



Ordinary Council Meeting

27 February 2025

Commencing at 5:30 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.

Aaron Bowman JP

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

Information about Council Meetings is located on the website

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

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

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

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

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

Nil

2.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

3 DISCLOSURE OF INTERESTS

4 PUBLIC QUESTIONS**4.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****4.1.1 Questions taken on notice from the 18 December 2025 Council Meeting**

The following questions asked by Mrs B Ruthven were taken on notice and responses are provided below:

Question 15

Under the lease who is responsible for the utilities cost on the property?

Response

The Shire is responsible.

Question 16

What is the total cost budgeted for this rental arrangement?

Response

The total cost budgeted is \$15,000.

Question 17

Has the qualified person who was responsible for safety of the pool on 9th and 10th of November 2024 been paid?

Response

Yes.

Question 19

Under what legislation is that?

Response

The Department of Health publish a Code of Practice for the design, construction, operation, management and maintenance of aquatic facilities.

Clause 7.10 Supervision requirements For Group 1 facilities states:

“the minimum ratio of supervision shall be 1 lifeguard for up to 100 patrons in the water in accordance with Section 4.4 Ratios contained within Guideline SU 1.01 – Bather Supervision - 1996 of the Guidelines of Safe Pool Operation.”

The CEO’s executive role includes managing the provision of services and facilities that the Council has determined the local government is to provide in the district. It is also to manage the local government’s administration and operations. (Refer to s.5.41 Role of CEO from the Local Government Act 1995).

Question 25

Moving on to part (b) where it says All parties involved in the complaints management process must maintain confidentiality and respect the privacy of individuals involved. Doesn't that contradict part A?

Response

Part (b) is not meant to contradict part A. If Council make a formal finding at Part A, the intention would be, as per minor breach complaints to the Standards Panel, that actions required by the respondent to be undertaken as part of an action plan would be placed onto the Shire's Complaint Register. Part A means that if there is not a finding made, then details are to be kept confidential.

4.2 PUBLIC QUESTION TIME

5 CONFIRMATION OF MINUTES

5.1 Ordinary Council Meeting held on 18 December 2024

OFFICER'S RECOMMENDATION

That the Unconfirmed Minutes of the Ordinary Council Meeting held on 18 December 2024 be confirmed.

5.2 Special Council Meeting held on 13 January 2025**OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Special Council Meeting held on 13 January 2025 be confirmed with the following amendments:

1. At Council Resolution No. SCM004/01/25: remove the words "Confidential in accordance with Council Resolution SCM006/01/25 made behind closed doors" and replace them with the following words:

"MOVED Cr M Dival

SECONDED Cr S McCormick

That Council endorses the recommendations as contained within the confidential item report, provided to Elected Members under separate confidential cover, in relation to an employee.

Voted For: Crs M McKeown, M Dival, S McCormick, and J Prater

Voted Against: Cr R Madacsi

MOTION CARRIED 4/1 BY ABSOLUTE MAJORITY"

2. At Council Resolution No. SCM005/01/25 remove the words "Confidential in accordance with Council Resolution SCM006/01/25 made behind closed doors" and replace them with the following words:

"MOVED Cr J Prater

SECONDED Cr M Dival

That Council resolves in accordance with Standing Order 15.3(3) of the *Shire of Toodyay Standing Orders Local Law 2008* to direct the Chief Executive Officer to take immediate action to implement the decision.

Voted For: Crs M McKeown, M Dival, S McCormick, and J Prater

Voted Against: Cr R Madacsi

MOTION CARRIED 4/1"

3. At Council Resolution No. SCM006/01/25 remove the words "Confidential in accordance with Council Resolution SCM006/01/25 made behind closed doors" and replace them with the following words:

"MOVED Cr S McCormick

SECONDED Cr J Prater

That Council resolves to keep resolutions SCM004/01/25, SCM005/01/25 and SCM006/01/25 confidential and that in accordance with Standing Order 5.2(7) of the *Shire of Toodyay Standing Orders Local Law 2008*, to not read out the resolutions once the meeting is reopened to the public.

Voted For: Crs M McKeown, M Dival, R Madacsi, S McCormick, and J Prater

Voted Against: Nil

MOTION CARRIED 5/0".

6 PETITIONS / PRESENTATIONS / SUBMISSIONS

6.1 PETITIONS

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

6.2 PRESENTATIONS

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

6.3 SUBMISSIONS

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

7 BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

8 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil.

9 OFFICER REPORTS

9.1 PLANNING AND REGULATORY SERVICES

9.1.1 Use of Surveillance Devices

Date of Report:	7 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	P Nuttall – Executive Manager Planning and Regulatory Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Current Use of Surveillance Devices Council Policy.

PURPOSE OF THE REPORT

To consider the retirement of the Use of Surveillance Devices Council Policy.

BACKGROUND

In November 2023, Moore Australia's Financial Management Review highlighted that some council policies might be overly focused on day-to-day operations. The Auditors recommended that the Shire review its policies to:

- Clearly identify Shire policies and reclassify non-policy documents into other categories (such as directives, procedures, corporate documents, etc.).
- Update policies to align with the Council's strategic direction and provide high-level guidance for operations, particularly where laws are not explicit.

As a result, Officers reviewed this policy to determine whether it was necessary, aiming to distinguish operational management procedures from Shire policies.

COMMENTS AND DETAILS

The current Use of Surveillance Devices policy was adopted in May 2022 (**Attachment 1**).

The policy was developed to ensure that Shire of Toodyay's use of Body Worn Cameras (BWC) and vehicle dashboard cameras are in accordance with relevant legislation and provide guidance for users in respect to the compliant, safe and effective use of BWC devices and vehicle dashboard cameras.

Much of the Shires 'Use of Surveillance Devices' policy mirrors and supports other state government policies and regulations, such as what is contained in the *Local Government*

Act 1995, State Records Act 2000 and others. However, in practicality it is written as an operational management procedure stating the Shires intent to comply with good practice and governance. While the policy demonstrates the intent to adhere to good governance it does not guide the need for flexibility in decision making as you would expect in a “Policy” document.

It is recommended Council retires this policy as a Council policy.

The intention with retirement of this as a Council policy will mean that it will become an operational management directive, managed by the Chief Executive Officer.

Retirement of this as a policy will not mean that the principles and operation of these governance matters will be retired.

IMPLICATIONS TO CONSIDER

Consultative:

Nil

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Corporate Documents Policy

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995.

Risk related:

To not retire the policies being requested to be retired given the findings of the Financial Management Review may be considered a moderate compliance risk (3). This report mitigates these risks.

Workforce related:

The website will be updated, and staff will be advised of the change in management practice.

VOTING REQUIREMENTS

Absolute Majority

OFFICER’S RECOMMENDATION

That Council retires the Use of Surveillance Devices Council Policy (**Attachment 1**).

9.1.2 Current Compliance Policy and adopted for advertising Regulatory Compliance Policy.

Date of Report:	10 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	P Nuttall – Executive Manager Planning and Regulatory Services
Previously Before Council:	February 2023 – see Attachment 2
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Compliance Policy; and 2. Previous Council Decision re Compliance Policy; and 3. Regulatory Compliance Policy approved for advertising.

PURPOSE OF THE REPORT

To consider the retirement of the Compliance Policy and not moving forward with the Regulatory Compliance Policy.

BACKGROUND

The Financial Management Review undertaken by Moore Australia in November 2023 proposed that the Shire review its policies as most policies repeated legislation word for word and / or were operational in nature.

The Regulatory Compliance policy was adopted for public advertising in February 2023 (**Attachment 2**) but had not been brought to Council since then. The Shire did not receive any submissions regarding this policy.

COMMENTS AND DETAILS

The content of the advertised policy appears to be administrative and operational in nature.

Given the change with local government reforms and in particular section 5.41 Role of the CEO in the *Local Government Act 1995*, it is recommended that this policy be retired in favour of internal operational management procedures being written around the topic of compliance.

