



Special Council Meeting

24 January 2024

Commencing at 11:00 AM

Agenda

Notice of Meeting.

To: The President and Councillors.

A Special 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.

The Special Meeting of Council is for the purpose of considering business (adjourned) from the December 2023 Ordinary Council Meeting as follows:

1. ARC Recommendations from meeting held on 6 Dec 2023;
2. In Principle Agreement – Fallen Riders Wall of Remembrance;
3. Lot 109 MacDonald Retreat, Dumbarton – Request to extend time to vacate outbuilding; and
4. Toodyay Race Club – Racecourse Precinct Remediations

Suzie Haslehurst

CHIEF EXECUTIVE OFFICER



Our Vision, Purpose and Values

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

Our Vision

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

Our Purpose

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

Our Values

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

- **Integrity** - we behave honestly to the highest ethical standard;
- **Accountability** – we are transparent in our actions and accountable to the community;
- **Inclusiveness** – we are responsive to the community and we encourage involvement by all people; and
- **Commitment** – we translate our plans into actions and demonstrate the persistence that will provide results.

Community Aspirations

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

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

Disclaimer

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

Availability of Meeting Agenda and its Attachments

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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, 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

3 DISCLOSURE OF INTERESTS**4 PUBLIC QUESTIONS****4.1 PUBLIC QUESTION TIME****5 PUBLIC SUBMISSIONS**

6 BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)**6.1 Toodyay Race Club - Racecourse Precinct Remediations**

Date of Report:	21 December 2023
Applicant or Proponent:	Toodyay Race Club
File Reference:	TEC4
Author:	C Sullivan – Executive Manager Infrastructure, Assets & Services
Responsible Officer:	C Sullivan – Executive Manager Infrastructure, Assets & Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. SOT Agenda Request; and 2. Submission from Toodyay Race Club on Building Defects

PURPOSE OF THE REPORT

To present a request from the Toodyay Race Club (**Attachment 1**) for Council to consider supporting the proposal to reinstate the Toodyay Race Day at the Toodyay Racecourse in 2024 by:

- Issuing a statement confirming Council's support of the return of the Toodyay Cup and Picnic Race Day to the Toodyay Racecourse in 2024;
- Allocating funds from the Asset Management Reserve to replace the roof sheeting and gutters of the building housing the Tote Area and Horseshoe Bar; and
- Requesting Shire officer time to be allocated to assist the Toodyay Race Club in the demolition and/or remediation of the other building structures in the precinct required to conduct turf racing activities.

Council is being requested to consider this matter as a late item as the request was not received in time for the distribution of the Agenda for the December 2023 Ordinary Council Meeting. Deferral of this item would impact the ability to implement the necessary works in time for the 2024 Toodyay Race Day.

BACKGROUND

The Toodyay Race Club has over many years in the past, held the Toodyay Cup and Picnic Race Day on the September long weekend at the Toodyay Racecourse, apart from the period impacted by COVID and the major bushfire of late 2009.

The average attendance was about 3,200 people with a maximum of approximately 4,000 in attendance in 2015. There were substantial social and economic benefits to the local community from this annual event. Local businesses benefited from the increase in visitor numbers and local tourism activity increased for the benefit of community and volunteer groups.

The last year that the Toodyay Cup and Picnic Race Day was held at Toodyay was 2021. Concerns were raised by the Shire of Toodyay regarding the ongoing maintenance of the buildings and infrastructure and hence the safety risks to the public and operators of the annual event. The 2022 and 2023 annual events were held at the Belmont Racecourse in Perth and proved to be cost prohibitive for the Toodyay Race Club.

Shire officers commissioned a risk assessment by insurers Local Government Insurance Services (LGIS), and a Building Condition Report by independent specialist company Bedrock property Solutions Pty Ltd. (BPS). Meetings and correspondence between Shire officers and Toodyay Race Club representatives most recently took place in July and August 2023 with a view to reaching an understanding of the scope of works and the costs to implement the necessary measures to remedy the operational and safety risks to allow the annual race day to return to Toodyay.

Central to this program is the need to address both the short term (2024 event) risks and the medium term (2031) risks to the asset management of the racecourse precinct. A lease was signed in 2011 between the Toodyay Race Club and the Shire of Toodyay for a period of 20 years.

