Shire did undertake a due diligence assessment.*

**Question 7**

What is the budget deficit for the Toodyay Recreation Centre including operating deficit and management fee?

**Response**

*The question is broad; however, a detailed breakdown of the original budget and proposed budget amendments was provided at the November 2024 OCM. The overall operating deficit for the Recreation & Sport and Swimming Pool areas of the budget is estimated at \$688,643.*

**B Ruthven****Question**

The advertising of the four Executive Management positions suggests that the current contracts have or will be terminated. Is that the case?

**Response**

*No.*

**Question 17**

Which delegation is that to decide entry to the pool would be free on Tuesdays?

**Response**

*Delegation No. CS6.*

**S Pearce****Question 16**

In the policy a paragraph was struck out that read: *At workshops, where issues may require a future decision of Council, Shire Officers are looking for general guidance from Members so that they may make improvements to their reports and relevant attachments.* How is the removal of this paragraph aligning with the objective to guide Members and Shire Officers with principles of transparency and accountability?

**Response**

*This paragraph is a reason for how something is to occur. The removal of this paragraph aligns with the Shire's responsibilities as per the Financial Management Review recommendations to consider, via policy review, the appropriate separation of the role of the Council and the CEO; and to articulate the strategic direction of Council and set out a high-level position to follow at an operational level, particularly where legislation does not provide such guidance.*

**P Ruthven****Question 2**

Has the Shire of Toodyay or Clublinks ever received an improvement order or a closure order by the Chief Health Officer under r.22 and 23 of the *Health (Aquatic Facilities) Regulations 2007*?

**Response**

*A search of our records indicates no.*

**Question 3**

Does the Palintest unit belong to the Shire?

**Response**

Yes.

**Question 4**

Are you aware of the Check Standard Solution which users of the equipment can use to test the accuracy of the Photometer?

**Response**

Yes. *The Shire is aware of the information on the [Palintest website](#).*

**Question 5**

What legal requirements is there for a Palintest unit to be recalibrated?

**Response**

*Under the Health (Aquatic Facilities) Regulations 2007 the Shire is to ensure that (r.21 Water sampling) an authorised officer collects water samples. (r.18 permit to operate an aquatic facility) states that on being tested, the water quality meets the requirements of the Code. **Code** means the “[Code of practice for the design, construction, operation, management and maintenance of aquatic facilities](#)”, published by the Chief Health Officer under the Act on 1 June 2007 as amended by the Chief Health Officer from time to time, and any code of practice under the Act that replaces the Code;*

*It is the Code that states: All chemical water tests are to be performed using water testing kits approved by the Chief Health Officer. Test kits shall be operated, maintained, and **routinely calibrated** in accordance with manufacturer’s directions/user manual.*

**4.1.2 P Hart - Questions with Notice**

The following questions are related to Council Resolution OCM268/11/23 in Nov 2023.

**Question**

Were the workshops run on the dates indicated in the report?

**Response**

*The Cat Local Law, Dogs Local Law and Fencing Local Law were workshopped with Councillors on 14 February 2024.*

**Question**

If not, why not?

**Response**

*The Shire President requested that the CEO delay the holding of further local law workshops.*



**Question**

If not, when were they run?

**Response**

*See above responses.*

**Question**

If they were run, did they take due regard of the public submissions arising from Council Resolution OCM018/02/23 in February 2023?

**Response**

*Councillors were provided with the submissions at their May 2023 Council Meeting Agenda however, at this meeting the Shire President advised, through the CEO, that this item would be withdrawn for consideration at the June 2023 Ordinary Council Meeting. The submissions were provided to Councillors at the November 2023 Ordinary Council Meeting.*

**Question**

If due regard was not taken, why not?

**Response**

*See above response.*

**Question**

If the workshops have not been run, why not?

**Response**

*Scheduling issues.*

**Question**

If the workshops have not been run, when is it proposed for them to be run?

**Response**

*It is envisaged that workshops in March 2025 will be the place where all local laws will be reviewed.*

**Question**

The Agenda for the Ordinary Council Meeting of November includes the response "Local laws are required to be reviewed every 8 years, and this occurred in November 2023."

How is this statement consistent with Council Resolution OCM268/11/23?

**Response**

*This statement is consistent with that resolution because a review did take place. Officers did a desktop review of the local laws, and the current local laws were advertised as part of*



*the local law review. Submissions were considered at the November 2023 Council Meeting. Council resolved to accept the Officer's Recommendation.*

*The resolution stated the following;*

*That Council:*

- 1. Pursuant to section 3.16(4) of the Local Government Act 1995 (the Act), resolves its intent to not change the Cemeteries Local Law; and*
- 2. Pursuant to section 3.16(4) of the Act, resolves its intent to repeal the Pest Plants Local Law subject to the Repeal Local Law 2023 being workshopped by Council;*
- 3. Pursuant to section 3.16(4) of the Act, resolves its intent to workshop and amend the following local laws:*
  - (a) Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law;*
  - (b) Cat Local Law;*
  - (c) Dogs Local Law;*
  - (d) Extractive Industries Local Law;*
  - (e) Fencing Local Law;*
  - (f) Health Local Laws;*
  - (g) Local Government Property Local Law;*
  - (h) Parking and Parking Facilities Local Law;*
  - (i) Standing Orders Local Law.*
- 4. Determines that the periodic review of the local laws for the Shire of Toodyay has concluded.*

### **Question**

If this review was done, were the outcomes of the review put out for public comment?

### **Response**

*See above comments however, once local laws are reviewed, they are taken to Council and pursuant to s.3.13(3) and (3A) of the Local Government Act 1995, the Shire will give public notice as it has done recently for the Bush Fire Brigades Local Law.*

### **Question**

If so, when did the public comment period happen?

### **Response**

*See above comment.*

### **Question**

If the outcomes were not put out for public comment, why not?

### **Response**

*See above comment.*

**Question**

When were the revised Local Laws published in the Gazette?

*There is no requirement to publish as no changes were made to the local laws during the review.*

**4.1.3 Questions from Toodyay Herald**

The following questions on notice have come in from the Editor of the Herald:

**Question 1 (Agenda Item 9.3.3 – TIFF)**

What was the specific ROI for the Shire of Toodyay in relation to the 2024 TIFF? For instance, for each dollar spent on the event by the shire what was the return in 2024?

**Response**

*ROI is difficult to measure on festivals of this size. Surveys have been conducted with local business and there is a consensus that the event as a whole, generates little economic benefit to our local businesses, apart from accommodation.*

**Question 2 (Agenda Item 9.3.3 – TIFF)**

If Council endorses the officer's recommendation on agenda item 9.3.3 not to run the TIFF in 2025 will the Shire have any formal event on the weekend of the Avon Descent 2025?

**Response**

*No, the Shire plans on hosting more events throughout the year as described on page 53.*

**Question 3 (Agenda Item 9.3.4 Northam Avon Descent Association)****OFFICER'S COMMENT**

The Avon Descent is one of the world's largest white water races and is recognised as one of Western Australia's premier sporting events. The event attracts a large number of visitors to Toodyay – both in the lead up to the event as competitors come to practice and during the competition itself. In addition there is potential for follow up visitation.

The event provides Toodyay with opportunities to promote itself to potential residents, investors and visitors. The collaboration with the event organisers and other stakeholders provides an extremely cost effective method of promoting Toodyay. The collaboration enables promotion through a range of media including newspapers, radio, television, flyers, et cetera.

Given the positive officer's comment why is the Shire of Toodyay now no longer interested in leveraging "one of the world's largest white-water races" in order to promote Toodyay?

**Response**

*This comment is not in the current agenda.*

**Question 4**

In the report at 9.3.4, the officer states, "including a \$10,000 sponsorship to the Northam Avon Descent Association (NADA), which does not directly benefit the Shire".

How does supporting (via sponsorship) the race organisers to successfully hold an event that goes through Toodyay and has competitors (and support crews) overnight in either Toodyay or Cobbler Pool not benefit the Shire?

**Response**

*Elements of the sponsorship agreement have not been delivered. There is evidence that support crews do not stay overnight in Toodyay as they follow the event from Northam to Perth. Camping at Cobbler pool provides no economic benefit to our local business.*

**Question 5**

Has the Northam Avon Descent Association Inc. NADA been advised of the Shire's intent to cut sponsorship?

**Response**

*No, not until discussed at the Council Meeting.*

**Question 6**

Should the Shire end the alliance with the NADA are there any implications concerning the Shire's use of the term "Avon Descent" (or related terms)?

**Response**

*The Shire is considering not sponsoring the NADA for the 2025 year. The Shire doesn't own the event "Avon Descent".*

**Question 7 (Agenda Item 9.3.7 – Bendigo Bank Building)**

Should the Shire sell the property at 108 Stirling Terrace to Toodyay & Districts Community Financial Services Limited (who operate Bendigo Bank branches in Northam and Toodyay), what guarantee is there the new owner will not on-sell the property resulting in the Toodyay community losing its one and only banking service?

**Response**

*None.*

**Question 8 (Agenda Item 9.5.2 – Complaints procedure)**

Under the proposed complaints procedure (per 9.5.2) for Code of Conduct complaints (pertaining to elected members, committee members, candidates) is the CEO the complaints officer?

**Response**

*Yes, if Council endorses the second recommendation made by both the Officer and the Audit and Risk Committee.*

**Question 9 (Agenda Item 9.3.3 – TIFF)**

Was an officer's report done concerning the costs and outcomes of the 2024 TIFF?

**Response**

*No.*

**Question 10 (Agenda Item 9.3.3 – TIFF)**

If a report was done:

- a. Why is it not included in the officer's report in agenda 9.3.3?
- b. Surely council should be making decisions on the most recently available data?

**Response**

*N/A*

**Question 11 (Agenda Item 9.3.3 – TIFF)**

Why does the officer's report in 9.3.3 focus on the costs of the TIFF event yet ignores the benefits?

**Response**

*The Shire has an obligation in its Strategic Community Plan to focus on local businesses and govern Shire finances, assets, and operations responsibility.*

**Question 12 (Agenda Item 9.3.3 – TIFF)**

The officer's report on page 53 of the meeting agenda refers to "proposed events":

- (a) Where did these ideas come from? and
- (b) Are there any indicative costings?

**Response**

*(a) Ideas came from local businesses.*

*(b) No, there are no indicative costings.*

**Question 13 (CCTV in Toodyay)**

Does the Shire of Toodyay have any functioning CCTV cameras in the Toodyay CBD including Stirling Terrace?

**Response**

*No.*

**Question 14 (CCTV in Toodyay)**

If the Shire of Toodyay does not have any functioning CCTV cameras – what is the reason?

**Response**

*Cameras were damaged when they were removed.*

**Question 15 (Tidy Town Toodyay)**

How is the tidy town campaign progressing?

**Response**

*Tidy Towns is run by a community organisation.*

**Question 16 (Tidy Town Toodyay)**

Has a campaign committee been established?

**Response**

*No.*

**4.2 PUBLIC QUESTION TIME****5 CONFIRMATION OF MINUTES****5.1 Ordinary Meeting of Council held on 27 November 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 27 November 2024 be confirmed.

**5.2 Special Meeting of Council held on 11 December 2024****OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 11 December 2024 be confirmed.

**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**

*The CEO will be making a presentation.*

**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 biodiversity Strategy - Shire of Toodyay**

Date of Report:	26 November 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	ENV21
Author:	Z Azam – Environmental Sustainability Officer
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	25 September 2024
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	<ol style="list-style-type: none"> <li>1. Attachment 1 - Draft Local Biodiversity Strategy <a href="#">⇒</a></li> <li>2. Attachment 2 - Schedule of Submissions <a href="#">⇒</a></li> <li>3. Attachment 3 - Risk Matrix <a href="#">⇒</a></li> </ol>

**PURPOSE OF THE REPORT**

To consider the adoption of the Shire of Toodyay's Draft Local Biodiversity Strategy.

**BACKGROUND**

The Shire of Toodyay previously engaged external consultants to develop a draft Local Biodiversity Strategy (LBS), which was subsequently reviewed by the Environmental Advisory Committee. Feedback from committee members was incorporated through necessary revisions. This project was beset with timing and resourcing issues, and it was never completed.

A new opportunity arose in December 2023, when the Shire successfully secured grant funding through the Western Australian Local Government Association (WALGA) and the State Natural Resource Management (NRM) Program. The funding was specifically aimed at supporting the delivery of Local Biodiversity Strategies within local governments.

Using this funding, the Shire created an Environmental Sustainability Officer (ESO) role, with the priority responsibility of delivering the strategy. After four months of recruitment challenges, an ESO was appointed on 31 April 2024.

Key Milestones:

- **13 May 2024:** WALGA held a meeting with the newly appointed ESO to outline expectations and objectives for the strategy.