It is recommended that the Compliance Policy is retired (**Attachment 1**) and that the Regulatory Compliance Policy (**Attachment 3**) not be proceeded with.

IMPLICATIONS TO CONSIDER**Consultative:**

Nil

Strategic:**Shire of Toodyay Council Plan 2023-2033**

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Risk Management Policy.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995.

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

Risk related:

The risk is low (3) in respect to both these policies. This report mitigates the risk.

Workforce related:

A Shire Officer will update the website accordingly.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

1. retires the Compliance Policy (**Attachment 1**); and
2. notes that the Regulatory Compliance Policy will not be proceeded with and will be retired also (**Attachment 3**).

9.2 FINANCE AND CORPORATE SERVICES**9.2.1 Monthly Financial Statements - December 2024**

Date of Report:	11 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	A Hart – Executive Manager Finance and Corporate Services
Responsible Officer:	A Hart – Executive Manager Finance and Corporate Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil.
Council's Role in the matter:	Legislative
Attachments:	1. Monthly Financial Report - December 2024

PURPOSE OF THE REPORT

To present to Council the Monthly Financial Reports for the month ended 31 Dec 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

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

9.2.2 List of Payments - December 2024

Date of Report:	11 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN32
Author:	F Mayhew – Finance Officer Accounts Payable
Responsible Officer:	A Hart – Executive Manager Finance and Corporate Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Legislative
Attachments:	1. List of Payments - December 2024

PURPOSE OF THE REPORT

To present to Council the list of payments for the months of December 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 months of December 2024 and they are both 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 1

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

Municipal Cheques	\$447.45
Electronic Funds Transfer Payments	\$ 666,595.88
Payroll	\$ 309,432.03
Purchasing Cards	\$1,521.35
Total	\$977,996.71

9.2.3 List of Payments - January 2025

Date of Report:	12 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN32
Author:	F Mayhew – Finance Officer Accounts Payable
Responsible Officer:	A Hart – Executive Manager Finance and Corporate Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Legislative
Attachments:	1. List of Payments - January 2025

PURPOSE OF THE REPORT

To present to Council the list of payments for the months of January 2025.

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 months of January 2025 and they are both attached.

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

IMPLICATIONS TO CONSIDER**Consultative:**

Nil

Strategic:

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

Outcome 9. Responsible and effective leadership and governance.

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

Policy related:

Purchasing Policy
 Delegation CS1

Financial:

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

Legal and Statutory:

Local Government Act 1995

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

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

Local Government (Financial Management) Regulations 1996

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

Risk related:

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

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION

That Council receives the list of accounts as presented and listed below, for the month of January 2025:

Municipal Cheques	\$2,965.90
Electronic Funds Transfer Payments	\$ 389,281.38
Payroll	\$ 472,151.13
Purchasing Cards	\$6,582.00
Total	\$870,980.41

9.2.4 Purchasing Policy

Date of Report:	7 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN6
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Executive Manager Finance and Corporate Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Current Purchasing Policy; 2. Revised Purchasing Policy;

PURPOSE OF THE REPORT

To consider the adoption of the revised Purchasing Policy (**Attachment 2**).

BACKGROUND

The CURRENT policy was adopted by Council on 22 June 2024 (**Attachment 1**).

The policy needs to be updated to reflect a change in the names of Officers mentioned in the policy.

COMMENTS AND DETAILS

The current policy was adopted by Council on 26 June 2024, however given the change in departments brought about through a Council Resolution in November 2024, this policy is being brought to Council again for acceptance of a minor amendment.

The only change that has occurred with regard to this policy is that the position titles have been updated and a new line has been included for the additional Executive Manager in Part 5 Purchasing Thresholds.

It is recommended that the REVISED Purchasing (Finance) Policy be adopted by Council (**Attachment 2**).

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

Policy related:

Purchasing Policy

Financial:

Nil.

Legal and Statutory:

s.2.7(2)(b); s.5.2; s.5.46; and s.9.10 of the *Local Government Act 1995*.

s.5.42(1) of the *Local Government Act 1995*

s.59 of the *Interpretation Act 1984*

Risk related:

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

Workforce related:

Once the policy is adopted by Council it will be placed onto the Shire's website and disseminated to staff.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council adopts the REVISED Purchasing Policy (**Attachment 2**).

9.2.5 Long Term Financial Plan Policy

Date of Report:	5 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Executive Manager Finance and Corporate Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Current Long Term Financial Planning Policy.

PURPOSE OF THE REPORT

To consider the retirement of the Long-Term Financial Plan Policy.

BACKGROUND

The Financial Management Review by Moore Australia in November 2023 found that some council policies might be too focused on day-to-day operations such as:

- FIN18 Long Term Financial Planning

The Auditors advised that Council policies are not for the purpose of dictating how operational tasks are performed as this is the CEO's role. They suggested the Shire review its policies and recommended that Officers:

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

COMMENTS AND DETAILS

The current policy was adopted on 21 December 2022 (**Attachment 1**).

The current policy referred to the Assurance Cycles Plan which was accepted by the Audit and Risk Committee at a meeting held in July 2024 and then by Council at a Council Meeting held in August 2024 that the activities listed in the Assurance Cycles Plan will be incorporated into the Administrative Services Plan.

The Department of Local Government, Sport and Cultural Industries publishes “Long Term Financial Plan Guidelines” which would be considered by Shire Officers in their review of the Shire’s Long-Term Financial Plan.

It is recommended that this policy be retired as a Council policy.

The intention with retirement of this policy is that it becomes an administrative management practice through renaming it a CEO Directive that will be managed by the Chief Executive Officer.

IMPLICATIONS TO CONSIDER

Consultative:

Nil

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Corporate Documents Policy.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995.

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

Risk related:

To not retire the policies being requested to be retired given the findings of the Financial Management Review may be considered a moderate compliance risk.

This report mitigates the risk.

Workforce related:

A Shire Officer will update the website and distribute the revised policy list to councillors and staff via email; and update any other relevant corporate documents containing reference to the policy.

VOTING REQUIREMENTS

Absolute Majority

OFFICER’S RECOMMENDATION

That Council retires the Long-Term Financial Planning Policy (**Attachment 1**).

9.3 ECONOMIC DEVELOPMENT AND COMMUNITY SERVICES

9.3.1 Museum Collection and Conservation Management

Date of Report:	7 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN6
Author:	M Rebane – Governance Coordinator
Responsible Officer:	S Watson – Executive Manager Economic Development and Community Services
Previously Before Council:	OCM189/06/24 22 June 2024
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Current Museum Collection and Conservation Management; 2. Revised Museum Collection and Conservation Management;

PURPOSE OF THE REPORT

To consider the retirement of the revised the Museum Collection and Conservation Management Policy (**Attachment 2**).

BACKGROUND

The Financial Management Review by Moore Australia in November 2023 found that some council policies might be too focused on day-to-day operations.

Auditors proposed the Shire review its policies and recommended that Officers:

- Clearly identify Shire policies and move non-policy documents to other categories (like directives, procedures, corporate documents, etc).
- Update policies to reflect Council’s strategic direction and provide high level guidance for operations, especially where laws do not offer clear instructions.

COMMENTS AND DETAILS

The current policy had been adopted on 23 November 2022 (**Attachment 1**).

Given the decision to disband the Museum Advisory Committee, the policy was reviewed however as its premise is around procedures that are operational it is recommended that the policy be retired.

It is the intention to turn the revised policy into an operational management directive or procedure if it is required.

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

Policy related:

Nil

Financial:

Nil.

Legal and Statutory:

s.2.7(2)(b); s.5.2; s.5.46; and s.9.10 of the *Local Government Act 1995*.

s.5.42(1) of the Local Government Act 1995

Risk related:

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

Workforce related:

A Shire Officer will update the website.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council retires the Museum Collection and Conservation Management Policy (**Attachment 1**).