To this end, representatives of the Toodyay Race Club Committee made a presentation to the Elected Members on 6 December 2023. The presentation detailed the proposed works that the Toodyay Race Club has the capacity to undertake within their own resources and funds compared to what the Shire of Toodyay is being requested to contribute in-kind and in cash. A Briefing Note was provided to all Elected Members by the Toodyay Race Club (**Attachment 2**). A workshop with Shire officers and Elected Members followed the presentation.

COMMENTS AND DETAILS

The Toodyay Race Club has already completed several tasks on the site including waste removal, vegetation management and electrical safety and demolition works by a qualified electrical contractor. Demolition and removal of the existing toilet block is programmed for February 2024. The Toodyay Race Club has access to qualified contractors for electrical, plumbing, building and asbestos removal works.

Undergrounding of several overhead electrical cables and the demolition of the top level of the Race Tower is also programmed for February 2024. The next stage of the program is the removal of the Tote Room, Jockey Room and Administration Room which will all be replaced with transportable buildings as these three existing buildings are not able to be remediated to current standards in a cost-effective way.

The Public Viewing Building overlooking the racetrack needs the external decking restored to which the Toodyay Race Club will contribute \$20,000. The major issue which the Shire of Toodyay is being asked to address is the replacement of the roof sheeting and gutters of the building over the Tote Area and the Horseshoe Bar.

The Toodyay Race Club has liaised with a qualified builder who has assessed the quantum of this cost at approximately \$130,000. This was some time ago and the cost may have escalated due to the high level of activity in the Perth building market in recent times. The Shire is being requested to conduct and fund the tender, design, and implementation of this roof cladding replacement from municipal (Reserve) funds.

As discussed at the workshop, Shire staff would need to investigate options and costs, draft the tender document, and award the tender to implement the project which must be completed prior to September 2024. The Toodyay Race Club does not believe there is a way to hold the annual race day event with a temporary building or marquee coverage due to the operation of the Horseshoe Bar, television screens and the tote operation requirements.

The Shire will also need to assist with the issue of any permits and approvals required as well as waiver of any associated fees. These approvals include satisfying the Shire insurance as the owner of the property that the works were completed in accordance with public and contractor safety requirements and are fit for the purpose intended.

The Toodyay Race Club submission of 8 December 2023 (**Attachment 1**) details the three requests for Council consideration to allow the program of works to proceed, as detailed in the Purpose of the Report above. The statement of support by the Council is a requirement of Racing and Wagering WA (RWWA), which conducts the operation of the horse racing events on the day.

IMPLICATIONS TO CONSIDER

Consultative:

Shire Officers have met on-site with representatives of the Toodyay Racing Club and conducted a Council Workshop with Elected Members to allow a presentation to Elected Members by the Toodyay Racing Club representatives. Shire officers have previously initiated risk assessments by insurers LGIS (April 2023) and a defects assessment of the buildings in the precinct by BPS (September 2022). Both documents have previously been issued to the Toodyay Racing Club for their information.

Strategic:

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

Outcome 1: A safe and healthy community

O1.1. Facilitate community safety.

Outcome 9: Responsible and effective leadership and governance

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

Policy related:

Risk Management

Asset Management

Financial Governance

Financial:

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

The cost of the roof sheeting and gutter replacement is a significant expenditure for the Shire Asset Development Reserve and there will also be staff time required for the tender and implementation of the project. Further staff time will be required to assist the Toodyay Race Club during the works with site inspections, issue of permits and approvals, review of site management plans and progress reporting.

Legal and Statutory:

Local Government Act 1995

Building Act 2011

Building Code of Australia NCC 2022

Plumbing Code of Australia 2022

Electricity Act 1945

Risk related:

The current condition of the buildings and infrastructure in the precinct warrants action to address risks to public safety which is considered moderate (9) and requires adequate controls to be put in place. Demolition of some structures and remediating others seeks to mitigate that risk. There is also a reputational risk should an incident occur which causes personal injury. This is rated high (15).