- **14 May 2024:** The ESO arranged a meeting with community groups, including Toodyay Friends of the River and the Toodyay Naturalists' Club, to ensure community engagement was prioritised.
- **June 2024:** The ESO conducted site visits and facilitated discussions with staff to explore approaches and outcomes for the strategy.
- **August 2024:** A meeting was held with the Reserves Officer and Community Engagement Officer to discuss the draft strategy.
- **28 August 2024:** The ESO received the Grant Agreement, which highlighted the importance of incorporating input from Aboriginal communities and set a submission deadline of 29 November 2024.
- **4 September 2024:** A Council workshop was conducted, where the draft strategy was presented, and councillors provided input.
- **5 September 2024:** A report on public consultation for the draft strategy was submitted to the Council.
- **13 September 2024:** The ESO requested an extension for the submission deadline from WALGA and the State NRM Program.
- **16 September 2024:** A follow-up meeting with WALGA was held to discuss the draft strategy and the way forward.
- **23 September 2024:** The Council approved the draft strategy for public release.

## COMMENTS AND DETAILS

The development of the draft Local Biodiversity Strategy involved several key steps to ensure its relevance and effectiveness for the Shire of Toodyay including:

1. Detailed mapping and geographic information system (GIS) data analysis tailored specifically for the Shire.
2. Extensive research on biodiversity and established productive networks with stakeholders to gather valuable insights.
3. The original biodiversity draft of the Shire of Toodyay was thoroughly reviewed. During this review, several significant issues were identified that could potentially impact regional operations. Notably, some aspects of the draft were found to be financially burdensome for the Shire. Additionally, the complexity of the original draft posed challenges for effective implementation by stakeholders.
4. In response to the identified issues, a new draft of the biodiversity strategy was developed. This revised draft is designed to be more user-friendly and less cost-intensive for the Shire. The new draft focuses on actionable steps rather than detailed and complex information, aligning with the needs and capabilities of the Shire's community.
5. The draft strategy was put out for public consultation for 21 days, during which feedback from the community was collected. Based on this feedback, the strategy was revised to incorporate public comments and ensure its alignment with community expectations.
6. A copy of the strategy was also provided to the Western Australian Local Government Association (WALGA), which expressed satisfaction and commended the approach taken and the content included in the strategy. The Environmental Sustainability Officer (ESO) has maintained continuous



engagement with WALGA to ensure the strategy aligns with best practices and regional biodiversity goals.

This revised draft Local Biodiversity Strategy aims to address the previously identified challenges and optimise opportunities for the Shire of Toodyay, facilitating effective implementation and community engagement.

It is also important that a key aim in the development of the Local Biodiversity Strategy is that is easy to interpret and to action. It has been authored with simple language and achievable, meaningful actions. This would be seen as a departure from other strategy examples which focus on more sophisticated language and detail – ultimately making the document difficult to administer and understand. The feedback that the author has received from WALGA about this approach has been very positive and encouraging.

## IMPLICATIONS TO CONSIDER

### Consultative:

The draft strategy was required to undergo a public consultation process in accordance with the Shire's *Community Consultation and Engagement Policy*.

This required that the strategy was advertised for a minimum of 21 days, and this included advertisements in two publications. The advertisement was in the *Toodyay Herald* and *The Northam Advertiser* to meet this policy requirement. The Shire is unable to advertise in the *Toodyay Herald* in two consecutive months due to time constraints.

In addition to the above, the draft strategy was also made available for viewing on the Shire's website and through its social media. Key stakeholders were also notified in writing and invited to comment.

### **Public Consultation and Community Engagement:**

The draft Local Biodiversity Strategy was published on 5 October 2024 via two newspapers and the Shire's website for a 21-day public consultation period, concluding on 26 October 2024.

- **4 September 2024:** the draft Local Biodiversity Strategy was discussed with Elected Members in a presentation at the Council Workshop.
- **24 September 2024:** A meeting with the Noongar Kaartdijin Aboriginal Corporation (NKAC) and the ESO was held to discuss potential contributions from Aboriginal communities.
- **Post-consultation Meetings:**
  - Additional meetings were arranged with the Julimar Forest and Conservation Alliance, the Toodyay Naturalists' Club, and Toodyay Friends of the River.
  - A further meeting with NKAC was held on 4 November 2024 for continued discussions.

As a result of these discussions further revisions have been incorporated into the draft document.

The Shire received a total of 17 submissions during the consultation period. The submissions raised several issues predominantly with issues such as water management and biosecurity management. For further details about these submissions and the Shire's responses and actions refer to **Attachment 2 – Schedule of Submissions**.

### **EAC review**

The draft Local Biodiversity Strategy has not been reviewed by the Environmental Advisory Committee (EAC) as initially scheduled. The meeting on 10 July 2024 was unable to proceed due to the presence of only one committee member. The next meeting, originally scheduled for 9 October 2024, was then rescheduled to 17 October 2024. However, this meeting was subsequently cancelled due to the unavailability of the Committee Chair.

### **Extension and Project Showcase:**

On 4 November 2024, WALGA and the State NRM Program approved an extension for the project submission deadline, extending it to 28 February 2025.

The ESO updated the draft strategy in November 2024 to incorporate feedback received during the consultation period. Lastly, on 2 December 2024, the Shire participated in the WALGA Project Showcase, highlighting the challenges, benefits, and circumstances encountered during the development of the draft Local Biodiversity Strategy. This was an informing session only and no additional changes to the strategy resulted.

### **Strategic:**

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

Outcome 3. Our natural assets and ecosystems are being maintained and protected for future generations.

3.1. Preserve our land, water, and biological systems.

#### **Shire of Toodyay Environmental Management Strategy 2015**

Key strategies contained in the environmental management strategy aimed at biodiversity protection by:

- developing policies to assist in the protection and enhancement of biodiversity values; and
- providing information to assist in the management of threats to biodiversity and protection of local species.

#### **Australia's Strategy for Nature 2019-2032**

Australia's Strategy for Nature 2019-2032 sets out objectives and actions to conserve biodiversity across all levels of government, encouraging states and territories to develop complementary strategies.

### **Policy related:**

#### **Risk Management Policy**

The Shire of Toodyay may be exposed to a broad range of risks which could adversely affect its operations and impact the achievement of strategic, operational and community objectives. For more details on this please refer to the Risk section of this report and to the **Attachment 3 – Risk Matrix**.

### **Financial:**

The funding for the current local biodiversity strategy is derived from allocations within the Shire's existing budget and anticipated provisions in future budget cycles.

Although there is no financial implication for the adaptation for the strategy. However, The Draft LBS will require officer time to implement. Whilst there are actions that can be integrated into Shire business operations, many may require additional resources and/or budget to implement.

**Legal and Statutory:**

Nil

**Risk related:**

The biodiversity of Shire of Toodyay faces extreme risks from habitat destruction due to development and agriculture, invasive species (like feral cats and polyphagous beetles), Biosecurity threats, and climate change. Increased wildfires and urban expansion pose additional threats, while pollution affects aquatic ecosystems.

Implementing a Local Biodiversity Strategy is critical. Key measures include creating restoring habitats, managing invasive species, and enhancing fire management. Sustainable urban development, pollution control, visitor management, and disaster preparedness are essential. Integrating biodiversity considerations into local policies ensures informed decision-making for sustainable growth and biodiversity conservation in the Shire.

**Workforce related:**

The project has been boosted by the recent recruitment of the Environmental Sustainability Officer who is providing dedicated and priority attention to the delivery of this project.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council adopts the draft Local Biodiversity Strategy as attached (**Attachment 1**).

**9.1.2 Lot 329 Fargo Way, Toodyay - Application for 4 dogs**

Date of Report:	27 November 2024
Applicant or Proponent:	LA Hinton & MLS Nicholls
File Reference:	A3141/329FAR
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. Attachment 1 - Map; <a href="#">⇒</a></li> <li>2. Attachment 2 - Dogs detail; <a href="#">⇒</a></li> <li>3. Attachment 3 - Schedule of Submissions. <a href="#">⇒</a></li> </ol>

**PURPOSE OF THE REPORT**

To consider an application for four (4) dogs at Lot 329 (No. 38) Fargo Way in Toodyay. This matter is being referred to Council for determination as objections have been received during the public consultation process.

**BACKGROUND**

On 21 October 2024, the Shire received an application for four (4) dogs to be located at the subject site. Lot 329 (No. 38) Fargo Way in Toodyay is a 20,010m<sup>2</sup> property and is zoned Rural Residential under the Shire’s Local Planning Scheme No. 5. For more details refer to **Attachment 1 – Map**.

The details of the animals and their status can be viewed in **Attachment 2 – Dogs detail**.

**COMMENTS AND DETAILS**

The application to keep four dogs on a rural residential property at Lot 329 Fargo Way raises concerns about public safety, noise, and animal welfare. While the applicant has taken steps to address these issues, such as using barking collars, securing the property, and explaining past livestock incidents, there remain valid concerns from neighbours about the potential for noise and mismanagement.

To balance the applicant’s request with the community's concerns, Council could consider granting conditional approval for a 12-month trial period. During this time, regular inspections by Shire Rangers would ensure compliance with noise control measures, containment, and

animal welfare standards. A clear communication process for neighbours to raise concerns during the trial period should also be implemented.

## IMPLICATIONS TO CONSIDER

### Consultative:

Prior to determination, all applications to keep up to four (4) dogs on a property will be referred through a mailout to adjoining landowners and properties within 50 meters of the applicant's boundary for public comment. Adjoining landowners will have 21 days from the date of referral to lodge a written submission on the proposed application. Where no response is received, Council will take the view that the adjoining owners have no objection to the application.

The application was advertised to adjoining landowners as per above and the Shire received four (4) submissions. Three objected to the proposal and one provided general comments about animals on the property. For more details of these submissions and the Shire's response, refer to **Attachment 2 – Schedule of Submissions**.

The details of these submissions and the Shire's recommendations are in **Attachment 2 – Schedule of Submissions**.

In addition, the property was inspected by the Shire's Ranger as part of this application processes. The property and arrangements were found to be satisfactory.

### Strategic:

#### **Plan for the future: Council Plan 2023-2033.**

Outcome 3. Our natural assets and ecosystems are being maintained and protected for future generations.

3.2. Encourage responsible animal management.

3.2.1 Deliver a 3-year campaign to encourage responsible dog and cat ownership, including increased awareness of legal requirements.

### Policy related:

#### Shire of Toodyay – Dog policy.

The proposal for keeping four dogs on a 2-hectare property zoned as Rural Residential does not strictly comply with the Shire of Toodyay's policy. According to the policy, approval for more than two dogs is generally limited to properties with specific characteristics, such as rural properties over 40 hectares for working dogs or other exceptional circumstances like fostering or assisted living needs.

While the application lists potential purposes, such as therapy for anxiety, and includes sterilisation and microchipping for most dogs, the property's size (2 hectares) and zoning (Rural Residential) fall outside the policy's provisions for larger rural properties required for working dog exceptions. Additional considerations, such as the absence of nuisance history and neighbour consultation, may influence the outcome, but the property characteristics alone do not align with the policy's standard approval conditions.

### Risk Policy

This application has been assessed against the Shire's Risk Policy. Outcomes are discussed later in this report.

**Financial:**

The applicant has paid the application fee pursuant to the Shire’s adopted Schedule of Fees and Charges for 2024/25. Should the Council be of a mind to refuse the application, the applicant has the right of appeal through the State Administrative Tribunal and further costs will need to be used to defend Council’s position.

**Legal and Statutory:**

*Dog Act 1976*

*Shire of Toodyay – Dogs Local Law*

**Risk related:**

Risk Factor	Likelihood	Consequence	Risk Rating
Public Safety (Dog Aggression or Escapes)	Possible	Moderate	Moderate (9)
Compliance with Local Laws	Likely	Minor	Moderate (8)
Neighbour Complaints (Noise/Odour)	Possible	Moderate	Moderate (9)
Environmental Impact (Waste Management)	Unlikely	Minor	Low (4)
Property Damage	Rare	Minor	Low (2)

**Workforce related:**

Nil.

**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 submissions received regarding the application for four dogs at Lot 329 (No. 38) Fargo Way in Toodyay.</li> <li>2. approves the application for four (4) dogs at Lot 329 (No. 38) Fargo Way in Toodyay subject to the following conditions:             <ol style="list-style-type: none"> <li>(a) <b>Time limited approval:</b> The approval for four dogs is time limited to an additional 12-month period from the date of this approval. Pending a demonstrated compliance over this period, the application will be made permanent after this period.</li> <li>(b) <b>Containment and Noise Control:</b> All dogs must be kept within secure enclosures on the property at all times and monitored for noise. Noise complaints must be addressed within 48 hours, and barking collars must be maintained and functional.</li> </ol> </li> </ol>
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- (c) **Animal Welfare:** The applicant must provide a written animal care and management plan detailing feeding, health monitoring, and welfare practices for all animals on the property. This plan must be submitted to the Shire and reviewed as part of the trial period.
- (d) **Sterilisation:** All dogs must be sterilised within three months of approval unless a valid veterinary exemption is provided.
- (e) **Inspections:** Regular property inspections by Shire Rangers must be carried out quarterly to verify compliance with containment, noise control, and welfare conditions.
- (f) **Neighbour Complaints:** A formal process for logging and responding to neighbour complaints must be established, with outcomes documented and reviewed by the Shire during the trial period.
- (g) **Review and Renewal:** At the end of the 12-month trial period, the application must be reviewed, considering compliance and neighbour feedback. Continuation of the approval would require evidence that all conditions have been met and maintained.