9.4 EXECUTIVE SERVICES

9.4.1 Modification of Execution of Documents Policy and Delegation

Date of Report:	12 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	ES2/MAN6/PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman JP – Chief Executive Officer
Previously Before Council:	Nil
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. Current ES2 Delegation; 2. Revised ES2 Delegation; 3. Current Execution of Documents Policy; 4. Track changed Execution of Documents Policy; 5. Revised Execution of Documents Policy;

PURPOSE OF THE REPORT

To:

- a) consider a revised ES2: Execution of Documents delegation (**Attachment 2**); and
- b) consider the revised Execution of Documents policy (**Attachment 4**).

BACKGROUND

At an Ordinary Council Meeting held on 6 November 2024, Council considered the organisational structure and at that meeting they resolved as follows:

That Council resolves to adopt the staff structure of four departments being:

- a) Finance and Corporate Services;*
- b) Economic Development and Community Services;*
- c) Infrastructure, Assets and Services;*
- d) Planning and Regulatory Services.*

The Functional unit names were changed during this meeting and those positions were designated as 'senior employees' as prescribed by section 5.37 of the Act at the Special Council Meeting held on 11 December 2024.

COMMENTS AND DETAILS

The current delegation (**Attachment 1**) requires amendment because the department titles were changed.

Local government reform in Western Australia includes proposals to replace local government standing orders with a uniform set of regulations for all council and committee meetings. These proposed regulations are known as Standard Meeting Procedures.

This is why the revised delegation does not contain reference to the Standing Orders because there are legislative references relating to the use of the Common Seal without referring to the Standing Orders Local Law.

Although WALGA do not have a specific Execution of Documents delegation in their manual delegations for the execution of documents can be established. It is not an uncommon practice for local governments to have a delegation and a policy regarding the execution of documents in place.

The power under s.9.49A(4) to **authorise** a person to sign documents on behalf of the local government can only be done by Council.

The Department's guideline in regard to delegations and authorisations states that *"If the term 'local government' is used then delegation may be possible, subject to any other express powers against delegation."*

s.9.49(A)(4) of the *Local Government Act 1995* states:

A local government may, by resolution, authorise the CEO, another employee, or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.

It is recommended that the revised delegation be adopted by Council.

The current policy (**Attachment 3**) was adopted by Council on 27 April 2022 (CRN: OCM056/04/22). The policy was not highlighted as in need of review during the FMR audit undertaken in November 2023 however, as the Audit recommended that policies be reviewed, this policy was reviewed.

The version control was removed from the policy as this type of information is contained in the Policy register. The track changed version of the revised policy (**Attachment 4**) shows all the changes made to the current policy.

When this policy was revised Officers considered the policies adopted by other local governments. The changes made will make it clearer to officers signing documents on behalf of local government, and it will result in better transparency, in line with the Council's strategic objectives of its Council Plan.

It is recommended that the revised policy (**Attachment 5**) be adopted.

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

Policy related:

Execution of Documents Policy.

Financial:

Nil

Legal and Statutory:

s.5.42(1) and s.9.49(A)(4) of the Local Government Act 1995

s.59 of the Interpretation Act 1984

Risk related:

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

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

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

Workforce related:

An Officer will update the Register of Delegations and the Policy Register before publishing the revised Delegations Register and policy onto the Shire's website as well as inform staff through normal correspondence methods.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Adopts the revised ES2 Execution of Documents delegation (**Attachment 2**); and
2. authorises the Chief Executive Officer to make minor typographical amendments to the delegation for inclusion into the Register of Delegations before it is published onto the website.

OFFICER'S RECOMMENDATION 2

That Council:

1. adopts the revised Execution of Documents policy (**Attachment 5**); and
2. authorises the Chief Executive Officer to make minor typographical amendments to the policy before it is published onto the website.

9.4.2 Removal of some Delegatory Instruments

Date of Report:	11 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN6
Author:	M Rebane – Governance Coordinator
Responsible Officer:	P Nuttall – Executive Manager Planning and Regulatory Services
Previously Before Council:	OCM189/06/24 22 June 2024
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Delegations CS9, DAR14, 15 and 16.

PURPOSE OF THE REPORT

To consider the retirement of the following delegations:

- CS9 Accession of Artefacts into Museum Collection
- DAR14 Clearance of Conditions of Development Approval, or Conditions of Subdivision / Amalgamation or Strata Title Approval
- DAR15 Advice to the Department of Planning Lands and Heritage (DPLH) regarding matters associated with the Land Administration Act 1997
- DAR16 Advising other Regulatory Authorities.

Refer to **Attachment 1**.

BACKGROUND

Section 5.46 of the *Local Government Act 1995* requires the CEO of a local government to keep a Register of Delegations. This section also requires that the delegations contained within the Register are reviewed by the delegator (Council) at least once every financial year.

Section 5.45 of the *Local Government Act 1995* states that any decision to amend or revoke a delegation by a local government is to be by an absolute majority.

COMMENTS AND DETAILS

The current Delegation Register is available on the Shire's website at <https://www.toodyay.wa.gov.au/council/council-registers/delegation-register.aspx>

A desktop review was done by the Governance Coordinator in December 2024 to ensure that the three essential elements for a valid delegation under Western Australian law were met:

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

Delegations that did not meet the above are explained below.

- **CS9 Accession of Artefacts into Museum Collection**

In the previous delegation there was a delegation that related to the accession and deaccession of items related to the Museum Collection. The delegation did not fit in with the above three requirements which is why it is being recommended to be removed from the delegation register. There are no risks regarding the removal of this delegation from the register, given that the exercise of those types of items have been occurring from an administrative level because the Museum conservation procedure process, which is operational, has been followed. .

Detail in each instrument of delegation has been amended to point all readers of the register to the record keeping requirements mentioned in Section 1, Clause 8. Information that had been in the record keeping requirements area has been included in the conditions of each delegation. A file reference has been included so Officers can record their decisions under delegation to that file reference in order for a report to be created that will detail when delegations have been conducted.

- **Planning delegations in general**

A change will be required for some of the delegatory instruments due to the decision made by Council at their November 2024 Council Meeting to change the names of the departments, and to include another Executive Manager as a Senior Employee who will have delegated authority given the split between Corporate and Community Service departments.

The Planning Delegations will change from being referenced as Development and Regulation (DAR) to Planning and Regulatory Services (PAR).

In regard to these Planning Delegations:

- **PAR14 Clearance of Conditions of Development Approval, or Conditions of Subdivision / Amalgamation or Strata Title Approval**
- **DAR15 Advice to the Department of Planning Lands and Heritage (DPLH) regarding matters associated with the Land Administration Act 1997**
- **PAR16 Advising other Regulatory Authorities.**

it was difficult to discern what power or duty was being delegated, as there is none. It is recommended that these delegations be retired / removed from the current delegation register with the intention of Officers creating a policy to be brought to Council if it is actually needed.

For the time being it is recommended that the Register of Delegations be amended as per the Officer's Recommendation.

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

Policy related:

Purchasing Policy

Financial:

Nil.

Legal and Statutory:

s.2.7(2)(b); s.5.2; s.5.46; and s.9.10 of the *Local Government Act 1995*.

s.5.42(1) of the Local Government Act 1995

s.59 of the Interpretation Act 1984

Risk related:

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

Workforce related:

Once the Delegation Register is updated, it will be saved on the Shire's website.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

1. retires the following delegations:
 - a) CS9 Accession of Artefacts into Museum Collection
 - b) DAR14 Clearance of Conditions of Development Approval, or Conditions of Subdivision / Amalgamation or Strata Title Approval
 - c) DAR15 Advice to the Department of Planning Lands and Heritage (DPLH) regarding matters associated with the Land Administration Act 1997
 - d) DAR16 Advising other Regulatory Authorities.
2. Authorises the Chief Executive Officer to make any necessary minor typographical changes prior to publication.