Workforce related:

The Shire has an ongoing commitment to the upgrade, renewal, and maintenance of Shire buildings.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Confirms Council's support of the return of the Toodyay Cup and Picnic Race Day to the Toodyay Racecourse in 2024; subject to:
 - a) An allocation from the Asset Development Reserve of up to \$200,000 to replace the roof sheeting and gutters of the building housing the Tote area and Horseshoe Bar to be considered as part of the 2023-24 mid-year budget review; and
 - b) Possible funding sources being investigated to support the Shire's contribution; and
 - c) A further report being brought to the Ordinary Council Meeting of 27 March 2024 to confirm the cost estimates and funding of the proposed works program as detailed at the Council Workshop of 6 December 2023.
2. Notes the correspondence received from the Toodyay Race Club on 14 December 2023 (as tabled).
3. Authorises the TRC to dismantle and store the materials of the Tote Area which is under the main roof of the building housing the Tote Area and Horseshoe Bar, at no cost to the Shire, and subject to the Shire's demolition/building requirements.

6.2 Lot 109 MacDonald Retreat, Dumbarton - Request to extend time to vacate outbuilding.

Date of Report:	21 December 2023
Applicant or Proponent:	W Andela
File Reference:	A4143/109MAC
Author:	T Prater – Planning and Compliance Officer
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	21 December 2022 – Item 9.1.4
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Quasi-Judicial
Attachments:	1. Item 9.1.4 OCM 21 December 2022

PURPOSE OF THE REPORT

For Council to consider a request from the landowner of Lot 109 MacDonald Retreat in Dumbarton to be able to extend permission to live in the outbuilding beyond the prescribed date of 20 January 2024 as listed in the Directions Notice. As the Directions Notice was given as a result of a Council resolution, the matter is being referred to Council for further consideration.

This report was provided as a late addition to the December 2023 Agenda following discussion at a Concept Forum held on 13 December 2023 however, when it was presented to the December 2023 Ordinary Council Meeting no decisions were made at that meeting, due to the Julimar fire event.

BACKGROUND

At the Ordinary Council meeting held 21 December 2022 Council made the following resolution (OCM259/12/22) for the application for development approval for a change of use – from outbuilding to single dwelling at Lot 109 (No. 1986) MacDonald Retreat in Dumbarton (see **Attachment 1**):

That Council:

1. Pursuant to clause 68(2)(b) of the deemed provisions for local planning schemes, refuses the application for development approval for a change of use – from outbuilding to single dwelling at Lot 109 (No. 1986) MacDonald Retreat in Dumbarton, for the following reasons:
 - a. The Development is inconsistent with the Local Planning Policy – Glencoe Estate Design Guidelines.

b. The development would set an undesirable precedent, which could impact future development within the Glencoe Estate.

- 2. Requests the CEO to issue a Directions Notice within 30 days to the applicant to vacate the structure within twelve months of the date of the notice.*

A Directions Notice was issued on 20 January 2023 with the applicant given 12 Months (20 January 2024) to vacate the outbuilding at Lot 109 MacDonald Retreat, Dumbarton.

On 4 December 2023, the owner Mr Andela requested the 12 Months Directions Notice to be extended due to hardship.

Property information

Lot 109 MacDonald Retreat, Dumbarton is a 10,594m² (1.594ha) property and is in the Glencoe Estate. The property backs on to Northam Toodyay Road.

The property is zoned Special Residential R2.5 under the Shire of Toodyay *Local Planning Scheme No. 4*.

The existing development on the site is an outbuilding which was approved by Council in 2018. The applicant purchased the property in 2020 and shortly after made unauthorised modifications converting a portion of the structure to be used for habitation.

COMMENTS AND DETAILS

Council is requested to reconsider the timeframe to vacate the outbuilding at Lot 109 MacDonald Retreat, Dumbarton on the grounds that the applicant is stating hardship and has not found alternative accommodation due to a state-wide supply issue of affordable housing.