### **Additional Information after Agenda Briefing**

At the Agenda Briefing held on 11 December 2024, the elected members raised a few questions about this item. Clarification was sought on the requirement to sterilise all dogs. The Administration has responded stating that the new legislation, once fully in force, will require all dogs over the age of 2 years to be desexed – unless exempted. However, there is no requirement to have the dogs sterilised unless they are declared dangerous. Therefore, this condition will be removed.

An additional query was regarding the wording of the Condition 2(b) regarding Containment and noise control. The query about the use of the word enclosures. It is recommended that the wording of this condition is amended to read as follows:

*2(b) All dogs must be confined to the property and kept under control by the following means:*

- a) Fencing of the premises or a portion of the premises in which the dogs are kept and is capable of confining the dogs. The fence and gate must be of a type, height and construction to prevent the dogs at all times from passing over, under or through it, or*
- b) An approved electronic confinement.*

Lastly, the question was raised about the requirement for a condition about an animal management plan – this was a matter which came up in a submission. It is agreed that this is something that can be addressed by the Rangers and does not need to be conditioned. Therefore, this can be removed.



**REVISED OFFICER'S RECOMMENDATION 2**

That Council

1. notes the submissions received regarding the application for four dogs at Lot 329 (No. 38) Fargo Way in Toodyay.
2. approves the application for four (4) dogs at Lot 329 (No. 38) Fargo Way in Toodyay subject to the following conditions:
  - (a) **Time limited approval:** The approval for four dogs is time limited to an additional 12-month period from the date of this approval. Pending a demonstrated compliance over this period, the application will be made permanent after this period.
  - (b) **Containment and Noise Control:** All dogs must be confined to the property and kept under control by the following means:
    - i. Fencing of the premises or a portion of the premises in which the dogs are kept and is capable of confining the dogs. The fence and gate must be of a type, height, and construction to prevent the dogs at all times from passing over, under or through it, or
    - ii. An approved electronic confinement.
    - iii. All dogs must be kept within secure enclosures on the property at all times and monitored for noise. Noise complaints must be addressed within 48 hours, and barking collars must be maintained and functional.
  - (c) **Inspections:** Regular property inspections by Shire Rangers must be carried out quarterly to verify compliance with containment, noise control, and welfare conditions.
  - (d) **Neighbour Complaints:** A formal process for logging and responding to neighbour complaints must be established, with outcomes documented and reviewed by the Shire during the trial period.
  - (e) **Review and Renewal:** At the end of the 12-month trial period, the application must be reviewed, considering compliance and neighbour feedback. Continuation of the approval would require evidence that all conditions have been met and maintained.

**9.1.3 Lot 201 (No. 15) Julimar Road, Toodyay - Temporary Shipping Container for storage**

Date of Report:	2 December 2024
Applicant or Proponent:	C Rowles / S Sinclair
File Reference:	A2919/201JUL
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:	1. Application. <a href="#">↔</a>

**PURPOSE OF THE REPORT**

To consider an application for the temporary placement of a 20FT shipping container for storage purposes for 6-12 months at Lot 201 (No. 15) Julimar Road in Toodyay. This matter is coming to council as it involves a variation to the Local Planning Policy – Non-habitable structures.

**BACKGROUND**

The Shire has received an application for the temporary placement of a 20FT shipping container at the abovementioned property. The purpose for this is to allow for temporary storage of items. For further details refer to **Attachment 1 – Application**.

Lot 201 (No. 15) Julimar Road in Toodyay is zoned Residential R2.5 under the Shire's Local Planning Scheme No. 5.

The applicant proposes to place the 20FT shipping container at the rear of a shed at the back of the property. It is well shielded from the street.

**COMMENTS AND DETAILS**

The issue here is primarily due to the limitations with the zoning and the allowable uses for a temporary shipping container under the current policy. It is recommended that the policy is reviewed to provided further guidance on the use of shipping containers. For example, the policy is currently silent on the number of shipping containers allowed for temporary placement. It also is limited in the scope that the temporary use can be for. Currently it only allows for storage of building materials and equipment. Perhaps building some flexibility into the policy would allow for convenient and cost-effective storage solutions for people moving into the area.

The Council should vary the local planning policy requirements to allow the temporary placement of a 20FT shipping container for furniture and domestic storage as the structure is well concealed, meets setback requirements, and is not visually obtrusive. Approving the container for 12 months provides the applicant with a cost-effective storage solution while they travel, accommodates potential delays, and reduces compliance demands on the Shire.

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

Given the proposed location of the shipping container will be well shielded from view and meets the setback requirements for the zone – non consultation was deemed necessary.

### **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 – Non-habitable structures.**

Current policy requirements dictate that in Residential zoned properties, only temporary placement can be considered, and this is to be associated with building works and storage of materials and equipment.

The applicant seeks permission to vary this requirement and allow for the temporary storage of furniture and other domestic belongings.

#### **Risk Policy**

This application has been assessed against the Shire's Risk Policy. Outcomes are discussed later in this report.

### **Financial:**

There are no direct financial implications for the Shire of the recommendations of this report.

The applicant has paid the required fees in accordance with the *Planning and Development Regulations 2009*.

However, should the Council choose to refuse the application, the applicants have the right of appeal through the State Administrative Tribunal which may require additional ratepayer funds to allow the decision to be defended.

### **Legal and Statutory:**

*Planning and Development Act 2005*

*Planning and Development Regulations 2009*

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

*Shire of Toodyay Local Planning Scheme No. 5*

**Risk related:**

From a compliance perspective, there is a moderate risk for the Shire's Administration, which will require continuous monitoring of conditions to ensure compliance.

**Workforce related:**

Should this matter be referred by the applicant to the State Administrative Tribunal, significant Officer time will be required.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council

1. approves the application for the temporary placement of a 20FT shipping container at storage purposes at Lot 201 (No. 15) Julimar Road in Toodyay pursuant to Clause 68(2)(b) of the Deemed Provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015*, subject to the following conditions:
  - (a) The placement of the container is in accordance with the plans contained in the application (**Attachment 1**);
  - (b) The container is approved for a maximum of 12 months from the date of this decision; and
  - (c) The container must be removed no later than 2 weeks after the expiry of this 12-month period.
2. Notes the Chief Executive Officer will bring the Local Planning Policy titled "non-habitable structures" to a Council workshop in 2025 for discussion and review.

**Additional information arising from Agenda Briefing**

At the Agenda Briefing held on 11 December 2024, a question was raised about point 2 of the Officer's Recommendation. It was agreed that the future workshopping of this policy shouldn't have any relevance to a proposed recommendation being decided on by the Council. It was recommended that an additional recommendation be included for consideration which would address the future workshop.

**REVISED OFFICER'S RECOMMENDATION 2**

That Council

1. approves the application for the temporary placement of a 20FT shipping container at storage purposes at Lot 201 (No. 15) Julimar Road in Toodyay pursuant to Clause 68(2)(b) of the Deemed Provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015*, subject to the following conditions:
  - (a) The placement of the container is in accordance with the plans contained in the application (**Attachment 1**);
  - (b) The container is approved for a maximum of 12 months from the date of this decision; and

- (c) The container must be removed no later than 2 weeks after the expiry of this 12-month period.

**OFFICER'S RECOMMENDATION 2**

That Council notes the Chief Executive Officer will bring the Local Planning Policy titled “non-habitable structures” to a Council workshop in 2025 for discussion and review.

### 9.1.4 Lot 4 Sandplain Road, Toodyay - Retrospective dam, earthworks and shipping containers

Date of Report:	3 December 2024
Applicant or Proponent:	AJ Johnston
File Reference:	A774/4SANDP/P2024-110
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. Map; <a href="#">⇒</a></li> <li>2. Application plans, details and photos <a href="#">⇒</a></li> <li>3. Schedule of submissions <a href="#">⇒</a></li> </ol>

#### PURPOSE OF THE REPORT

Council is requested to consider an application for retrospective development approval for a dam, earthworks, and shipping containers at Lot 4 (No. 143) Sandplain Road in Toodyay. This matter is being brought to Council for determination as objections have been received during the community consultation period and the shipping containers with a proposed domed structure represent a variation to the Local Planning Policy – Non-habitable structures.

#### BACKGROUND

Lot 4 (No.) 143 Sandplain Road in Toodyay is a 23,560m<sup>2</sup> property. It is zoned Rural Residential under the Shire's Local Planning Scheme No. 5. Existing structures on the property are a single dwelling and a storage shed. In addition, there are some water tanks and several shipping containers. For more details refer to **Attachment 1 – Map**.

This application deals with the following development:

- Retrospective expansion of existing Dam including earthworks.
- Proposal for 2 40Ft sea containers and shaded service area.

#### The Dam

Historical aerial imagery indicates that there was a dam in the south-west corner of the property from as far back as the year 2000. There is no evidence of any approval. Whilst it is impossible to determine the volume of the original dam, a rough calculation of the historical aerial image would indicate an area of approximately 181m<sup>2</sup>.

### Dam Expansion

The capacity of the dam has increased to approximately 1,500m<sup>3</sup>. Earthworks have been stabilised with planned revegetation, including native grasses on slopes and trees on the dam banks for visual screening and erosion control. Trees will be planted between the applicant's property and the owner of 29 Wandoo Circle to enhance privacy. The new earthworks maintain natural stormwater flow, potentially enhancing drainage to the adjacent, lower-lying property to the south.

### **Compliance with Local Planning Policies and Impact Assessment**

#### **Visual and Environmental Impact Assessment**

- **Visual Impact (SCA5):**

The dam is not visible from Sandplain Road and is screened by existing vegetation. Additional plantings will further minimise any visual impacts from neighbouring properties, meeting the visual screening requirements within SCA5.

- **Environmental Impact (Shire of Toodyay Local Planning Policy - Dams):**

- **Dam Location:** Positioned 320.7 m from the nearest watercourse (Gabidine Brook).
- **Dam Size:** Classified as Low Impact (capacity of 1,500 m<sup>3</sup>).
- **Natural Flow Maintenance:** Natural stormwater flows are maintained.
- **Cumulative Impact:** Presence of two other dams within a 1 km radius (Moderate Impact).

### Proposal for 2 40Ft sea containers and shaded service area

As noted previously, there are several shipping containers on the property. None currently have approval. This is an ongoing compliance matter for the Shire, which is looking at the Shire-wide issue of shipping containers.

The owner, who operates a heavy vehicle towing service, parks one tow truck on the property. He proposes using two 40Ft sea containers to create a shaded service area for parking and maintaining the truck. The Shire's development approval is also sought for the sea containers and a shade structure.

The Shire's local planning policy on non-habitable structures allows sea containers up to 6m in length on properties not zoned 'Industrial' or 'Rural'. It permits structures up to 12m on 'Industrial' land or 'Rural' land over 100 hectares. Although the property is less than 100 hectares, the owner argues that ample trees between Sandplain Road and the proposed location of the sea containers will maintain the area's amenity.

For more details, refer to **Attachment 2 – Application Plans and Details**.

### **COMMENTS AND DETAILS**

The development application for Lot 4 (No. 143) Sandplain Road, Toodyay, includes a retrospective dam expansion and the installation of two 40-ft sea containers with a shaded service area. The dam, now with a 1,500 m<sup>3</sup> capacity, meets the "low impact" classification under Local Planning Policy – Dams, with its location and proposed revegetation aligning with the Shire's environmental and visual objectives. Stabilised earthworks and the maintenance of natural stormwater flows further mitigate impacts on neighbouring properties, satisfying Special Control Area 5 requirements.



The sea containers, while exceeding policy allowances for the Rural Residential zone, will be screened by vegetation to preserve amenity and are intended to support the applicant's towing business. Although unconventional for the zoning, their limited visibility and functional necessity justify conditional approval.

It is recommended to approve the dam expansion subject to revegetation, erosion control monitoring, and maintenance of stormwater flows. The sea containers should be approved temporarily, subject to additional screening and upkeep, ensuring compatibility with the Shire's planning objectives while accommodating practical land use.