9.4.3 Personal Information Policy and PRIS Update

Date of Report:	1 November 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman JP – Chief Executive Officer
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Current Policy; 2. Latest PRIS update;

PURPOSE OF THE REPORT

To consider the retirement of the Personal Information Policy and receive the latest PRIS update.

BACKGROUND

The Financial Management Review by Moore Australia in November 2023 found that some council policies, such as ADM25 Personal Information, might be too focused on day-to-day operations.

The auditors pointed out that council policies should not dictate how operational tasks are done, as that is part of the CEO’s role.

It was proposed that the Shire review its policies. A recommendation was to remove version control information, specific legal references, and clearly identify Shire policies and make operational management directives or procedures to capture the operational content.

COMMENTS AND DETAILS

The current policy was adopted on 28 June 2023 (**Attachment 1**).

The Financial Management Review indicated that the content of the current policy may be operational in nature. As such, it is recommended that the current policy be retired, with the intention of turning it into an operational management directive or procedure, managed by the Chief Executive Officer.

In terms of an update on PRIS, Council was last provided with an update on Privacy and Responsible Information Sharing legislation in March 2024.

The *Privacy and Responsible Information Sharing Act 2024* commenced on 6 December 2024. Parts 2 to 6 and Schedules 1 and 2 have not yet come into operation. This is expected to occur in 2025.

Prior to that, local governments have been working on a set of up to 20 questions that contain actions to be undertaken as part of a “readiness plan” endorsed by the Department of Local Government, Sport, and Cultural Industries. The latest PRIS update was lodged (**Attachment 2**).

An update in regard to the requirements of Maturity Level 1 reporting as part of the PRIS readiness plan is below:

Action	Status
PRIS Officers and other Key staff attending PRIS awareness sessions	A Privacy Officer and Information Sharing Officer have yet to be officially appointed however it is intended that the Governance Coordinator and the Administration (Records Management) Coordinator work together with the Chief Executive Officer. Awareness Sessions have been attended by these staff.
Survey of information holdings	This survey has not been done as yet to identify high risk and or high value areas of business, the information and systems that support these business areas.
Development of an Information Asset Register	Not yet commenced however a template from the National Archives of Australia is to be utilised for this purpose.
Review of legislation to identify specific interactions with PRIS provisions or PRIS readiness activities.	Commenced in regard to the Worker’s Code of Conduct, the Freedom of Information (FOI) Statement. Still progressing. As policies are reviewed so will this review take place.
Development of a Data Breach Register	This is already in place.
Development of Collection Notices to be provided where personal information is collected.	A draft form has been prepared and will be approved and managed by the CEO
Development of a Privacy Management Plan	A draft plan has been prepared and will be approved and managed by the CEO.
Development of a Data Breach Response Plan	Procedure in place in regard to this – and information also included in the Privacy Management Plan. A data breach policy has also been created. This would be a directive though, and not a Council policy.
Review of Contracts to include a confidentiality clause and standard privacy terms to establish a clear and documented	Not started as yet

Action	Status
process to assess third party privacy policies, practices of systems.	
Review of Retention and Disposal Requirements	Not started as yet
Establish procedure for handling and tracking complaints about privacy or responsible information sharing	Procedures in place for responding to complaints about privacy
Development of procedures for individual requests for access to and correction of personal information	Procedures are in place for this through update of forms as well.
Procedure for Privacy Impact Statements	Information has been included into the Privacy Management Plan and a procedure can be done once such statements are utilised.
Development of PRIS Monitoring and compliance reporting	This will be done through the Shire's compliance calendar

It is recommended that Council note the progress of the PRIS.

IMPLICATIONS TO CONSIDER

Consultative:

Nil

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Internal Control Policy

Risk Management Policy

Financial:

Nil.

Legal and Statutory:

s.5.41 of the Local Government Act 1995.

The Local Government (Administration) Regulations 1996

State Records Act 2000

Privacy Act 1988

Risk related:

There would be low compliance risks associated with retiring the current and/or revised policy presented with this report. This report mitigates these risks.

Workforce related:

A Shire Officer will update the website accordingly.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

1. retires the Personal Information Policy (**Attachment 1**); and
2. notes the latest PRIS update (**Attachment 2**).

9.4.4 Asset Management Policy

Date of Report:	18 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman JP – Chief Executive Officer
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Current Policy; and 2. Asset Management Guidelines from the Department.

PURPOSE OF THE REPORT

To consider the retirement of the Asset Management Policy.

BACKGROUND

The Financial Management Review by Moore Australia in November 2023 found that some council policies might be too focused on day-to-day operations such as FIN23 Asset Management Policy.

The Auditors pointed out that Council policies should not dictate how operational tasks are done as that is the CEO’s job. They suggested the Shire review its policies and recommended that Officers:

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

COMMENTS AND DETAILS

The current policy was adopted on 21 December 2022 (**Attachment 1**).

When Officers reviewed this policy, consideration was given to the reforms processes that are still underway with the Department of Local Government, Sport, and Cultural Industry. The review of the Department’s current operational guidelines with respect to Asset Management (**Attachment 2**) are set to also occur in 2025.

As the current Asset Management Policy is part of the framework already in place, and the FMR Review highlighted that it was an operational policy and not a strategic policy it is recommended that it be retired.

The intention with retirement of this policy is that it becomes an operational management directive or procedure, managed by the Chief Executive Officer.

IMPLICATIONS TO CONSIDER

Consultative:

Nil

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Disposal of Property Policy;
Financial Governance Policy.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995.

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

Risk related:

To not retire the policies being requested to be retired given the findings of the Financial Management Review may be considered a moderate (3) compliance risk. This report mitigates the risk.

Workforce related:

A Shire Officer will update the website.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council retires the Asset Management Policy.

9.4.5 Compliance and Enforcement Policy

Date of Report:	20 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman JP – Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Current Compliance and Enforcement Policy.

PURPOSE OF THE REPORT

To consider the retirement of the Compliance and Enforcement Policy.

BACKGROUND

The Financial Management Review by Moore Australia in November 2023 proposed that the Shire review its policies. It did not mention the compliance and enforcement policy however given that the review did ask Officers to consider whether current policies were operational in nature this policy was reviewed.

COMMENTS AND DETAILS

The current policy was adopted on 26 July 2023 (**Attachment 1**).

Most organisations that have a compliance and enforcement policy are organisations such as the Fair Work Ombudsman, Safe Work Australia and the Department of Local Government detailing their approach to ensuring compliance with the legislation it administers.

The content of the current policy appears to be administrative and operational in nature.

Given the change with local government reforms and in particular section 5.41 Role of the CEO in the *Local Government Act 1995*, it is recommended that this policy be retired in favour of internal operational management directive or procedures being written around the topic of compliance and enforcement.

The compliance and enforcement policy put a limit on the funds and how the funds would be used by the CEO to seek legal advice however there are delegations in place for the CEO to expend money from the municipal account within budgetary limits. This is why this policy for compliance and enforcement is not required.

It is recommended that this policy be retired (**Attachment 1**).

IMPLICATIONS TO CONSIDER**Consultative:**

Nil

Strategic:**Shire of Toodyay Council Plan 2023-2033**

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Risk Management Policy.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995.

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

Risk related:

The risk is low (3) in respect to the retirement of this policy. This report mitigates the risk.

Workforce related:

A Shire Officer will update the website accordingly.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council retires the Compliance and Enforcement Policy (**Attachment 1**).

9.4.6 Corporate Documents Policy

Date of Report:	7 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN6
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman JP – Chief Executive Officer
Previously Before Council:	OCM189/06/24 22 June 2024
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Current Corporate Documents Policy;

PURPOSE OF THE REPORT

To consider the retirement of the Corporate Documents Policy.

BACKGROUND

Auditors proposed, following the Financial Management Review that the Shire review its policies and recommended that Officers clearly identify Shire policies and move non-policy documents to other categories (like directives, procedures, corporate documents, etc).