Factors to consider:

- The property was on the market for a period, within the 12-month timeframe to vacate the property as per the Directions Notice issued 20 January 2023. On 27 September 2023, Officers received an email from an interested buyer, who stated that an offer had been presented to the vendor (subject to an independent evaluation) which was rejected, and that the vendor had removed the property from the market.
- Regarding health requirements, the outbuilding does not have an approved septic or grey water system installed, but rather a basic French drain is in-situ without approval. This drain is only suitable to manage excess stormwater, not effluent or grey water. The drainage on the property is not a long-term solution and may begin to cause issues for neighbours, and while no effluent or waste has been seen disposed of in the yard, it is unknown how the occupant is disposing of their waste.
- If waste is being disposed of in the yard, there could be serious health concerns for the shed occupants with the possibility of soil contamination, respiratory infections, and gastrointestinal infections from harmful pathogens that can be released in the absence of a proper sewage system.
- There is also a risk of heat-based health effects to the inhabitants in summer due to the lack of ventilation, insulation, and proper water supply. There is greater risk of accumulating condensation, damp and cold in winter as well as fire risk to the occupants in the case of an accident or use of any gas or open flame heater.

Whilst the Shire recognises the applicant's situation, Council has already displayed leniency where it took a benevolent approach by allowing the applicant 12 months to find alternative

accommodation. The applicant has not provided any evidence to support his claims of hardship or inability to obtain alternative accommodation.

Additionally, while the Shire aims to be understanding and flexible in its approach regarding compliance, it is also important to maintain a consistent and equitable approach to uphold the integrity of the compliance process in the Shire.

However, if Council was of a mind to provide further extensions to the applicant, there would need to be an agreed exit strategy. The applicant should also be granted an extension on the proviso that an approved effluent disposal system is installed.

Ultimately, Officers recognise that this is a difficult situation and a difficult decision for the Council. On one hand it is important that compliance is observed, on the other it is acknowledged that a decision to refuse this request may solve one problem but create others.

The Shire is not in a position to state that the applicant must take any offer to purchase presented. However, the Shire can set the terms of a Directions Notice with respect to suitable timeframes in which actions must be undertaken.

Options and possible consequences

There are two options available to Council with regards to this matter. Either it can accept the request and set aside the existing Directions Notice and resolve that a new one be issued with new conditions; or Council can refuse the request.

Option 1: Granting an extension.

If Council is of a mind to grant this request and to provide an extension as requested, the possible consequences should be considered. Firstly, Council must contemplate what is an appropriate extension. Will Council consider a rolling series of extensions, or will it be final? It is acknowledged previously that it is not appropriate for Council to quantify a sale amount – so the only measurable factor is the time allotted to an extension.

Importantly, the Council must also consider the impact that such a decision will have on public perception and any precedents that it creates. The general feedback that the Shire received for the original application for a change of use was critical and the local community felt it was unfair that such a variation was going to be allowed when others had had to comply with regulatory requirements for their developments. Therefore, it is likely that the Shire will receive negative feedback if a decision to extend is made.

Option 2: Refusing the extension request.

If Council chooses to refuse this request, it solves one compliance issue, but is likely to raise several other issues. Once again, public perception is important. There will be elements of the community both in the Shire and possibly further afield who will focus on the applicant's hardship. In a time where housing affordability is a real issue, it is an unenviable position that the Council finds itself in.

Whilst there is no statutory obligation for this Council as a regulating authority to ensure the applicant is housed – it does have a regulatory responsibility through its planning and environmental health functions to ensure that housing is appropriate.

In this instance, it recommended that Council refuses the request to grant additional time for the applicant to inhabit the outbuilding at Lot 109 Macdonald Retreat, Dumbarton.

The reason for this recommendation is that it is important for Council not to set an undesirable precedent regarding the management of compliance issues. The Council has signalled compliance is an area that needs more focus.

IMPLICATIONS TO CONSIDER**Consultative:**

Councillors were made aware of the applicant's late request at a Concept Forum held on 13 December 2023 attended by six elected members.

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

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

O5.1. Provide responsible planning and development.

Policy related:

Risk Management

This policy is intended to commit to organisation-wide risk management principles, systems and processes that ensure consistent, efficient and effective assessment of risk in all planning, decision making and operational processes.

Financial:

Should Council choose to refuse this application, the applicant has the right of appeal through the State Administrative Tribunal. Were this to happen, the Shire would likely have to commit additional funds to undergo this process, and there is a potential financial implication for loss of productivity due to Officer time required in dealing with such matters.