## IMPLICATIONS TO CONSIDER

### **Consultative:**

This application has been advertised in accordance with the Shire of Toodyay's *Local Planning Policy – Advertising of Planning Proposals*. This involved the advertising of the proposal to all adjoining landowners for a period of 14 days. This period concluded on 26 November 2024 and the Shire received one submission strongly objecting to the works. Details of this submission along with a response from the applicant and the Shire's comments can be viewed as **Attachment 3 – Schedule of Submissions**.

### **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:**

Draft State Planning Policy 2.9: Planning for Water (SPP 2.9) and accompanying guidelines.

The construction of dams, crossings and rural drains does not adversely affect the environment, visual amenity, public health or other users (upstream or downstream) of the water resource.

Proposals should, in accordance with the Guidelines: demonstrate that the dam, crossing or rural drain and their associated clearing and site works manage water resources appropriately and do not result in unacceptable off-site impacts.

Local Planning Policy – Advertising of Planning Proposals

Application has been advertised in accordance with Policy.

Local Planning Policy – Dams

Application has been assessed against the Policy.

This dam is classified as low impact pursuant to clause 4.3(c) of the Policy.

Risk Policy

This application has been assessed against the Shire's Risk Policy. Outcomes are discussed later in this report.

### **Financial:**

There are no direct financial implications for the Shire of the recommendations of this report.

The applicant has paid the required fees in accordance with the *Planning and Development Regulations 2009*.

However, should the Council choose to refuse the application, the applicants have the right of appeal through the State Administrative Tribunal which may require additional ratepayer funds to allow the decision to be defended.

**Legal and Statutory:**

*Planning and Development Act 2005*

*Planning and Development Regulations 2009*

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

*Shire of Toodyay Local Planning Scheme No. 5*

**Risk related:**

Risk	Likelihood	Consequence	Risk Rating	Control Effectiveness	Notes/Actions
Visual impact on scenic values	Possible (3)	Minor (2)	Moderate (6)	Adequate	Additional plantings to screen sea containers are planned to mitigate visual impact.
Environmental impact (dam enlargement)	Unlikely (2)	Moderate (3)	Moderate (6)	Effective	Environmental stabilisation measures, including revegetation and stormwater management, have been proposed.
Compliance with planning policies	Rare (1)	Moderate (3)	Low (3)	Adequate	The proposal aligns with Local Planning Scheme No. 5 and Local Planning Policies for dams and non-habitable structures.
Neighbourhood privacy concerns	Possible (3)	Minor (2)	Moderate (6)	Adequate	Screening trees to be planted on the western boundary to

Risk	Likelihood	Consequence	Risk Rating	Control Effectiveness	Notes/Actions
					address concerns.
Stormwater management	Rare (1)	Minor (2)	Low (2)	Effective	Natural stormwater flows maintained; no adverse effects on neighbouring properties expected.
Risk of erosion on dam slopes	Unlikely (2)	Minor (2)	Low (4)	Effective	Stabilisation with revegetation is included in the proposal to manage erosion.

**Workforce related:**

Should this matter be referred by the applicant to the State Administrative Tribunal, significant Officer time will be required.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council

1. notes the submissions received for application P2024-110 Lot 4 Sandplain Road, Toodyay - Retrospective dam and earthworks.
2. approves the retrospective application for dam modification and earthworks at Lot 4 (No. 143) Sandplain Road in Toodyay pursuant to Clause 68(2)(b) of the Deemed Provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015*, subject to the following conditions:
  - (a) Development is in accordance with the plans and details contained within Attachment 2 of this report.
  - (b) Vegetation Management: The owner shall complete the proposed revegetation of dam slopes using native perennial grasses and appropriate tree species within six months of approval.
  - (c) Slope Stabilisation: The battered slopes created by the fill must be monitored, with erosion control measures implemented during the initial growth period of new vegetation.

- (d) Screening Trees: Trees are to be planted on the western boundary to create a visual barrier between the properties.
- (e) Stormwater Management: The owner shall maintain the natural stormwater flow to ensure no adverse impact on neighbouring properties.
- (f) Ongoing Compliance: Any future maintenance of the dam must adhere to the Shire's Local Planning Policy on Dams, ensuring continued compatibility with the locality's environmental and visual standards.

## OFFICER'S RECOMMENDATION 2

That Council

1. notes the submissions received for application P2024-110 Lot 4 Sandplain Road, Toodyay - shipping containers and proposed domed structure.
2. approves the retrospective application for two shipping containers and proposed domed structure at Lot 4 (No. 143) Sandplain Road in Toodyay pursuant to Clause 68(2)(b) of the Deemed Provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015*, subject to the following conditions:
  - (a) Development is in accordance with the plans and details contained within Attachment 2 of this report.
  - (b) The shipping containers and domed structure are approved for an initial period of 24-months to allow for the proposed planting and screening to take effect. At the conclusion of this period, the property shall be inspected and subject to satisfactory compliance, the approval shall be made permanent.
  - (c) The removal of the remaining shipping containers off the property within three-months of the date of this approval.

**9.1.5 Lot 800 Bindoon-Dewars Pool Road, Dewars Pool - Retrospective Application for 2 Shipping Containers**

Date of Report:	3 December 2024
Applicant or Proponent:	Front door Design/ M Pittorino/Grant
File Reference:	A2975/800BIND/P2024-112
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. Attachment 1 - Map <a href="#">⇒</a></li> <li>2. Attachment 2 - Application Plan and details <a href="#">⇒</a></li> </ol>

**PURPOSE OF THE REPORT**

Council is requested to consider an application for retrospective development approval for two shipping containers noting that a third, 6m shipping container is permitted as of right under the Policy, subject to approvals – at Lot 800 Bindoon-Dewars Pool Road, Dewars Pool.

Council is being asked to determine this matter as it involves a variation to the Local Planning Policy – Non-habitable Structures Policy.

**BACKGROUND**

The subject site is a 35,0471m<sup>2</sup> property which is zoned Rural under the Shire of Toodyay Local Planning Scheme No. 5. Existing development of the site consists of a single dwelling, outbuildings, and water tanks. The landowners operate a working farm and associated tourist attractions which have been previously approved by the Shire, see **Attachment 1 – Map**.

Application details

1. Application to Council for a variation of The Policy for approval of a further 2 sea containers.

The additional 2 shipping containers are to be used for animal feed storage and Solar batteries and other related equipment for power generation including solar panels on the roof of the container, see **Attachment 2 – Application plan and details**.

## COMMENTS AND DETAILS

The default position of the author of this report is that the application for the additional shipping containers should be refused. Whilst there is justification provided that could support the proposal, the policy as it stands prohibits these variations. It should be noted that the Administration has recently been conducting an audit of shipping containers in the Shire and has noted significant compliance issues. Ultimately the Council will need to consider this issue and determine which direction it wishes to take with regards to compliance and regulation of shipping containers. Indeed, there is an opportunity for the policy to be workshopped to address some of these matters to provide more clarity to the community, and where appropriate – more flexibility.

Therefore, the Officer recommendation will be to refuse the application for the permanent placement of two additional shipping containers for the following reason:

*The proposal does not comply with Local Planning Policy – Non-habitable Structures.*

However, should Council be of a mind to support the proposal, then it is recommended that the following conditions are applied:

- 1. The development hereby permitted taking place in accordance with the plans contained in Attachment 2 of this report.*

The reason for going against the Officer recommendation would be that:

*Plans supplied indicate that the structures will be well-shielded and not obtrusive.*

## IMPLICATIONS TO CONSIDER

### **Consultative:**

Given the three shipping containers meet the 50m boundary setbacks for the Rural zone and it is intended that they will be painted in a colour to blend in with the surrounding landscape, no public consultation was 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.*

*Outcome 9. Responsible and effective leadership and governance.*

*O9.1. Provide strong, clear, and accountable leadership.*

### **Policy related:**

Local Planning Policy – Non-habitable structures.

The application meets the requirements of the policy in all areas except where the following variations are being sought for consideration:

- 4(d) The property is less than 100 hectares in size, and a variation to policy is requested for this clause.
- 4(e) A variation to the policy is requested regarding the number of containers on the rural lot. The 2 additional containers meet the requirement of the policy regarding location and size and the owners will paint the containers to enhance the visual amenity.

In accordance with this Policy, the Council may vary the requirements of this policy, where it is considered that full compliance with the policy is impractical, or such variation is warranted in the circumstances of the case.

### **Financial:**

There are no direct financial implications for the Shire of the recommendations of this report.

The applicant has paid the required fees in accordance with the *Planning and Development Regulations 2009*.

Should Council choose to refuse the application, the applicants have the right of appeal through the State Administrative Tribunal which may require additional ratepayer funds to allow the decision to be defended.

### **Legal and Statutory:**

*Planning and Development Act 2005*

*Planning and Development Regulations 2009*

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

*Shire of Toodyay Local Planning Scheme No. 5*

### **Risk related:**

<b>Risk Description</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Rating</b>	<b>Mitigation Measures</b>
Visual amenity impact due to multiple sea containers	Unlikely	Minor	Low (4)	Ensure containers are painted Woodland Grey and shielded by existing vegetation.
Non-compliance with the policy on number of sea containers	Possible	Moderate	Moderate (6)	Request Council approval for variation; ensure strict adherence to other policy requirements.
Vermin infestation impacting tourist operations	Possible	Moderate	Moderate (6)	Use sealed sea containers for feed storage to prevent vermin access.
Environmental impact from additional structures	Unlikely	Minor	Low (4)	Maintain existing vegetation and ensure no damage during installation.

### **Workforce related:**

If this matter is referred by the applicant to the State Administrative Tribunal, significant Officer time will be required.



**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council

1. refuses the retrospective application for development approval for two additional shipping containers to be permanently situated at Lot 800 Bindoon Dewars Pool Road in Dewars Pool, pursuant to Clause 68(2)(c) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 – for the following reason:
  - (a) *The proposal does not comply with Local Planning Policy – Non-habitable Structures.*
2. requests the CEO or delegate notify the landowner in writing that the additional two shipping containers must be removed from the property within 6 months of the date of this decision.

**9.1.6 Lot 226 (No. 463) Parkland Drive, Julimar - Retrospective Application for 2 Shipping Containers**

Date of Report:	3 December 2024
Applicant or Proponent:	Patio and Shed Approvals/ P Loughton-Walsh/R Torr
File Reference:	A2638/226PAR/P2024-108
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. Attachment 1 - Maps; <a href="#">⇨</a></li> <li>2. Attachment 2 - Application Plans and Photos; <a href="#">⇨</a></li> <li>3. Attachment 3 - Schedule of Submissions <a href="#">⇨</a></li> </ol>

**PURPOSE OF THE REPORT**

Council is requested to consider an application for retrospective development approval for two shipping containers– at Lot 226 (No. 463) Parkland Drive in Julimar.

Council is being asked to determine this matter as it involves a variation to the Local Planning Policy – Non-habitable Structures Policy.

**BACKGROUND**

The subject site is a 40,976m<sup>2</sup> property which is zoned Rural Residential under the Shire of Toodyay Local Planning Scheme No. 5. Existing development of the site consists of a single dwelling, outbuildings, and water tanks.

Application details

- The application is for the permanent placement of two 6m shipping containers.
- The containers are painted sandy beige.
- The 2 shipping containers are to be used for storage.
- Setback of shipping containers is 12m in lieu of 30m

**COMMENTS AND DETAILS**

The default position of the author of this report is that the application for the additional shipping containers should be refused. The policy as it stands prohibits these variations. It

should be noted that the Administration has recently been conducting an audit of shipping containers in the Shire and has noted significant compliance issues.

Council will need to consider this issue and determine which direction it wishes to take with regards to compliance and regulation of shipping containers. Indeed, there is an opportunity for the policy to be workshopped to address some of these matters to provide more clarity to the community, and where appropriate – more flexibility.

Therefore, the Officer recommendation will be to refuse the application for the permanent placement of two additional shipping containers for the following reason:

*The proposal does not comply with Local Planning Policy – Non-habitable Structures.*

However, should Council be of a mind to support the proposal, then it is recommended that the following conditions are applied:

1. *The development hereby permitted taking place in accordance with the plans contained in Attachment 2 of this report.*

The reason for going against the Officer recommendation would be that:

*Plans supplied indicate that the structures will be well-shielded and not obtrusive.*

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

The application was advertised to the affected adjoining landowner in accordance with the Shire's Local Planning Policy – Advertising of Planning Proposals.

### **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.*

*Outcome 9. Responsible and effective leadership and governance.*

*O9.1. Provide strong, clear, and accountable leadership.*

### **Policy related:**

*Local Planning Policy – Non-habitable structures.*

The application meets the requirements of the policy in all areas except where the following variations are being sought for consideration:

- 4(d) The property is less than 100 hectares in size, and a variation to policy is requested for this clause.
- 4(e) A variation to the policy is requested regarding the number of containers on the rural residential lot.

In accordance with this Policy, the Council may vary the requirements of this policy, where it is considered that full compliance with the policy is impractical, or such variation is warranted in the circumstances of the case.