The FMR Review stated *“We noted the content of several council policies which may be operational in nature. Council policies are not necessarily intended to provide direction on how different operational functions are to be executed as these are the responsibility of the CEO.”*

The FMR Audit Regulation 17 Risk Assessment with Actions contained a column called Mitigation and Management Strategy which indicated what possible future controls could be implemented by the Shire. One such control was to review and update policies to consider the appropriate separation of the role of the Council and the CEO and improve the indexing of Council policies for better identification and access. The reason for the strategy was to assist with documenting review processes and associated administrative tasks.

In November 2024 Council resolved to adopt the staff structure of four departments being:

- a) Finance and Corporate Services;
- b) Economic Development and Community Services;
- c) Infrastructure, Assets and Services;
- d) Planning and Regulatory Services.

The departmental structure change inspired and initiated consideration as to how corporate document management would be undertaken moving forward. As part of the review process, consideration was given as to whether the policy was fulfilling its intended purpose,

was working efficiently and effectively, and to determine if it needs any changes or is no longer needed for the Shire's operations.

COMMENTS AND DETAILS

The CURRENT Corporate Documents policy was adopted by Council on 22 June 2024 (**Attachment 1**).

The FMR Review made it clear that the implication of the policy review would result in several Council policies needing to be “retired” as they are operational in nature, classed as documenting review processes and associated administrative tasks as per the control strategy comment made by the Auditors. The Auditors did not specify all Council policies by name; however, their request was for the policies to be reviewed in line with parameters set through the FMR Review.

An important role of Council is to make policy decisions on behalf of the community. An essential element of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing needs, and allocating appropriate resources. A policy is a decision of Council and sets out agreed views and direction concerning a particular area of responsibility.

The role of Council in setting policy is most effective when it is linked with a professional organisation that implements these policies through the development of appropriate operational management protocols and work processes.

It is recommended that this policy be retired. From a good governance perspective, because policy development and review is undertaken by Officers first, before the policies are given to Council to endorse, the how-to procedural guide detailing the liaison between Officers and Councillors is the role of the CEO to ascertain as part of the operational management framework and relevant policy management framework; both of which are part of the CEO's role.

IMPLICATIONS TO CONSIDER

Consultative:

Feedback from one Councillor was received in January 2025 in regard to the Corporate Documents Policy.

Points raised in respect of this policy were as follows:

- The policy was recommended at point 28 (p.16) of the *Hammond Woodhouse: Independent Governance Review* of 19 July 2021; placed on a governance review action plan, drafted and adopted November 2021;
- Use of the Teams Environment;
- The Moore FMR Review (2024) remark '*council policies are not necessarily intended to provide direction on how different operational functions are to be executed as these are the responsibility of the CEO*' did not provide an example of a policy that had, and therefore was likely raising awareness of a risk.

The Governance Review stated that Council policies in particular should only deal with matters relevant to the role of Council, serving to provide uniformity in decision making, guidance in exercising discretion and establishing clear direction regarding the delegation of authority and exercise of the role of the CEO.

The current Corporate Documents policy does not align with the statement made in the Governance Review. The content of the policy is operational with an internal focus. The

operational management procedure of using Microsoft Office Teams as a tool for policy development with Councillors has ceased, and as such the current policy is recommended to be retired.

Councillors were advised via email in January 2025 by the CEO that the operational management procedure with respect to policy review would likely include the following:

- Proposed new policies or major policy amendments are to be circulated to Councillors seeking feedback. Councillors are to be provided with an adequate period of time, but not less than 14 days, to consider the proposal and provide feedback.
- Feedback provided by Councillors will be taken into consideration prior to a policy being presented to Council for consideration and adoption. Any modifications to a proposed policy as a result of Councillors feedback will be detailed in the report to Council.

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

Policy related:

Nil

Financial:

Nil.

Legal and Statutory:

s.2.7(2)(b); s.5.2; s.5.46; and s.9.10 of the *Local Government Act 1995*.

s.5.42(1) of the *Local Government Act 1995*

Risk related:

Policies are 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.

It is the right time to retire this policy. To not do so given the findings of the Financial Management Review may be considered a moderate compliance risk (3). This report mitigates the risks.

Workforce related:

The website will be updated by a Shire Officer.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council retire the Corporate Documents Policy (**Attachment 1**).

9.4.7 Corporate Uniforms and Personal Protective Equipment Policy.

Date of Report:	7 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman JP – Chief Executive Officer
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Current Corporate Uniforms and Personal Protective Equipment Policy.

PURPOSE OF THE REPORT

To consider the retirement of the Corporate Uniforms and Personal Protective Equipment Policy.

BACKGROUND

Following the Financial Management Review in November 2023 Shire Officers have reviewed the Shire policies.

COMMENTS AND DETAILS

The current Corporate Uniforms and Personal Protective Equipment Policy was adopted by Council in March 2023 (**Attachment 5**).

Corporate uniform benefits are determined through employment contracts. This is HR related which is why this policy has been transferred into an operational management directive.

It is recommended that this policy be retired as a Council policy.

IMPLICATIONS TO CONSIDER

Consultative:

Nil

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995.

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

Risk related:

To not retire the policy given the findings of the Financial Management Review may be considered a moderate compliance risk. This report mitigates the risks.

Workforce related:

A Shire Officer will update the website.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council retires the Corporate Uniforms and Personal Protective Equipment Policy (**Attachment 1**).

9.4.8 Council Delegates, Roles and Responsibilities Policy

Date of Report:	22 November 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman JP – 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"> 1. Current Council Delegates, Roles and Responsibilities Policy. 2. WALGA Publication.

PURPOSE OF THE REPORT

To consider the retirement of the Council Delegates, Roles and Responsibilities Policy.

BACKGROUND

The Financial Management Review by Moore Australia in November 2023 suggested the Shire review its policies.

Policy is supposed to be a concise statement of strategic objectives, principles, criteria, or conditions that give effect to a Local Government's obligations, directions, or objectives.

Policy is both an outcome of a decision-making process and a governance tool that guides decision makers in the exercise of discretion in future decisions.

As part of the Policy Review process, Officers checked the policy to see if it:

- Follows all relevant laws, industry standards, and organisational requirements;
- Is fulfilling its intended purpose;
- Is working efficiently and effectively;
- Is supported by the right processes;
- Needs any changes or if it is no longer needed for the Shire's operations.

COMMENTS AND DETAILS

The current Policy was adopted by Council in May 2022 OCM092/05/22

The Council Delegates, Roles and Responsibilities Policy was not mentioned in the FMR Review however Officers still reviewed the policy.

There are only a handful of local governments in the state that have a policy of this nature.

The introduction of the policy states that it is intended to ensure that Council Delegates, nominated to represent the Shire on Committees, other committees or organisations, comply with legislative provisions contained in Division 3 of the *Local Government (Model Code of Conduct) Regulations 2021*.

This policy is not required because the Code of Conduct for Council Members, Committee Members and Candidates contains the principles. This Division sets out general principles to guide the behaviour of council members, committee members and candidates.

WALGA does publish a guide as to the roles and responsibilities of Councillors (**Attachment 2**) yet it does not provide a guide for the use of a policy for roles and responsibilities.

It is recommended the policy be retired.

IMPLICATIONS TO CONSIDER

Consultative:

Nil.

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Risk Management Policy

Financial:

Nil.

General Function:

Nil.

Legal and Statutory:

Local Government Act 1995.

Local Government (Administration) Regulations 1996

Local Government (Model Code of Conduct) Regulations 2021.

Risk related:

It is a risk to not retire a policy when it does not have value to be in place. This report mitigates that risk.

Workforce related:

A Shire Officer will update the website.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council retire the Council Delegates, Roles and Responsibilities Policy (**Attachment 1**).

9.4.9 Terms of Reference - Heritage and Sustainability Working Groups

Date of Report:	17 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman JP – Chief Executive Officer
Previously Before Council:	November 2024 OCM
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Terms of Reference: Heritage Working Group; and 2. Terms of Reference: Sustainability Working Group.