Legal and Statutory:

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Planning and Development Regulations 2009

Standing Orders Local Law 2008 (SO4.5)

Risk related:

This request has been assessed against the Shire's Risk Management policy where the following risks have been identified:

Risk	Consequence	Likelihood	Score
Financial Impact There is a likelihood of legal challenge – most likely through the Magistrates' Court.	Moderate (3)	Possible (3)	Moderate (9)
Reputational Risk The Shire exposes itself with these kind of decisions with impacts on human hardship. These types of stories often end up in newspapers and on television which can create public relations issues.	Moderate (3)	Possible (3)	Moderate (9)

Risk	Consequence	Likelihood	Score
<p>Environmental Health</p> <p>The Shire has identified that there are environmental health risks associated with the rudimentary septic system.</p>	Moderate (3)	Likely (4)	High (12)
<p>Health</p> <p>The building in its current format poses health risks from heat stress due to inadequate ventilation and insulation.</p> <p>Additional risks associated with use of heating systems, cold and damp.</p>	Moderate (3)	Possible (3)	Moderate (9)

Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council refuses the application by Mr Andela to extend the time listed on the Directions Notice relating to the occupation of the outbuilding for habitable purposes of Lot 109 MacDonald Retreat, Dumbarton with date to vacate to remain as 20 January 2024.

The reason for the refusal is that the outbuilding is not to be used for human habitation – pursuant to its conditions of approval.

6.3 ARC recommendations from meeting held on 6 Dec 2023

Date of Report:	21 December 2023
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC2/FIN7
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Executive Manager Corporate and Community Services
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> 1. ARC Minutes from 6 Dec 2023 meeting; 2. Risk Management Plan - Cyber Security (confidential) Section 5.23(2) <i>(f)(iii) a matter that if disclosed, could be reasonably expected to prejudice the maintenance or enforcement of a lawful measure for protecting public safety</i> <i>(f)(i) a matter that if disclosed, could be reasonably expected to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law.</i> <i>(f)(ii) a matter that if disclosed, could be reasonably expected to endanger the security of the local government's property (under separate cover)</i> 3. Office of the Auditor General Correspondence; 4. 2021/2022 Annual Report; 5. Local Public Notice - Elector's General Meeting; 6. Audit & Risk Committee Charter; and 7. Datascape Migration Project Action Plan.

PURPOSE OF THE REPORT

To receive the minutes of the Audit and Risk Committee (ARC) Meeting held on 6 December 2023 and consider the recommendations made by the ARC at that meeting (Refer to **Attachment 1**).

BACKGROUND

The ARC met on 6 December 2023 and considered the following Officer reports:

- Risk Management Action Plan – Cyber Security
- Adoption of 2021/2022 Annual Report
- Audit and Risk Committee Charter
- Update on the Datascape Migration Project

This report was presented to the December 2023 Ordinary Council Meeting however, no decisions were made at that meeting, due to the Julimar fire event.

COMMENTS AND DETAILS

Recommendation 1 – Risk Management Action Plan – Cyber Security

The ARC Members reviewed the Officer's Report and asked a few general questions regarding risk management.

It is recommended that the ARC's recommendation be resolved by Council.

Recommendation 2 – Adoption of 2021/2022 Annual Report

The ARC Members reviewed correspondence from the Office of the Auditor General (Refer to **Attachment 3**) and the Annual Report (Refer to **Attachment 4**).

The Annual Report was scrutinised for its content and an amendment was made by the Committee to the Officer's Recommendation that included asking Council to note the disclaimer of opinion.

Some questions were asked about the commentary of the Management Report as well as how much longer the use of Synergy is anticipated to be. Concerns were raised regarding the cost benefit analysis of abandoning the process undertaken and the determination to persevere with the transition. The members asked for an amendment to be made to the report, as a clarification within their recommendation.

At the December 2023 Ordinary Council Meeting it was recommended that Council endorse the ARC's recommendation as presented so that a General Elector's Meeting could be held in February 2024.

However, as a decision was not made at the December 2023 Council Meeting, due to the Julimar fire event, the recommendation has been amended to ask Council to consider holding the General Elector's Meeting in April 2024. Advertising would be done through a local public notice (Refer to **Attachment 5**).

Recommendation 3: Audit and Risk Committee Charter

The changes to the charter were presented to Council in November, but the charter itself was not adopted by Council.

Upon review, the ARC proposed changes that would be simple enough to identify membership in the committee along the same lines as legislation currently in place for Audit and Risk Committees.