### **Financial:**

There are no direct financial implications for the Shire of the recommendations of this report.

The applicant has paid the required fees in accordance with the *Planning and Development Regulations 2009*.

If Council choose to refuse the application, the applicants have the right of appeal through the State Administrative Tribunal which may require additional ratepayer funds to allow the decision to be defended.

### **Legal and Statutory:**

*Planning and Development Act 2005*

*Planning and Development Regulations 2009*

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

*Shire of Toodyay Local Planning Scheme No. 5*

### **Risk related:**

<b>Risk Description</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Rating</b>	<b>Mitigation Measures</b>
Visual amenity impact due to multiple sea containers	Unlikely	Minor	Low (4)	Ensure containers are painted Woodland Grey and shielded by existing vegetation.
Non-compliance with the policy on number of sea containers	Possible	Moderate	Moderate (6)	Request Council approval for variation; ensure strict adherence to other policy requirements.
Vermin infestation impacting tourist operations	Possible	Moderate	Moderate (6)	Use sealed sea containers for feed storage to prevent vermin access.
Environmental impact from additional structures	Unlikely	Minor	Low (4)	Maintain existing vegetation and ensure no damage during installation.

### **Workforce related:**

Should this matter be referred by the applicant to the State Administrative Tribunal, significant Officer time will be required.

### **Additional information arising from Agenda Briefing**

At the Agenda Briefing held on 11 December 2024, the elected members queried some information contained in the risk assessment.

#### 1. Colour

The two shipping containers are painted sandy beige.

The risk assessment proposes a mitigation measure *to ensure containers are painted Woodland Grey and shielded by existing vegetation*. However, as the Officer Recommendation is to refuse this application, no condition was required. Should the Council be of a mind to approve this development then they may wish to request screening and painting of the structure to improve visual impact.

## 2. Vermin Infestation

This was an unfortunate carry over from the cloning process of the report and should be disregarded. This has no bearing on the recommendation.

## VOTING REQUIREMENTS

Simple Majority

### OFFICER'S RECOMMENDATION 1

That Council

1. notes the submission regarding the retrospective application for two shipping containers at Lot 226 Parkland Drive in Julimar.
2. refuses the retrospective application for development approval for two additional shipping containers to be permanently situated at Lot 226 (No. 463) Parkland Drive in Julimar, pursuant to Clause 68(2)(c) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 – for the following reason:
  - (a) The proposal does not comply with Local Planning Policy – Non-habitable Structures.
3. requests the CEO or delegate notify the landowner in writing that the additional two shipping containers must be removed from the property within 6 months of the date of this decision.

**9.2 CORPORATE AND COMMUNITY SERVICES**

**9.2.1 Progress of recovery of funds expended in duplicate**

Date of Report:	4 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG7
Author:	D Jones – Accounts Payable Officer
Responsible Officer:	T Bateman – Executive Manager Corporate and Community Services
Previously Before Council:	24 July 2024: OCM216/07/24
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Review
Attachments:	Nil

**PURPOSE OF THE REPORT**

To provide an update on the status of duplicate payments recorded in the list of payments and reported to Council in June 2024.

**BACKGROUND**

At the July 2024 Council Meeting, Council resolved to receive the list of payments for the month of June 2024. Noting that the list of payments for June 2024 included a number of duplicated payments, Council further requested that a report be provided to the August 2024 Ordinary Council Meeting regarding progress on the recovery of funds expended in duplicate.

**COMMENTS AND DETAILS**

The Creditor Payment Listing attached to the June 2024 List of Payments report detailed payments of \$1,040,830.72 which included \$13,694.35 for duplicate payments as follows:

Creditor	Amount
Water Corporation	762.04
Cloud Collections Pty Ltd	660.00
Cloud Collections Pty Ltd	2,638.02
Cloud Collections Pty Ltd	967.78
Cloud Collections Pty Ltd	984.50
Northam & District Glass Service	3,520.00
Synergy	4,162.01
<b>Total</b>	<b>13,694.35</b>

It should be noted that of the above payments only the payment to Synergy of \$4,162.01 was paid twice. Consequently, the funds remained as a credit on the Shire's account until the next invoice was issued.

The payment to Northam & Districts Glass Service was rejected and returned to the Shire's bank account and required re-processing. The payments to Water Corporation and Cloud Collections were cancelled prior to processing the payment from the bank account. The payments listing is a semi-automated report generated within Datascape. At present, cancelled payments are not reported in the list of payments. Officers are looking into options to report this information in 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

9.1 Provide, strong, clear and accountable leadership

9.2 Govern Shire finances, assets and operations responsibility.

### **Policy related:**

Purchasing Policy

### **Financial:**

Nil.

### **Legal and Statutory:**

*Local Government Act 1995*

### **Risk related:**

This report is provided for information purposes.

### **Workforce related:**

Nil

## VOTING REQUIREMENTS

Simple Majority

### **OFFICER'S RECOMMENDATION**

That Council notes the information provided in the report in relation to duplicate payments reported to Council in June 2024.



**9.2.2 Monthly Financial Statements - November 2024**

Date of Report:	4 December 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 - November 2024. <a href="#">⇒</a>

**PURPOSE OF THE REPORT**

To present to Council the Monthly Financial Reports for the month ended 30 Nov 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 30 November 2024 (**Attachment 1**).

**9.2.3 List of Payments - November 2024**

Date of Report:	5 December 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 November 2024. <a href="#">↗</a>

**PURPOSE OF THE REPORT**

To present to Council the list of payments for the month of November 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 November 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.***

***09.1: 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**

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

Municipal Cheques	\$ 32,917.25
Electronic Funds Transfer Payments	\$ 965,247.83
Payroll	\$ 316,898.51
Purchasing Cards	\$ 970.69
<b>Total</b>	<b>\$1,316,034.28</b>

**9.2.4 Request for variation to contract**

Date of Report:	6 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	LEG113
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:	Executive
Attachments:	<ol style="list-style-type: none"> <li>1. Correspondence - Request for Contract Variation; and (confidential) Section 5.23(2) <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> <li>2. Correspondence - Information to support request (confidential) Section 5.23(2) <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 consider correspondence from Clublinks seeking a variation to the contract and ultimately the write-off of outstanding invoice 1875.

**BACKGROUND**

Clublinks Management Pty Ltd were contracted until the end of 2024 to manage the Toodyay Recreation Centre (TRC) on behalf of the Shire of Toodyay. Clublinks sought an early exit from the contract by 30 June 2024, which was mutually agreed to by both parties.

Prior to their exit, Clublinks wrote to the Shire on 31 May 2024 requesting a variation to budgeted figures due to losses incurred, citing a direct impact as a result of the venue remaining unlicensed, in addition to decisions made by the Shire to waive or write off fees

during the year. Shire officers verbally advised Clublinks in June 2024 that the request in full was not supported, but that a partial offset could be explored.

Clublinks provided further information to support their request (**Attachment 2**) on 16 July 2024, however, other than write offs/fee waivers approved by the Shire, the reasoning provided did not place responsibility on the Shire to bear the reported loss of \$22,671.

It was considered reasonable for the Shire to wear the cost of the waivers and for Clublinks to invoice the Shire to recoup these funds totalling \$4,017, as they were a direct result of decisions made by the Shire. The idea was put forward by Clublinks that part of the profit share could be used to offset the loss incurred. This option was verbally rejected by the Shire.

Further, in accordance with the contract, the Shire issued Clublinks with an invoice in May 2024 for \$20,655.91 pertaining to profits realised for FY2021 and FY2023, as per the profit share arrangements. This invoice remains outstanding. Follow up of this outstanding amount in November 2024 initiated further conversation which is why this report is being presented to Council at this time.

### COMMENTS AND DETAILS

Clublinks were responsible for losses incurred under the terms of the contract. While unfortunate, delays in obtaining the liquor license do not shift liability to the Shire - these risks are inherent in the operating environment and do not fall under the Shire's responsibility. Operational risks should be considered including unforeseen regulatory challenges.

While decisions to waive or write off fees were made by the Shire in the community's interest, Officers acknowledge that these decisions had a direct financial impact on Clublinks and are recommending the amount of \$4,017 be offset from the amount owing.

Officers are not recommending a variation to the contract as this ended by mutual agreement as at 30 June 2024.

It is also not recommended that the Shire accept responsibility for the \$18,654 loss incurred by Clublinks. Clublinks have indicated that this loss was a result of the venue not having a liquor licence in place, therefore affecting the earning potential of the facility. This is not a result of actions taken by the Shire.

Council could however, choose to offset the loss with the outstanding invoice for prior year profits at the centre as these amounts were not factored in to the Shire's annual budgets. This amount has been factored into this year's carried forward surplus though and may require a budget amendment.

### IMPLICATIONS TO CONSIDER

#### **Consultative:**

Clublinks

#### **Strategic:**

***Plan for the future: Shire of Toodyay Council Plan – 2023 to 2033***

***Outcome 9: Responsible and effective leadership and governance***

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

**Policy related:**

Nil.

**Financial:**

The impact of the officers recommendation will result in unbudgeted expenditure of \$4,017.

**Legal and Statutory:****Local Government Act 1995**

Section 6.12(1)(c) of the *Local Government Act 1995* enables a Local Government to write off an amount of money owing to the local government.

**Risk related:**

Approval of the write-off could set a precedent that may lead to further requests for write-offs, potentially affecting the Council's financial position and its ability to provide services. The financial risk is considered low.

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council:

1. agrees to accept responsibility for the cost of approved write offs totalling \$4,017;
2. does not accept responsibility for the \$18,654 loss incurred by Clublinks for the 2023/24 financial year, and;
3. reconfirms that Invoice 1875 remains due and payable in accordance with the profit share terms of the contract that was in place at the time.



**9.3 EXECUTIVE SERVICES**

**9.3.1 Disposal of Property - coffee machines**

Date of Report:	4 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PRO15/MAN6
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. Disposal of Property Policy ➡

**PURPOSE OF THE REPORT**

To consider the disposal of two coffee machines.

**BACKGROUND**

Two coffee machines were purchased by the Shire prior to October 2020 from The Coffee Mechanics. The machines are not being utilised to their full potential at the Toodyay Recreation Centre. Each machine, including installation costs were approximately \$6,561.50.

If these machines were to be purchased today the cost would be approximately \$3,450 according to information found on the webpage of the Coffee Machine Warehouse



(<https://coffeemachinewarehouse.com.au/product/sab-jolly-prestige-2-group-black-stainlesssteel/> )

**COMMENTS AND DETAILS**

The Disposal Policy provides that a reason by which a decision to dispose of property may be made is in circumstances where the property (assets) is not required due to a change in functionality or usage patterns.

The policy states that *it is the responsibility of the Infrastructure and Assets Department to monitor all Plant, Machinery, Equipment and Miscellaneous Items to ensure that they are being utilised to provide maximum benefit to the Council.*

The policy states that *Donation of no longer required assets to “Not for Profit Organisations” may be determined in accordance with delegated authority within the limits and conditions detailed in the Register of Delegations.*

Council has delegated authority to the CEO, via Delegation ES10 Expressions of Interest and Tenders to sell, *by calling for expressions of interest, holding of a surplus goods sale at Council’s Depot, or any other fair means, items of surplus equipment, materials, tools, et cetera which are no longer required, or are outmoded, or are no longer serviceable. The delegation applies only to items not included on Council’s Asset Register.*

Although the decision can be made via a delegation it is recommended that Council make the decision regarding these two coffee machines.

## **IMPLICATIONS TO CONSIDER**

### **Consultative:**

The Coffee Mechanics

### **Strategic:**

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

*Outcome 9. Responsible and effective leadership and governance.*

*9.2 Govern Shire finances, assets and operations responsibly.*

### **Policy related:**

Disposal of Property policy (**Attachment 1**)

### **Financial:**

It is expected a small sale price will be achieved.

### **Legal and Statutory:**

Section 3.58 of the *Local Government Act 1995* establishes the methodologies by which local governments may dispose of property (assets) and are applicable to any asset disposal contemplated by the Shire.

The disposal of property (other than land or buildings) with a market value of less than \$20,000 is an exempt disposition under r.30 of the Regulations.

### **Risk related:**

The risks are insignificant (1) and would be a Moderate (5) risk if the Shire were to hold on to these two machines. Holding on to them would require use of the machines and to provide the service of coffee using a commercial grade coffee machine may be perceived as the Shire performing an activity with a view to producing profit to it, akin to a trading undertaking for a commercial enterprise (defined under s.3.59 of the Act). This report mitigates the risk.

### **Workforce related:**

Nil.

## **VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council approves the disposal of the two coffee machines.

**9.3.2 Pioneer Pathways Partnership with the Shire of Toodyay**

Date of Report:	4 December 2024
Applicant or Proponent:	Pioneer Pathway Self-Drive Tourist Route
File Reference:	MTG7
Author:	K Hardie – Economic Development Coordinator
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	28 March 2017
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	Nil

**PURPOSE OF THE REPORT**

To consider the Shire of Toodyay’s involvement/partnership with the Pioneer Pathway Stakeholder Group and Self-drive tourist route.