PURPOSE OF THE REPORT

To consider the terms of reference for the Heritage Working Group and the Sustainability Working Group.

BACKGROUND

At the November 2024 Council Meeting Council resolved as follows:

That Council:

1. *establishes the following working groups:*
 - (a) *Heritage Working Group*
 - (b) *Sustainability Working Group*
2. *Requests the CEO to bring draft terms of reference for each working group to the February 2025 Ordinary Council Meeting for consideration by Council.*

COMMENTS AND DETAILS

The Shire recognises the importance of engaging meaningfully with its community and ensuring that its residents are able to participate and influence the decision-making process. While there are many methods in which the Shire promotes public participation and engages with its community, the establishment of a Working Group is intended to empower and support the community in delivering strategic outcomes in partnership with the Shire.

Council has already resolved to establish these working groups.

It is recommended that the terms of reference provided at Attachment 1 and 2 are adopted by Council.

IMPLICATIONS TO CONSIDER**Consultative:**

Town of Vic Park Policy 101 D23/49974

Strategic:

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

Outcome 9 Responsible and effective leadership and governance.

09.1 Provide strong, clear and accountable leadership.

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995

Risk related:

There are no risks of note related to this report.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council adopts the terms of reference for the Heritage Working Group (Attachment 1).

OFFICER'S RECOMMENDATION 2

That Council adopts the terms of reference for the Sustainability Working Group (Attachment 2).

9.5 INFRASTRUCTURE, ASSETS AND SERVICES**9.5.1 Bejoording Fire Station - Funding Proposal**

Date of Report:	6 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIR1
Author:	R Koch – Community Emergency Services Manager
Responsible Officer:	V Crispe – Executive Manager Infrastructure, Assets and Services
Previously Before Council:	255/11/21 059/02/24
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Advocacy
Attachments:	Nil

PURPOSE OF THE REPORT

To advise Council on external funding options/opportunities for the Bejoording Fire Station project and to seek endorsement by resolution to support upcoming funding applications.

BACKGROUND

In 2014, the Shire of Toodyay and Department of Fire and Emergency Services (DFES) undertook a Risk to Resource (R2R) assessment of the Shire of Toodyay's Bush Fire Service facilities. The R2R identified the current Bejoording Bush Fire Brigade (BFB) facility as being 'not fit for purpose' and recommended a new facility. This has been validated by subsequent Shire and WALGA assessments of the current facility. Following new stations or upgrades for Coondle-Nunile, Morangup and Julimar facilities, Bejoording is now the only brigade in the Shire's Bush Fire Service operating out of a shed, rather than a fit for purpose facility.

The Shire has been unsuccessful in obtaining Local Government Grants Scheme (LGGS) Capital Grants in 2021/22, 2022/23, 2023/24 and 2024/25. This is largely due to the LGGS Capital funding pool becoming more competitive over time; and previous grant applications not including a Western Australian Treasury Corporation (WATC) Self-Supporting Loan arrangement which is the preference of DFES. The Shire has received feedback from DFES on how to make its future application(s) more competitive.

At the November 2021 OCM Council adopted a Bush Fire Advisory Committee (BFAC) recommendation supporting the seeking of funds for the project (255/11/21). At the February 2024 OCM Council resolved to support a multi-year (2) LGGS Capital Grant funding application as part of the 2024/25 budget process (as above, the associated grant application was unsuccessful).

The next LGGs capital grant application round closes 28 March 2025.

COMMENTS AND DETAILS

For past LGGs Capital grant projects, the Shire was successful in obtaining funding allocations over a single or multiple (2) financial years. Due to the increasing competition for LGGs Capital Grant funds, the DFES Grants Allocations Officer has advised that applications split over a longer period are now favoured by the Department.

The two funding approaches advised by DFES are:

1. Self-Supporting Loan (serviced by DFES over 10 years) – DFES preferred option.
2. Requesting funding over multiple (2) financial years.

These approaches are described in more detail below.

Self-Supporting Loan

This option is DFES' preferred approach as it spreads the grant funds over a 10-year period.

The Shire would be responsible for taking out the loan with the Western Australian Treasury Corporation (WATC), with DFES repaying the principal and interest off over 10 years. The Shire would enter into an agreement with DFES supporting this arrangement.

Using this approach, the Shire would need to consider its capacity to take on added debt and what effect that may have on other projects for which the Shire may wish to utilise a credit funding approach. With respect to the latter, no such projects have been identified as part of internal consultation.

This approach may also provide the Shire further options as to how it chooses to fund its proportion/contribution of the project. Should the Shire choose to fund all or part of its contribution through such a loan, interest earned on a Shire contribution portion would also be the responsibility of the Shire.

The WATC general eligibility requirements include audited financial statements of the applicant Local Government. Given the issues with past financial audits, the Shire may not be eligible or may require dispensation to secure such finance. The fact that DFES would ultimately be responsible for payments is expected to assist the Shire's cause.

The table below summarises the points for and against of the self-supporting loan approach.

Pros	Cons
Aligns application to DFES preferred funding model. i.e., Make application more competitive	May limit Shire's ability to use financed funds for future projects.
Application more likely to succeed: <ul style="list-style-type: none"> – Reducing exposure to identified WHS risks. – Delivers on strategic priorities. 	Public perception of public sector debt may be negative.
Provides flexible options for how the Shire chooses to fund its contribution to the project. <ul style="list-style-type: none"> – Potential to minimise draw down on Building Reserve, retain funds for other projects. 	Past financial audit outcomes may affect this line of credit being secured.
Costs paid by DFES	

Other Local Governments have used this approach to secure funding for their project including the following:

Local Government	Project	Year Approved
Shire of Capel	BFS Facility	2021/22
Shire of Serpentine-Jarrahdale	BFS Facility	2021/22
Shire of Wongan-Ballidu	BFS Facility	2023/24
Shire of Plantagenet	BFS Facility	2024/25
Shire of Harvey	BFS Facility	2024/25

All above approvals occurred in years where the Shire of Toodyay application was unsuccessful. No new capital facilities were funded in 2022/23.

Multi-Year Funding Proposal

In this approach, the Shire’s application would request funding to be obtained over two financial years, without any credit facility utilised.

The Shire would not need to temporarily fund the project while waiting for the second financial year’s payment, as the project will naturally span such a period when considering procurement and delivery time frames.

The table below summarises the points for and against of the multi-year funding approach.

Pros	Cons
Slight improvement in chances of application succeeding (over previous application approach), in doing so: <ul style="list-style-type: none"> – Reducing exposure to identified WHS risks. – Delivers on strategic priorities. 	Grant less likely to be successful, as it requires greater amount upfront funding which is not DFES’ preference. (When compared to self-supporting loan option)
Avoids possible negative perceptions of Shire increasing debt.	

While this approach is a valid option, the reality of limited LGGs Capital Grant funding pool, and requests for large sums of funding over condensed periods, is less likely to produce a positive grant assessment, as history has shown.

IMPLICATIONS TO CONSIDER

Consultative:

Engagement between the Shire and DFES has informed this report.

This item was introduced to Councillors at the 06 December 2023 Concept Forum.

Strategic:

Advocacy for funding for the Bejoording Fire Station project forms Objective 4.3.1 of the Shire of Toodyay *Plan for the Future 2023-2034* in the current financial year.

Replacement of the existing Bejoording Fire Station forms Objective 4.3.2 of the Shire of Toodyay *Plan for the Future 2023-2034* in the current financial year.

Policy related:

There are no policy related issues relating to the recommendation in this report.

Financial:

Shire Contribution

Like many grants, LGGs Capital Grants have required contributions from the applicant. In the case of LGGs Capital Grants, this is not a percentage, but eligibility of specific elements of the projects. LGGs Capital Grants do not cover for example, retaining works, connections to utilities, vehicle bays beyond current LGGs funded appliances or carparking/driveways.