These changes have been incorporated into the Audit and Risk Committee Charter as attached to this report (Refer to **Attachment 6**). This is why the recommendation will just seek to adopt the charter.

Recommendation 4: Update on the Datascape Migration Project

The ARC was presented with an Action Plan (refer to **Attachment 7**).

Clarification was sought about the financial implications and service provision from Datacom and Datascape as well as the expenditure and budget allocations for the project.

However, the ARC determined to make a recommendation to Council, as per the Officer's Recommendation.

It is recommended that Council endorse the ARC's recommendation.

IMPLICATIONS TO CONSIDER

Consultative:

ARC Meeting on 6 December 2023.

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:

The Audit and Risk Committee Charter:

- (a) refers to regulation 16 of the *Local Government (Audit) Regulations 1996*; and
- (b) refers to the committee's responsibilities to review the annual financial statements and the annual report.

Financial:

There will be financial costs associated with advertising for the AGM of Electors meeting.

Legal and Statutory:

Local Government (Audit) Regulations 1996

r.16.(f) Functions of audit committee

Local Government (Financial Management) Regulations 1996

r.51. Annual financial report to be signed etc. by CEO

Local Government Act 1995

s.1.7 Local Public Notice

s.5.27. Electors' general meetings

s.5.29. Convening electors' meetings

s.5.53. Annual reports (stipulating the content of an Annual Report)

s.5.54. Acceptance of annual reports (by the local government).

s.7.12A. Duties of local government with respect to audits

s.7.9. Audit to be conducted

Risk related:

The Annual Report for 2021/2022 is already overdue therefore it is imperative that the Annual Report is adopted by Council. It would be a high reputational risk if Council delay the process further. This report mitigates the risk.

Workforce related:

There will be work involved through printing and distribution of the Annual Report. There will also be officer time involved in providing further updates to the ARC and to Council.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION 1

That Council receives the minutes of the Audit and Risk Committee Meeting from their meeting held on 6 December 2023.

AUDIT AND RISK COMMITTEE RECOMMENDATION 2

That Council:

1. Receives the Risk Management Action Plan – Cyber Security progress update to the Audit & Risk Committee (**Confidential Attachment 2**).
2. Requests the CEO to provide an update to the Audit and Risk Committee in June 2024.

AMENDED AUDIT AND RISK COMMITTEE RECOMMENDATION 3

That Council:

1. Notes the Audit and Risk Committee recommendation made on 6 September 2023 contained in this report;
2. Receives correspondence from the Office of the Auditor General pertaining to the Management Letter and findings report (**Attachment 3**);
3. Adopts the Annual Report 2021/2022 incorporating the Independent Auditor's opinion and the Audited Annual Financial Statements for the Shire of Toodyay (**Attachment 4**) subject to a change to remove the words "it was" on page 62 of the attachments and replace with the words "Officers" to read "a cost benefit analysis abandoning process was undertaken and Officers determined to persevere with the transition";
4. Notes that regarding the financial report for the year ended 30 June 2022 the independent auditor's report included a disclaimer of opinion that stated "*I was unable to obtain sufficient appropriate evidence regarding the financial report as a whole as the financial report was submitted for audit purposes without complete and accurate underlying records. I was unable to audit the financial report by alternative means. Consequently, I am unable to determine whether any adjustments were necessary to the financial report as a whole for the year ended 30 June 2022. My Audit opinion for the year ended 30 June 2021 was disclaimed for the same reasons.*"
5. Authorises the Chief Executive Officer to make any necessary minor typographical changes to the Annual Report prior to its publication;

6. Sets Wednesday 17 April 2024 at 6.00pm as the date and time for the next Elector's General Meeting.
7. Requests the Chief Executive Officer to:
 - (a) give local public notice of the availability of the Annual Report.
 - (b) convene the Elector's General Meeting to be held on the abovementioned date and time at Point 5, in the Council Chambers of the Shire of Toodyay; and
8. Notes the ongoing challenges the Shire continues to manage during the transition to Datascape.

AUDIT AND RISK COMMITTEE RECOMMENDATION 4

That Council adopts the Audit and Risk Committee Charter as attached (**Attachment 6**) to this report.