**BACKGROUND**

The Pioneers Pathway follows in the footsteps of the early pioneers who journeyed east into the Western Australian Wheatbelt to find their fortune. The idea of the pathway is to encourage tourists to get off the beaten track and visit our towns.

Pioneer Pathways is an alliance between the Shires of Toodyay, Goomalling, Dowerin, Wyalkatchem, Nungarin and Merredin.

**COMMENTS AND DETAILS**

The Shire has supported the participation in the Pioneer Pathways alliance since 2017.

Officers have reviewed the benefit that this alliance brings to the district.

The Pioneers Pathway Memorandum of Understanding was intended to have been presented to Council in July 2024 however this intention was delayed allowing the new CEO the opportunity to review it and take to Council.

The initial alliance in principle was good at the time however, the partnership has not resulted or achieved its anticipated benefits for tourism or marketing success. Officers identified key issues as follows:

- Value of the Alliance:** There are concerns over the alliance's effectiveness. The "tired" state of the trail, lacklustre alliance efforts, and challenges in some towns (e.g., volunteer shortages for historical buildings) were mentioned at recent alliance meetings.
- Signage Costs:** There is poor signage, representing an additional expense to have uniform signage for all the towns in the district that will be clear to aid the journey that tourists experience driving through the district.

3. **Website Updates:** Toodyay has requested the alliance running the webpage for Pioneer Pathways to make updates regarding Toodyay information however those requests have not been followed through.
4. **Social media:** Facebook only shows 483 followers. The last post was 30 June 2023.
5. **Financial Commitment:** The total financial obligation over three years is \$10,500, with \$3,500 annually.
6. **Lack of interest:** The Visitor's Centre seldom receives any interest or enquiries about the Pioneer Pathway self-drive tourist route.
7. **Logo:** the logo is outdated and needs refreshing.



## PIONEERS' PATHWAY

<https://pioneerspathway.com.au>

<https://www.facebook.com/pioneerspathway>

It is recommended that Council approve the decision to end the alliance with Pioneer Pathways and utilise these funds on direct marketing of Toodyay as a destination.

### 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

9.1 Provide, strong, clear and accountable leadership

9.2 Govern Shire finances, assets and operations responsibility.

Outcome 2. An inclusive, connected community.

2.5. Celebrate cultural diversity through art, culture, and community activities.

#### **Policy related:**

Community Funding Policy

Execution of Documents Policy

**Financial:**

Leaving the alliance will redirect financial resources to local initiatives (e.g., signage, museums, and cultural heritage projects) which would yield greater value for the community.

Each Shire within the alliance contributes \$3,500 per year. The Shire’s contributions would total \$10,500.00.

2024-2025	\$ 3,500,
2025-2026	\$ 3,500
2026-2027	<u>\$ 3,500</u>
Total	<u>\$10,500.</u>

**Legal and Statutory:**

*Local Government Act 1995*

**Risk related:**

Toodyay is fortunate as it sits in a prominent position at the ‘start’ of the trail regardless of what Council decides.

The risks associated with the Shire not signing an MOU or even delaying the decision to leave the alliance is minor (2) which could be raised to a moderate (6) because the implications of Toodyay leaving the alliance will affect the remaining members of the alliance as well as strain shire/town relationships and the effectiveness of the alliance without Toodyay, being the starting point of the trail. The benefit in redirecting the Shire’s financial resources for this alliance to local initiatives (e.g. signage, museums, and cultural heritage projects that would yield a greater value for the community) outweighs the possible risks.

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER’S RECOMMENDATION 1**

That Council ends the alliance with the Pioneer Pathway Stakeholder Group.

**9.3.3 Toodyay International Food Festival**

Date of Report:	4 December 2024
Applicant or Proponent:	Toodyay International Food Festival 2025
File Reference:	MTG7
Author:	K Hardie – Economic Development 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. Presentation about Food Festival (April 2024). <a href="#">⇨</a></li> <li>2. Complete survey from Sundowner; and <a href="#">⇨</a></li> <li>3. Complete survey from local businesses. <a href="#">⇨</a></li> </ol>

**PURPOSE OF THE REPORT**

To consider not running the Toodyay International Food Festival in 2025 in favour of embarking on a new approach for the running of events.

**BACKGROUND**

This event has been a mainstay on the Shire’s events calendar for 19 years, 2025 will be the festivals 20<sup>th</sup> year, however running the festival has become increasingly expensive, with costs rising each year.

In April 2024 at a forum Councillors were provided with a presentation from the Economic Development Coordinator on the Toodyay International Food Festival. (**Attachment 1**) where the following information was provided:

- In 2022, Lotterywest reduced their funding from 50% to 30%. Additionally, Lotterywest requested through the Eastern Metropolitan Regional Council (EMRC) that each Shire enhance and improve their festival for the Avon Descent’s 50th anniversary.
- The festival represents a significant expense for the Shire, including a \$10,000 sponsorship to the Northam Avon Descent Association (NADA), which does not directly benefit the Shire. Furthermore, approximately \$5,500 is paid to the EMRC for collaborative event planning, marketing, and an acquittal process.
- The festival costs the Shire approximately \$13,000 in staff wages.

The Shire is proposing to hold events throughout the year to keep the town engaged. This will reduce financial burden and draw consistent tourism to the district as these events will emphasise local engagement and direct business support.



## COMMENTS AND DETAILS

Officers have reviewed the benefit of holding this event to the district.

The festival represents an expense for the Shire, including a \$5,500 sponsorship to the Eastern Metropolitan Regional Council (EMRC) for collaborative event planning, marketing, and an acquittal process for the Avon Descent Event that does not directly benefit the Shire.

Feedback from local business surveys

*“The festival does not impact my business but in my opinion, I think the local shops and businesses could replace all the Perth based vendors in supplying food and the venues that exist in our main street. No need to have a ‘TIFF’ when our pubs and cafes could benefit directly from Avon Descent weekend”.*

*“It has no effect to our business, however, as a resident, I do feel the format does need to change to local business being involved.”*

Some of the proposed events are below:

### 1. Taking It to The Street

Concept: A community gathering where locals and tourists dine, shop, and enjoy entertainment along a closed-off street.

#### Features:

Community Dining: Encourages locals to set up their own tables and chairs, benefiting local businesses through on-the-street food purchases.

Entertainment: Roaming musicians, pipe bands, and a stage with a headline act and youth performances.

Liquor License: Allows guests to enjoy beverages on the street, enhancing the festive atmosphere.

### 2. Music Fest Vibes

Concept: A music festival featuring vintage cars and live music, transitioning into the evening for local pubs and jazz clubs.

#### Features:

Vintage Theme: Vintage cars create a visually interesting setup.

Street Musicians: Performances throughout the day enhance the festive feel.

Local Business Engagement: Encourages guests to dine and shop locally before heading to pubs and clubs.

Liquor License: Adds flexibility for attendees to enjoy drinks throughout the event.

### 3. Mini Jazz Festival

Concept: A jazz-themed weekend with live music, vintage cars, and street entertainment, featuring performances in the Memorial Hall.

#### Features:

Jazz Music: Local and regional jazz bands perform in various parts of town and inside the Memorial Hall.

Vintage Car Show: A “show and shine” event in partnership with local car enthusiasts.

Hospitality: The Memorial Hall hosts a wine bar, providing a cosy atmosphere for jazz performances.

#### 4. Christmas in July

Concept: Possibly run incorporation with our most famous retail/tourism business, Christmas 360.

##### Features:

Xmas dinner: Possibly held in the Memorial Hall.

Ice Rink: Ice rinks now available that don't require ice.

The approach that the Shire wishes to take will include involving businesses in the planning process. This will add to the success of these smaller events. Some ways that the Shire will engage businesses will be around:

- forming groups that include local business owners to ensure their perspectives and needs are considered in the event planning process;
- holding regular meetings with business representatives to discuss event details, gather feedback, and make collaborative decisions;
- conducting surveys and gathering feedback from businesses to understand their preferences and concerns, ensuring the events align with their interests;
- **working** with businesses to create joint marketing strategies that promote both the events and local businesses, maximizing exposure and benefits;

By involving businesses in the above ways, the Shire can ensure that the events are well-supported, beneficial to local commerce, and reflective of the community's needs and desires.

It is recommended that Council endorse the above approach as it meets the objectives of the Shire's Council Plan which required that there be a 4-year program of festivals and events planned for the district, to be reviewed every two years, to increase local participation in art, culture, and community activities and to grow visitor numbers.

This is why, as part of this review, the above events have been identified as novel and interesting events to showcase local heritage and natural assets. By liaising with local business owners there may also be community suggestions for new activities, such as running festivals over two days to activate Toodyay's night-time economy, a new music festival, a sculpture walk by the river, a public art competition, outdoor movies, and events to showcase local produce.

## IMPLICATIONS TO CONSIDER

### Consultative:

- **Local Business Sentiment:**

Some businesses recognize TIFF's benefit in bringing people to town, while others feel it hasn't translated to higher sales. They generally support more frequent, smaller events that encourage local and tourist engagement.

- **Concerns and Suggestions:**

Businesses supportive of TIFF's ability to bring visitors to Toodyay are open to alternative events and understand the decision to discontinue TIFF due to financial and logistical concerns.

**Strategic:**

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

Outcome 9 Responsible and effective leadership and governance

9.1 Provide, strong, clear and accountable leadership.

9.2 Govern Shire finances, assets and operations responsibility.

Outcome 2. An inclusive, connected community.

2.5. Celebrate cultural diversity through art, culture, and community activities.

**Policy related:**

Community Funding Policy

**Financial:**

Funds for events come out of the Recreation and Culture area of the Municipal Budget.

Total cost of festival	\$62,752.00
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EMRC Marketing cost	\$5,500.00
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Revenue received from food vans	-\$7,035.00
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Staff wages –

Economic Development Officer, Event organiser, Depot staff,

Environmental health officer, several staff members

assistance on the day of the event.	\$10,000.00
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**Legal and Statutory:**

*Local Government Act 1995*

**Risk related:**

Transitioning from TIFF to a series of smaller, engaging street events throughout the year addresses several concerns:

- Smaller events reduce reliance on major sponsorships and heavy logistical costs.
- The new format directly benefits businesses and creates a more community-centric approach.
- Staggered events allow visitors to experience Toodyay's culture and hospitality multiple times a year, potentially increasing overall tourism.

This approach could create a sustainable model of engagement that benefits the community, encourages business growth, and attracts visitors, while aligning with the feedback received from local businesses.

The reputational risk is a moderate (8) as there may be community concern over the loss of this mainstay event on the event's calendar, however the benefits highlighted in this report mitigates that risk.

**Workforce related:**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION**

That Council:

1. endorses the decision to not run the Toodyay International Food Festival in 2025 in favour of embarking on a new approach for the running of events as detailed in the Officer Report to create smaller events in the main street of Toodyay that benefits local business, community and tourism.
2. authorises the Chief Executive Officer to write to the Eastern Metropolitan Regional Council (EMRC) to advise them of Council's decision.

**9.3.4 Northam Avon Descent Association Inc.**

Date of Report:	4 December 2024
Applicant or Proponent:	Northam Avon Descent Association Inc.
File Reference:	MTG7
Author:	K Hardie – Economic Development 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. Extract of 2011 Council Minutes; <a href="#">⇒</a></li> <li>2. Executed Memorandum of Understanding; and <a href="#">⇒</a></li> <li>3. January 2013 extract from Council Minutes; <a href="#">⇒</a></li> </ol>

**PURPOSE OF THE REPORT**

To consider the value of the sponsorship alliance between the Shire and the Northam Avon Descent Association Inc.

**BACKGROUND**

The Shire of Toodyay has been an official partner with the Northam Avon Descent Association for the running of the annual Avon Descent event in August since 2011 when a 3-year contract was signed by the Deputy Chief Executive Officer that had been a Council decision (**Attachment 1**).

The partnership is an additional agreement to the Memorandum of Understanding between the Shire of Toodyay and the Chief Executive Officer of the Eastern Metropolitan Regional Council (**Attachment 2**) related to Family Fun days that was signed following a Council decision made in January 2013 (**Attachment 3**).

Since the above it appears as if the sponsorship agreement between the Avon Descent Association Inc and the Shire has continued to be signed off by the CEO without it coming to Council. This appears to have been because the funding was placed into the Annual Budget under operating expenditure for Recreation and Culture and these budgets were adopted by Council.

**COMMENTS AND DETAILS**

The Shire has supported event participation around the holding of the Family Fun Days as part of the Avon Descent for the last decade and Officers have reviewed the benefit that these events bring to the district.