These costs need to be considered and covered by the Shire over a projected project timeline of two financial years. A potential funding source for the Shire's contribution is the asset development reserve. This will need to be decided as part of the annual budget process.

The total estimated cost of the project is \$922,591, with a breakdown as follows;

Item	Budget
Costs that the Shire is responsible for (see table below for a detailed breakdown)	\$225,592
Costs that DFES are responsible for	\$696,999
Total	\$922,591

A breakdown of the estimated costs that the Shire is responsible for is as follows:

Item	Estimate Value	FY Timing
Site Works (Earthworks)	\$92,000	2025/26
Retaining Wall Allowance	\$28,000	2025/26
Second Vehicle Bay	\$43,360	2026/27
Power Alignment (to Community Group Shed)	\$7,232	2026/27
Carpark/Driveway Reinstatement	\$55,000	2026/27
Total	\$225,592	

Self-Supporting Loan - Projected Borrowings

Should the shire be successful for a Self-Supporting loan funded project, the following table estimates the shire's total borrowings.

	Estimated Borrowings		Amount Added to the Shires Borrowings
	Not including the project	Including the Project	
24/25 year	\$4.60m	\$4.60m	Nil

	Estimated Borrowings		Amount Added to the Shires Borrowings
	Not including the project	Including the Project	
25/26 year	\$4.31m	\$4.61m	\$300,000 (Estimated portion of LGGS costs in FY to be drawn down in a self supporting loan)
26/27 year	\$4.03m	\$4.73m	\$400,000 (Estimated portion of LGGS costs in FY to be drawn down in a self supporting loan)

Assumptions:

- Principal loan repayments of \$287,000 per annum.
- Project commencement in 2025/26 financial year.

Legal and Statutory:

The Shire of Toodyay has a responsibility to provide of a safe workplace for its employees and volunteers under the *Work Health and Safety (WHS) Act 2020*. The current Bejoording BFB facility has identified WHS issues. Provision of a new fit for purpose facility will remove these issues and reduce liability exposure to the organisation.

Examples of identified WHS issues include:

- No training room facility (training is the most effective tool for ensuring safety during fire operations).
- No management of diesel particulate matter contaminating food preparation areas.
- No shower facilities for post incident decontamination for personnel.
- Non-compliant plumbing (gas and water).
- Heavy manual doors with pinch points.
- Difficulty/inability to meet WHS responsibilities and ensure security of assets/radio networks given current dual usage with community group.

Risk related:

There is a risk that failure to support this project designed to improve health and safety of its personnel, could result in serious illness or injury resulting and/or result in financial or compliance penalties to the Shire.

Consequence: Catastrophic (5)
Likelihood: Unlikely (2)
Calculated Risk: High (10)

There is a risk that failure to provide fit for purpose facilities for Shire personnel results in a loss of engagement of current and future potential volunteers resulting in service interruption to the community.

Consequence: Catastrophic (5)
Likelihood: Possible (3)
Calculated Risk: High (15)

There is a risk that failure to obtain a Self-Supporting Loan from WATC for could result in the loss of grant/project (if endorsed by DFES) resulting in reputational damage to the Shire.

Consequence: Moderate (3)

Likelihood: Moderate (3)

Calculated Risk: Moderate (9)

Workforce related:

The endorsement of the Officer's recommendation in this report will have no notable negative impacts on workforce resources.

Indirectly, a successful grant application outcome will result in an actual, sizable, project which will affect officers' normal duties while delivering the project.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council authorises the CEO to submit a Self-Supporting Loan LGGS Capital Grant funding application for 2025/26 and include such an arrangement for consideration as part of the 2025/26 budget process.

9.5.2 Road Upgrade Criteria Policy

Date of Report:	30 October 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	V Crispe – Executive Manager Infrastructure, Assets and Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Current Policy.

PURPOSE OF THE REPORT

To consider the retirement of the Road Upgrade Criteria Policy (**Attachment 1**).

BACKGROUND

The Financial Management Review by Moore Australia in November 2023 found that some council policies might be too focused on day-to-day operations. Council policies should not dictate how operational tasks are done as that is the CEO's job.

The Auditors suggested the Shire review its policies and recommended that Officers:

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

COMMENTS AND DETAILS

The current Road Upgrade Criteria policy was adopted on 27 April 2022 (**Attachment 1**).

The current policy indicated that there was an application form that went with the policy. There is not.

The policy implied (last sentence is item 1) that Council will approve funding prior to adopting the budget which is not permitted. The policy is operational, however as it is a current Council policy a council resolution is required to retire the policy.

It is intended, with the retirement of the policy, that an operational management directive or procedure be put into place, if required, that will be managed by the Chief Executive Officer.

IMPLICATIONS TO CONSIDER**Consultative:**

Nil.

Strategic:**Shire of Toodyay Council Plan 2023-2033**

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Nil.

Financial:

Nil.

General Function:

Nil.

Legal and Statutory:

Local Government Act 1995.

Risk related:

It is Council's role to review and make changes to policies.

There are compliance risks associated with not retiring the policy.

This report mitigates that risk.

Workforce related:

A Shire Officer will remove the policy from the website and notify relevant personnel.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council retire the Road Upgrade Criteria Policy (**Attachment 1**).

9.5.3 Vehicle Usage Policy

Date of Report:	7 February 2025
Applicant or Proponent:	Shire of Toodyay
File Reference:	PCY2
Author:	M Rebane – Governance Coordinator
Responsible Officer:	V Crispe – Executive Manager Infrastructure, Assets and Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	1. Current Vehicle Usage Policy.

PURPOSE OF THE REPORT

To consider the retirement of the Vehicle Usage Policy.

BACKGROUND

Following the Financial Management Review in November 2023 Officers have reviewed policies in terms of assessing whether a policy is required.

COMMENTS AND DETAILS

The current Vehicle Usage policy was adopted by Council in March 2020 (**Attachment 1**).

Private use of vehicles benefits is determined through employment contracts. These are HR related which is why the intention with retirement of it as a Council Policy is that it will become an operational management directive managed by the Chief Executive Officer.

It is recommended that this policy be retired as a Council policy.

IMPLICATIONS TO CONSIDER**Consultative:**

Nil

Strategic:**Shire of Toodyay Council Plan 2023-2033**

Outcome 9. Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995.

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

Risk related:

To not retire this policy given the findings of the Financial Management Review may be considered a moderate compliance risk. This report mitigates the risks.

Workforce related:

A Shire Officer will update the website.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council retires the Vehicle Usage Policy (**Attachment 1**).

9.6 COMMITTEE REPORTS

9.6.1 Complaints of Alleged Breach of the Code of Conduct for Members, Committee Members and Candidates Policy; and the Authorisation of a person to deal with complaints under Division 3 of the Local Government (Model Code of Conduct) Regulations 2021

Date of Report:	20 December 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	COF1
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Bowman JP – Chief Executive Officer
Previously Before Council:	18 December 2024
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Current policy; 2. Revised Policy (track changed); and 3. Revised Policy.

PURPOSE OF THE REPORT

To consider:

1. the revised Complaints of Alleged Breach of the Code of Conduct for Members, Committee Members and Candidates Policy (**Attachment 2**); and
2. 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

At the December 2024 Council Meeting Council resolved:

That the meeting proceeds to the next item of business (10. Motions of which previous notice has been given) at 2.57pm in accordance with Standing Order 10.1(a) to defer this matter until Council can review the policy in accordance with the Corporate Documents Policy.

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. At the time of writing this report s.5.120 still exists in the *Local Government Act 1995*.

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 almost \$5,000 per complaint. The current form does not provide information about the types of alleged breach covered under Division 3. It is necessary to amend the form to ensure it does list the types of alleged breach.

The policy was reviewed (**Attachment 2 – with track changes**) to identify for both complainants and respondents how to make a complaint and what action would be taken to address the complaints.