OFFICER'S RECOMMENDATION 5

That Council:

1. Notes the remaining task associated with the Datascape data migration as per the action plan attached to this report (**Attachment 7**), and;
2. Requests the CEO to provide a progress update to the Audit and Risk Committee in March 2024.

6.4 In-Principle Agreement - Fallen Riders Wall of Remembrance

Date of Report:	21 December 2023
Applicant or Proponent:	Motorcycle Men's Shed - Perth
File Reference:	COMG1
Author:	W Sutton – Community Development Officer
Responsible Officer:	T Bateman – Executive Manager Corporate and Community Services
Previously Before Council:	No
Author's Disclosure of Interest:	Impartiality pursuant to Regulation 22 of the Local Government (Model Code of Conduct) Regulations 2021
Council's Role in the matter:	Executive
Attachments:	Nil

PURPOSE OF THE REPORT

Council is requested to consider providing in-principle agreement, that a Fallen Riders Memorial Wall would be supported in Toodyay.

BACKGROUND

The Motorcycle Men's Shed – Perth (MMSP) approached the Shire of Toodyay in November 2023, as part of the process of determining a suitable location for its proposed Fallen Riders Memorial Wall.

The MMSP was formed in March 2023, has 70 riding members and a substantial online following. It is the only Men's Shed in Australia that doesn't operate out of a shed, delivering their key message - strong mental health - via the mobile platform of group motorcycle rides to varied locations (including Toodyay Men's Shed in April this year).

This report had been prepared as a late addition to the Agenda following discussion at a Concept Forum held on 13 December 2023.

This report was presented to the December 2023 Ordinary Council Meeting however, no decisions were made at that meeting, due to the Julimar fire event.

COMMENTS AND DETAILS

The MMSP is proposing to erect a Fallen Riders Memorial Wall. The wall will contain the names of motorcycle riders who have died in road accidents, so they may be remembered by family and friends.

The wall will be a public asset, a place of remembrance and solitude, open to everyone to pay their respects or simply embrace the tranquillity the wall and surrounding gardens will offer. The wall will be promoted via a dedicated website and social media channels. The MMSP is proposing to hold an annual group ride to the wall. It is anticipated the memorial

wall will attract motorcycle riders, along with family and friends of fallen riders to the region all year round.

Toodyay is MMSP's preferred location for the wall, due to its proximity to Perth, climate, and already being a destination of choice for motorcycle riders.

Potential benefits for Toodyay include increased tourism and economic benefit, raising awareness of and promoting road safety, and engaging local community groups which have expressed interest in maintenance and upkeep roles.

The WALGA Road Safety Advisor for the wheatbelt, the OIC Toodyay Police station, and the Toodyay Roadwise committee have shown support for the concept. MMSP has received expressions of interest for funding and donation of services and time.

Through partnership with MMSP, Council will facilitate delivery of a unique structure which has the potential to produce economic benefits and increase local pride, thus leading to a more enriched environment and resilient community.

IMPLICATIONS TO CONSIDER

Consultative:

MMSP presented the concept to Councillors at a forum held 13 December 2023, attended by six elected members.

MMSP have initiated informal consultation with potential stakeholders, sponsors, and the local community.

Strategic:

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

Outcome 7. A strong, diverse, and sustainable economy

07.1. Collaborate with government and industry to attract investment, grow, and diversify the local economy, create secure, quality jobs, and meet their corporate social responsibilities.

Policy related:

Nil.

Financial:

There are no financial impacts arising from the outcome of this report.

Legal and Statutory:

Standing Orders Local Law 2008 (SO4.5).

Risk related:

An in-principle agreement may be misconstrued for final planning approval. This low rated risk is mitigated through clear and concise wording and open communications with all stakeholders.

Workforce related:

The MMSP will be engaging with Shire officers to conduct research and investigation in a bid to identify a suitable plot of land, after which routine building and development processes will transpire.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Provides in-principle agreement to the Motorcycle Men's Shed – Perth (MMSP) in support of the construction of a Fallen Riders Memorial Wall in Toodyay, noting that final wall location, design and construction will be subject to all applicable building and planning processes.
2. Requests the CEO to write to the MMSP outlining the Shire's in-principle agreement and requesting regular progress reports from MMSP, during the investigative and planning stages.

7 CLOSURE OF MEETING