The Shire held the Toodyay International Food Festival alongside the Avon Descent event. The holding of the festival represented a significant expense for the Shire, including a

\$10,000 sponsorship to the Northam Avon Descent Association (NADA), which does not directly benefit the Shire.

## **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**

9.1 Provide, strong, clear and accountable leadership

9.2 Govern Shire finances, assets and operations responsibility.

#### **Outcome 2. An inclusive, connected community.**

2.5. Celebrate cultural diversity through art, culture, and community activities.

### **Policy related:**

Community Funding Policy

Execution of Documents Policy

### **Financial:**

The approximate ex-GST values of operating expenditure for the Avon Descent has been included in the annual municipal budget up to 30 June 2020 as follows:

#### **Avon Descent**

- NADA sponsorship - \$10,000;
- Event Preparations – approx. \$5,400; and
- Other expenses - \$1,000.

Some years differ in event preparation value.

NADA Sponsorship has a GL from the 2018-2021 annual budgets of GL117202. The sponsorship amount was \$11,000 including GST.

In the Datascape system there have been four payments of \$10,000 ex-GST made to the Northam Avon Descent Association for the annual sponsorship of the 2021, 2022, 2023 and 2024 Avon Descent Event.

The GL is 117.438.10 (Other Culture Donations Paid). The product code is: 438Contrib (Contributions, Donations and Sponsorships paid). The Job Activity Code is WO.1005.1047 (Avon Descent Cultural Services Contract Payment).

It seems the budgets for the years from year ended 30 June 2022 to the recent budget adopted by Council does not mention NADA sponsorship, most likely because it is in a “bucket” of funds to spend under Recreation and Culture.

### **Legal and Statutory:**

*Local Government Act 1995*

**Risk related:**

The reputational risk is minor (2) when considering the risk of relationships directly with the Avon Descent event and neighbouring towns, and the Shire's involvement with the Avon Descent. There will be a negative impact on Toodyay because of its lack of involvement in the Avon Descent which pushes the risk up to Moderate (6).

There is financial benefit if Council were to decide to end the partnership with the Northam Avon Descent Association which would offset the risk. The funds normally expended to the Northam Avon Descent Association can be spent on the district's own events which will offer direct benefit to local businesses and the community.

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION**

That Council ends the alliance with the Northam Avon Descent Association Inc.



**9.3.5 Facilities and Buildings Evaluation**

Date of Report:	5 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN2
Author:	A Bowman – Chief Executive Officer
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	Not applicable
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Review
Attachments:	1. Facilities and Buildings Evaluation. <a href="#">↔</a>

**PURPOSE OF THE REPORT**

To receive and consider the recommendations in the Facilities and Buildings Evaluation report from Ascentive Consulting.

**BACKGROUND**

The Shire engaged Ascentive Pty Ltd to assist with the Shire’s Facilities and Building Review to guide the decision around future asset management.

**COMMENTS AND DETAILS**

The review commenced in August 2024. Councillors attended workshops to determine the process and establish assessment criteria.

Other workshops were held relating to achieving a consensus on the evaluations made to inform recommendations during the final evaluation workshop with Council, facilitated by Ascentive on 20th November 2024 contained in the report (**Attachment 1**) which were as follows:

**Recommendation 1:**

Buildings or facilities scoring at or below a threshold of 50 out of 100 receive a detailed individual assessment by Council, facilitated by the CEO. Following assessment Council will determine the actions to be taken in relation to each building or facility.

**Recommendation 2:**

That a review is undertaken of building maintenance functions. The review will consider the most efficient and cost-effective method of ensuring facilities and buildings are maintained to maximise their functionality and design life. This includes but is not limited to scheduled preventative maintenance and reactive maintenance.

**Recommendation 3:**

That a review of the Shire administration facility provision is completed. This will assess the most effective way to house services and functions. This will also include assessing the potential to co-locate as many internal functions as possible, while aiming to achieve solutions at net zero cost (funded by proceeds from rationalisation and external funding)

**Recommendation 4:**

That a review of recreational and community facilities is undertaken to establish the potential for co-location of compatible programs and services to maximise community use

**Recommendation 5:**

Once projects and capital requirements are identified, a series of funding synopsis are prepared to support Council and the CEO seeking external funding. Proposals will include information demonstrating linkages to achieving the Toodyay Growth Strategy.

It is recommended that Council receive the report and accept the recommendations made in the report.

**IMPLICATIONS TO CONSIDER****Consultative:**

Nil.

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

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

***Outcome 9: Responsible and effective leadership and governance***

*O9.1 Provide strong, clear, and accountable leadership.*

**Policy related:**

Risk Management Framework and Risk Management Policy.

**Financial:**

Nil.

**Legal and Statutory:**

*Local Government Act 1995*

*5.56. Planning for the future*

*(1) A local government is to plan for the future of the district.*

*(2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

**Risk related:**

The risk in Council choosing to not move forward regarding recommendations made in this report is moderate (3) but from a reputational perspective could be a high (12) risk rating. This report mitigates the risk.

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION 1**

That Council:

1. receives the Facilities and Buildings Evaluation Report (**Attachment 1**);
2. accepts the recommendations made within the report; and
3. requests the Chief Executive Officer develops an operational management plan that will address each of the recommendations made and to bring the plan to Council before 30 June 2025.

**9.3.6 Lot 248 on Deposited Plan 180855, Reserve 33931 - Old Depot Site**

Date of Report:	6 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	RT300526/A2094/248HARP
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. Management Order. <a href="#">⇨</a>

**PURPOSE OF THE REPORT**

To consider the engagement of a consultant to undertake community consultation and develop a concept plan to support future decisions.

**BACKGROUND**

Reserve 33931 is a reserve under management order to the Shire and was the previous location of the shire works depot. The reserve purpose was previously for “municipal depot”. In 2000, research shows that a phase 1 environmental site assessment was conducted. In 2015 the purpose of the reserve was changed to be for “community purpose” which was required to enable the Toodyay Men’s Shed to be located on the reserve (**Attachment 1**). In 2014, a company called GHD undertook a preliminary site contamination investigation. Currently the Toodyay Men’s Shed have a lease over part of this reserve.

**COMMENTS AND DETAILS**

Reserve 33931 is an underutilised reserve, in a central location, that is not being used to its potential. Community groups both recently and in the past have enquired as to possible locations for numerous uses and this reserve is often mentioned. As part of the building review and included in this agenda, the community bus shed (46) and the community bus shelter (18) scored below the set threshold of 50, and therefore require a detailed individual assessment by Council. The future use of the entire reserve needs to be considered as a detailed assessment cannot be done in isolation. Engaging an external consultant to undertake community consultation and develop a concept plan to support future decisions is recommended.

**IMPLICATIONS TO CONSIDER****Consultative:**

Nil

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

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

***Outcome 9: Responsible and effective leadership and governance***

*O9.1 Provide strong, clear, and accountable leadership.*

**Policy related:**

Risk Management Framework and Risk Management Policy.

**Financial:**

There are available funds in the Office of the CEO – professional services – consultants, survey, designs, and audits, which can be used.

That an appropriate consultant be engaged to assist in undertaking community consultation to develop a concept plan for this reserve, to support future decisions.

**Legal and Statutory:*****Local Government Act 1995******5.56. Planning for the future***

- (1) A local government is to plan for the future of the district.*
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

***3.1. General function***

- (1) The general function of a local government is to provide for the good government of persons in its district.*
- (1A) Without limiting subsection (1), the general function of a local government must be performed having regard to the following —*
  - (a) the need —*
    - (i) to promote the economic, social and environmental sustainability of the district; and*
    - (ii) to plan for, and to plan for mitigating, risks associated with climate change; and*
    - (iii) in making decisions, to consider potential long-term consequences and impacts on future generations;*
  - (b) the need —*
    - (i) to recognise the particular interests of Aboriginal people; and*
    - (ii) to involve Aboriginal people in decision-making processes;*
  - (c) the need to consider collaboration with other local governments.*

- (2) *The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.*
- (3) *A liberal approach is to be taken to the construction of the scope of the general function of a local government.*

**Risk related:**

The risk in Council choosing to not accept the recommendation is moderate (3) but from a reputational perspective could be a high (12) risk rating. This report mitigates the risk.

**Workforce related:**

Nil.

**VOTING REQUIREMENTS**

Absolute Majority

**OFFICER'S RECOMMENDATION 1**

That Council approves the engagement of a consultant to undertake community consultation and develop a concept plan to support future decisions.

**9.3.7 Bendigo Bank Building**

Date of Report:	6 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	LEG007/A3912/Property No.203157/Lot 267 Plan/Diagram/DP# D64252
Author:	A Bowman – Chief Executive Officer
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	24 July 2024 OCM
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> <li>1. Extract from 24 July 2024 Council Minutes. <a href="#">⇒</a></li> <li>2. Valuation Report - 108 Stirling Terrace, Toodyay WA 6566 (confidential) <i>Section 5.23(2)</i> <i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting (under separate cover)</i></li> <li>3. Asset Report August 2015. <a href="#">⇒</a></li> </ol>

**PURPOSE OF THE REPORT**

To report back to Council on the outcome of discussions with Toodyay & Districts Community Financial Services Limited as per resolution no. OCM226/07/24 (**Attachment 1**).

**BACKGROUND**

At the 24 July 2024 Council meeting, Council resolved in part to:

- “2. requests the Acting CEO to liaise with representatives from the Toodyay & Districts Community Financial Services Limited regarding future tenure of the property; and
- 3. requests the Acting CEO to report back to Council on the outcome of discussions with Toodyay & Districts Community Financial Services Limited no later than 31 December 2024.”

**COMMENTS AND DETAILS**

The Bendigo Bank provides a vital banking service to the Community as well as providing an essential Department of Transport licensing service. A valuation of the property was conducted by AAPI – Certified Practising Valuer (**Attachment 2**).

After initial discussions with representative of the Toodyay & Districts Community Financial Services Limited regarding the proposed lease, further discussion was had exploring their interest in the purchase of 108 Stirling Terrace Toodyay.

*Good afternoon, Aaron,*

*Thanks for taking the time to meet with me this morning.*

*As discussed, we would like to advise a genuine interest in pursuing the purchase of 108 Stirling Terrace Toodyay.*

*During our meeting today we also talked about the possibility of subdividing off the car park based on the preference of the previous Council to keep that carpark available for public use. After discussion with my Board, we would like to maintain the current lot with the carpark intact.*

*I note our current lease expires 28/2/2025, so would appreciate your prompt resolution to this matter.*

*Best regards*

*Kirsten Barrack  
Branch Manager*

The previous Council report states “*the process of selling the building has been investigated in the past according to reports previously presented to Council. It is unclear however, why the matter failed to progress. Officers are aware of concerns around parking availability in the CBD and are proposing that. Should sale of the property advance, a caveat be placed on the property to retain parking for community use which would also provide access to the river foreshore*”.

In addition, it was also previously suggested that another option could be to subdivide the existing block to remove the carpark from any potential sale.

Both options create issues with the result providing further complications that are not necessary. The following issues must also be considered:

- The bank would be required to provide parking for its customers, and therefore parking will still be available for the community to use.
- The access to the river foreshore is available in other more suitable locations.
- There would be an ongoing financial cost to the shire in maintaining the carpark.
- Funds from the sale could be invested in other parking improvement in the CBD
- The valuation of the property will decrease, resulting in a lower sale price due to limitation.
- It reduces the future long-term options for the Toodyay & Districts Community Financial Services Limited for the site.

The asset report August 2015 (**Attachment 3**) states that the building was purchased by the Shire, for the purpose of ensuring that there was a banking service in the Toodyay town site. The sale of the property to the Toodyay & Districts Community Financial Services Limited would ensure this continues.



**IMPLICATIONS TO CONSIDER****Consultative:**

Ongoing consultation with Toodyay & Districts Community Financial Services Limited regarding various options has been explored, with a focus on supporting future upgrades and ensuring continuity of services currently provided to the Toodyay community.

**Strategic:****Plan for the Future: Council Plan 2023-2033**

*Outcome 9. Responsible and effective leadership and governance.*

*9.1. Provide strong, clear and accountable leadership*

**Policy related:**

Disposal of property

Purchasing Policy

**Financial:**

The Shire currently receives rental income from the renting of the property. It is required to also ensure appropriate spending on ensuring the maintenance of the building, which has not occurred.

As previously reported to Council, the Bendigo Bank intend to commence a major refurbishment project and further requested financial assistance from the Shire for various elements of the project, such as asbestos removal and amenity upgrades. The estimated costs are significant.

The sale of the property would provide funds that could be placed in appropriate Shire reserves for future use or to pay down outstanding debt.

**Legal and Statutory:****Local Government Act 1995****s.3.58. Disposing of property**

(1) *In this section —*

***dispose*** includes to sell, lease, or otherwise dispose of, whether absolutely or not;

***property*** includes the whole or any part of the interest of a local government in property but does not include money.