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.

This revised policy is a transparent procedure for handling breaches, ensuring that all parties understand the process and feel it is fair. This includes how investigations are conducted and what a complaint is and is not.

Councillors experiencing any stress associated with either having to raise an issue or being requested to respond to an alleged breach can access the Shire's Counselling services through TELUS Health EAP (Employee Assistance Program: Contact No. 1800 959 416).

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 the current 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 3**) be adopted.

The adoption of the revised policy will enhance the Shire's reputation by demonstrating a commitment to ethical behaviours and good governance.

IMPLICATIONS TO CONSIDER

Consultative:

Councillors were requested by the CEO to make comments in regard to the revised policy. Only one Councillor responded. Some points raised were as follows:

- It can place the CEO in a tenuous position with the council who employs him/her.
- Cost while a consideration is not a sound reason to move to internal assessment. It can however, act as a deterrent against weaponising complaints.
- Definitions not being within the policy: This is unwieldy way for a policy to inform – definitions should be within the body of the report. Also more likely to be reviewed than when on a website.
- How is '*misconceived or considered trivial, frivolous or vexatious*' to be established by the CEO given these are highly subjective assessments and potentially influenced by the relationship between the parties? There needs to be some form of standard or definition to support the integrity of the process.

The intent of the revised policy is to make it clear to the prospective complainants that making a complaint is seen as a last resort. The revised policy is intended for the purpose of collaboration, encouraging both parties to make an effort to resolve a perceived issue together.

It is not considered necessary to define the terms of this policy given that these terms can be looked up by the person who wishes to make the complaint in a dictionary or online. As part of an operational management practice, the method of putting in every conceivable definition of even basic terms has been done away with so as to shorten the length of a policy document, making it less cumbersome for the reader.

The revised policy will not place the CEO as Complaints Officer in a tenuous position because this policy aligns with the *Local Government (Model Code of Conduct) Regulations 2021*. The Code of Conduct that Councillors and Employees abide by speaks to behaviour, respect and the values that the Shire publishes on their website and in their Council Plan.

Mishandling complaints or perceived unfairness in the process can damage the Shire's reputation. Transparency and fairness are essential to maintain public trust which is why the revised policy is recommended to be adopted.

It is understandable that there is a perceived risk in adopting the revised policy because ensuring that the Complaints Officer and investigators are impartial is critical. Any perceived or actual bias can undermine the integrity of the process however the current policy is not sustainable from a financial point of view in the long-term.

The revised policy is recommended because it will ensure that all complaints are handled in a transparent and accountable manner, which can build trust within the community and among council members. The policy also:

- clearly outlines the consequences of breaches and provides a structured process for addressing them;
- promotes higher standards of behaviour among council members, committee members, and candidates;
- aims to treat all complaints fairly and equitably, ensuring that everyone is subject to the same standards and processes;
- provides mechanisms for resolving conflicts, such as mediation and informal resolution, which can help address issues before they escalate.

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 \$4,000-\$5,000 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. It is intended too through the revision of the policy that two parties involved in the complaint meet with one another to discuss the complaint so that the matter can be resolved through the method of care and confrontation as perceptions between two parties can be different in absence of the facts pertaining to a matter.

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).

The financial costs associated with engaging a Consultant to undertake the process are from ratepayer funds so from a reputational perspective, the public would support the Shire choosing to engage a Consultant as a last resort rather than the only option.

This report mitigates that risk.

Workforce related:

Once Council endorses both recommendations made 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:

1. adopts the revised Complaints of Alleged Breach of the Code of Conduct for Members, Committee Members and Candidates Policy (**Attachment 3**);
2. approves the form attached to the revised policy included in Attachment 3; 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 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**12.1 Questions from Cr Madacsi**

This memorandum is notice, in accordance with Section 6.1(1) of the Shire of Toodyay Standing Orders of questions I wish Council to consider at the 27 February 2025 OCM:

Question 1

Has a multi-year funding application for a Local Government Grant Scheme Capital Grant, been submitted as per resolution OCM059/02/24 as part of the 2024-2025 budget process?

Response

Yes. A 2024/2025 application LGGS Capital Grant was made however this was not approved by DFES. Supporting documentation was submitted as part of the 2024-2025 Shire Budget process.

Question 2

Were the Fuel Reduction and Fire Access Track Works undertaken as tendered and checked to be of good standard and were they within budget as per resolution OCM100/03/24? Are there any works not undertaken and if so, what is the financial arrangement to meet the change to the tender?

Response

Of the 60 treatments covered by the Mitigation Activity Fund 2023/24 Round 2 tender 58 were completed.

The two uncompleted treatments consisted of:

- 1 x Treatment which was duplicated in error;*
- 1 x Planned burn which did not proceed due to unfavourable seasonal conditions (this treatment is now approved in the 2024/25 Round 2 program)*

Two substitute treatments were completed in lieu of the two initially planned treatments which did not go ahead.

The entire program was completed within budget.

Question 3

Given the Toodyay Arts committee's Labor election donation is being used to upgrade the Memorial Hall and include art panels and display lighting for Toodyay Arts displays, how far has the restoration progressed and will the time frame to acquit be achieved to retain the donation?

Response

No progress to date due to the funding not being adequate to address the scope of works.

Question 4

Has the Fire Station Schedule of Preventative Maintenance been adhered to and if not please explain what work is outstanding?

Response

There was previously no preventative maintenance schedule in place until the Facility Maintenance Schedule was provided to the Bush Fire Advisory Committee in November 2024.

The schedule has three items/s tasks listed for Jan/Feb (Pest Control, Water Filters & Generator servicing). Generator servicing has been undertaken to date. Executive Manager Infrastructure Assets and Services is working to implement other items on the plan.

Question 5

What is the total cost to the shire of the racecourse repairs, including staff wages?

Response

Nil except replacement of roof as previously reported to Council.

Question 6

Please explain the current operational model and staffing being used to manage the Toodyay Recreation Centre at the pavilion and aquatic centre.

Response

Short term contract with Contract Aquatic Services (CAS) which ends early May 2025 to manage the swimming pool. Recreation Centre/Pavilion is being managed in-house by the community development team. With the pool, the staff (swim teacher, duty managers/lifeguards) are all Shire employees and the pool manager is contracted by CAS.

Question 7

What is the status and timeframe of the Slaughterhouse Bridge repairs and has progress been made on the outstanding costs to repair?

Response

The Shire of Toodyay submitted an application for funding to complete repairs on the superstructure and substructure of the bridge 4085 in 2022.

An inspection conducted by Main Roads WA identified that the condition of the bridge was far more deteriorated than originally believed. After discussions with Main Roads, the Shire has been advised that the bridge would require replacement.

The Shire was notified by Anthony Humphries – Main Roads WA, in March 2023 that the bridge would require replacement with an outline of some forward planning and bridge replacement in the 2025/2026. The Shire were advised to return any funding or seek permission to allocate the funding to arrange a detailed design. The bridge would need to be funding by the Shire with limited if any funding from MRWA.

Question 8

Given the funded North Street roadworks was scheduled in the 2023-24, then 2024- 25 budget, when was the funding received and when are works to occur? If a delay exists, what is it and is the funding at risk or has it been reallocated?

Response

Funding was initially planned for 23/24, however, the grant agreement was not executed in July 2024 (following delay by the funding agency). Design and environmental assessments are currently being undertaken.

Simple Majority

OFFICER'S RECOMMENDATION

That the response to the question regarding <type topic of question> raised by Councillor <type Councillor Name> be received and noted.

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 1

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 Code of Conduct Complaint 2

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

14.3 Code of Conduct Complaint 3

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

14.4 Notice of Motion from Cr Madacsi

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

Audit & Risk Committee Meeting	6 March 2025
Agenda Forum (Briefing)	20 March 2025
Ordinary Council Meeting	27 March 2025

16 CLOSURE OF MEETING