(2) *Except as stated in this section, a local government can only dispose of property to —*

(a) *the highest bidder at public auction; or*

(b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

(3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*

(a) *it gives local public notice of the proposed disposition —*

(i) *describing the property concerned; and*

(ii) *giving details of the proposed disposition; and*

(iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

*and*

(b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

(4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*

(a) *the names of all other parties concerned; and*

(b) *the consideration to be received by the local government for the disposition; and*

(c) *the market value of the disposition —*

(i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*

(ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*

### **Risk related:**

Local Governments are responsible for ensuring provision of services to the community. The Asset Report August 2015 states that the building was purchased by the Shire, for the purpose of ensuring that there was a banking service in the Toodyay townsite.

The risk in disposing the building, is that it could in future, be on-sold and not utilised as a bank. Given it's the only banking service in Toodyay, it is a major concern (4) and therefore represents a high (16) risk. However, considering the Toodyay & Districts Community Financial Services Limited appear committed to continuing the service through the purchase of the building, after also significantly investing in the building, this risk is mitigated.

### **Workforce related:**

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

## **VOTING REQUIREMENTS**

Absolute Majority

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

That Council:

1. sets aside part 1 of Council Resolution No. OCM226/07/24 that read:

1. *requests the Acting CEO to enter into a new lease with Toodyay & Districts Community Financial Services Limited for the building known as the Bendigo Bank, located at Lot 267 Stirling Terrace, subject to the inclusion of the following essential terms;*

(a) *the lease will be for a period of ten years with a further term of ten years,*

(b) *the rent payable will be based upon an up-to-date market valuation to be sought; and*

(c) *the inclusion of the 'first right of refusal' provision;*

2. authorises an extension to the current lease for 12 months on the same terms and conditions to provide further time to negotiate a potential sale; and
3. advises Toodyay & Districts Community Financial Services Limited that the Shire would be willing to consider an offer to purchase the entire property free of any caveat, or any other requirements;
4. authorises the CEO to enter into negotiations for the sale of 108 Stirling Terrace Toodyay to Toodyay & Districts Community Financial Services Limited; and
5. authorises the CEO to give local public notice of the proposed disposition of Lot 108 Stirling Terrace Toodyay to the Toodyay & Districts Community Financial Services Limited if an agreement is reached that meets or exceeds the valuation as detailed in the valuation report (**Attachment 2**).

**9.4 INFRASTRUCTURE AND ASSETS**

Nil.

**9.5 COMMITTEE REPORTS**

**9.5.1 Audit and Risk Committee Schedule for 2025**

Date of Report:	6 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG7
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	OCM268/09/24: 25 Sept 2024 OCM
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	Nil

**PURPOSE OF THE REPORT**

To consider the meeting dates for the 2025 calendar of the Audit and Risk committee and recommend to Council for approval.

**BACKGROUND**

Meeting dates of the Audit and Risk committee for the 2025 calendar year be set before the commencement of 2025.

**COMMENTS AND DETAILS**

The Committee charter states that meetings are to occur at least four times a year and that the meeting dates are set by Council.

The dates for 2024 were: 6 March, 5 June, 4 September and 4 December.

The dates proposed are after considering:

- Notice being received of the availability of the independent members;
- Potential impact on the audit and risk committee post Council elections; and
- Current customer and practice.

The following 2025 schedule is proposed for the Audit and Risk Committee Meetings:

<b>MAR</b>	6 March 2025	<b>SEPT</b>	4 September 2025
<b>JUNE</b>	5 June 2025	<b>DEC</b>	4 December 2025

It is recommended that the Audit and Risk Committee recommends to Council that the starting times of the Committee Meetings be 10.30am.

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

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

*O10.1. Keep community members informed and engaged on local matters.*

**Policy related:**

Governance Framework

Audit and Risk Committee Charter

Committee Book

**Financial:**

Nil.

**Legal and Statutory:**

Local Government (Audit) Regulations 1996

Local Government (Administration) Regulations 1996

**Risk related:**

Although the Audit and Risk Committee Meetings are not open to members of the public, nor proposed to be open to the public, it is considered a risk to not make a decision promptly about the dates and starting time of these meetings. This report mitigates the risk.

**Workforce related:**

The website will be updated by a Shire Officer who will also make calendar invitations.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER’S RECOMMENDATION**

That Council recommends to Council the following:

That Council approves the following meeting dates, commencing at 10.30am:

<b>MAR</b>	6 March 2025	<b>SEPT</b>	4 September 2025
<b>JUNE</b>	5 June 2025	<b>DEC</b>	4 December 2025

**AUDIT COMMITTEE RECOMMENDATION**

That Council approves the following meeting dates, commencing at 10.30am:

<b>MAR</b>	6 March 2025	<b>SEPT</b>	4 September 2025
<b>JUNE</b>	5 June 2025	<b>DEC</b>	4 December 2025

### 9.5.2 Complaints of Alleged Breach and Authorisation of a person to deal with complaints under Division 3 of the Local Government (Model Code of Conduct) Regulations 2021

Date of Report:	6 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	COF1
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman – Chief Executive Officer
Previously Before Council:	23 February 2021 CRN: OCM40/02/21
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> <li>1. Current Council Policy; and <a href="#">⇒</a></li> <li>2. Revised Council Policy containing the form for making complaints; and <a href="#">⇒</a></li> <li>3. Track changed policy; and <a href="#">⇒</a></li> <li>4. Department Guideline. <a href="#">⇒</a></li> </ol>

#### PURPOSE OF THE REPORT

To consider the revised Complaints of Alleged Breach of the Code of Conduct for Members, Committee Members and Candidates Policy (**Attachment 2**) and the authorisation of a person to deal with complaints under Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021* and make a recommendation to Council.

#### BACKGROUND

In February 2021 Council resolved to authorise the Shire President and the Manager Corporate and Community Services to receive complaints and withdrawal of complaints pursuant to Clause 11(3) of the *Local Government (Model Code of Conduct) Regulations 2021*.

Determining policies is a specific responsibility of Council (s2.7 of the *Local Government Act 1995*), with these key strategic documents used to set high level direction on the operation of the Shire. However, the Audit and Risk Committee Charter states that the Audit and Risk Committee will assist Council in fulfilling its responsibilities in relation to the review of governance policies and complaints management.

The current policy was last adopted in April 2022 (CRN: OCM062/04/22). It was reviewed on 6 April 2024 after the findings from the Financial Management Review in Nov 2023.

On 29 October 2024, it was noted that the *Local Government Amendment Bill 2024* has incorporated amendments to the *Local Government Act 1995*. Some of these amendments include the deletion of s.5.120 which previously stated that the *CEO may designate an*



employee of the local government to be its complaints officer and if one was not appointed then it would be the CEO who would be the Complaints Officer.

## COMMENTS AND DETAILS

The policy outlines the Shire's approach to the management of Division 3 complaints relating to alleged breaches of the behaviour requirements of the Model Code of Conduct for Council Members, Committee Members and Candidates.

The current policy meant that the Complaints Officer had to immediately refer the matter to an Investigator at a cost of \$3,000 per complaint. The current form does not provide information about the types of alleged breach covered under Division 3.

The policy was reviewed (**Attachment 2**) to make it clearer to both complainants and respondents as to how to make a complaint and what action would be taken to address the complaints. Policies differ between local governments.

Due to the number of amendments to the policy, a track changed policy (**Attachment 3**) is included. Amendments to the policy were as follows:

- A review and appeal section were included;
- Parameters around what complaints are not handled as part of the policy were explained as well as confidentiality and privacy of the complaints;
- Training, record keeping, compliance and review and implementation of the policy were included as a means to introduce internal controls in the process;
- Responsibilities have been included in the policy; and
- Information on managing non-compliance and review has been included.

A Complaints Officer, as prescribed by section 5.120 of the *Local Government Act 1995* is required to be appointed by the local government to deal with the range of complaints described under Part 5, Division 9 'Conduct' – which includes minor breach complaints and serious breach complaints, where applicable. Currently under s.5.120, the Complaints Officer is the CEO, or an employee of the local government, if the CEO designates this function. This will change once the *Local Government Amendment Bill 2024* is passed.

The authorisation of a person to deal with complaints under Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021* pursuant to regulation 11(3) is separate and distinct from the person currently appointed under section 5.120 of the Act.

The Department of Local Government, Sport, and Cultural Industries publishes a guideline on their website in relation to the Model Code of Conduct Regulations (**Attachment 4**)

Our current policy says that once the complaint is made then the Complaints Officer is to engage a consultant. As the Shire President, an Elected Member, cannot do that, it was clear that this was an anomaly with our policy.

In terms of who to appoint as the person who will act as Council's delegate to handle complaints, it is being recommended that the Chief Executive Officer be the person nominated by Council and that the CEO authorise other Officers or engage a consultant if they feel compelled to do so in accordance with the revised policy.

In addition, there are costs associated with engagement of a consultant which can mount up if left unchecked which is why with the review of the policy, it is now recommended that a Consultant be at the discretion of the Complaints Officer handling and assessing the complaint rather than the only option being to engage a consultant.

The revision of the policy will mean that proposed complaints will be handled more efficiently, particularly if the Shire encourages an environment where the two parties communicate with one another prior to the submission of a formal complaint.

The *Local Government Amendment Bill 2024* may not be implemented until mid-2025. When it is implemented, the changes will affect the *Model Code of Conduct for Council Members, Committee Members and Candidates*. Until that occurs it is recommended that the revised policy (**Attachment 2**) be adopted.

## IMPLICATIONS TO CONSIDER

### **Consultative:**

WALGA

### **Strategic:**

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

#### **Outcome 9. Responsible and effective leadership and governance.**

9.1. Provide strong, clear, and accountable leadership.

### **Policy related:**

Alleged Breach of the Code of Conduct for Council Members, Committee Members and Candidates

Community Complaints Policy

### **Financial:**

There are financial implications with the adoption of the revised policy.

If an Independent Investigator is engaged it costs approximately \$3,000 for each complaint. Currently the budget for complaints is in the municipal budget by using legal expenses expenditure. Adoption of the revised policy will result in the complaints being handled by the Complaints Officer and only as a last resort, using an independent Investigator.

### **General Function:**

Code of Conduct for Council Members, Committee Members, and Candidates

### **Legal and Statutory:**

#### **Local Government Act 1995**

An adopted code of conduct, of a local government, means the code of conduct for Members, Committee Members and Candidates adopted by the local government under section 5.104 within 3 months after the day on which regulations prescribing the model code come into operation.

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

Complaints are to be made in writing in a form approved by the local government.

### **Risk related:**

The *Local Government Amendment Bill 2024* may not be implemented until mid-2025. The risk in adopting the revised policy now and authorising the Chief Executive Officer to deal with complaints under Division 3 of the *Local Government (Model Code of Conduct)*

*Regulations 2021* (Model Code of Conduct) as per regulation 11 (3) is low (4). This report mitigates that risk.

**Workforce related:**

Once Council endorse both recommendations made by the Audit and Risk Committee, a Shire Officer will update the website and distribute the revised policy list to councillors and staff via email as well as keep abreast of any further legislative changes, at which time, consultation with WALGA will occur.

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION 1**

That Council recommends to Council the following:

That Council:

1. adopts the revised Complaints of Alleged Breach of the Code of Conduct for Members, Committee Members and Candidates Policy (**Attachment 2**);
2. approves the form attached to the revised policy; and
3. requests the Chief Executive Officer make any necessary minor typographical amendments to the policy, prior to publication.

**AUDIT AND RISK COMMITTEE RECOMMENDATION 1**

That Council:

1. adopts the revised Complaints of Alleged Breach of the Code of Conduct for Members, Committee Members and Candidates Policy (**Attachment 2**);
2. approves the form attached to the revised policy; and
3. requests the Chief Executive Officer make any necessary minor typographical amendments to the policy, prior to publication.

**OFFICER'S RECOMMENDATION 2**

That Council recommends to Council the following:

That Council authorises the Chief Executive Officer to deal with complaints under Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021* (Model Code of Conduct) as per regulation 11 (3).

**AUDIT AND RISK COMMITTEE RECOMMENDATION 2**

That Council authorises the Chief Executive Officer to deal with complaints under Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021* (Model Code of Conduct) as per regulation 11 (3).

**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****RECOMMENDATION**

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 5.23(2) of the Local Government Act 1995:

**14.1 Code of Conduct Complaint**

This matter is considered to be confidential under Section 5.23(2) - (b) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with the personal affairs of any person

**14.2 Appointment of Senior Employee - Executive Manager Finance and Corporate Services**

This matter is considered to be confidential under Section 5.23(2) - (a) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with a matter affecting an employee or employees

**15 NEXT MEETINGS**

Council Workshop	13 February 2025
Agenda Briefing	20 February 2025
Ordinary Council Meeting	27 February 2025

**16 CLOSURE OF MEETING**