



Ordinary Council Meeting

24 April 2024

Commencing at 1:00 PM

AGENDA

Notice of Meeting.

To: The President and Councillors.

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

Elected Members are requested to familiarise themselves with the Agenda and prepare notes to help address key issues for the debate during the Ordinary Council Meeting.

Elected Members are requested to email questions to the CEO via email at ceo@toodyay.wa.gov.au at the earliest opportunity so that Officers can respond to those questions prior to the Agenda Briefing.

An Agenda Briefing will be held at the same venue as above on 17 April 2024, commencing at 1.00pm to discuss the contents of this agenda.

Tabitha Bateman

ACTING CEO



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>

Agendas & Minutes are located under the heading "Council Meetings" at

<http://www.toodyay.wa.gov.au/Council/Council-Meetings/Agendas-Minutes-and-Notes>

Public copies are available by contacting the Shire on (08) 9574 9300.



CONTENTS

1	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	1
2	RECORDS OF ATTENDANCE	1
2.1	APOLOGIES	1
2.2	APPROVED LEAVE OF ABSENCE	1
2.3	APPLICATIONS FOR LEAVE OF ABSENCE	1
3	DISCLOSURE OF INTERESTS	1
4	PUBLIC QUESTIONS	2
4.1	RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	2
4.1.1	Community Questions taken on notice - A Henshaw	2
4.1.2	Community Questions taken on notice - L Graham	2
4.1.3	Community Questions taken on notice - G Hill	4
4.1.4	Community questions taken on notice - B Ruthven	4
4.1.5	Community questions taken on notice - S Pearce	9
4.1.6	Community Questions taken on notice - P Sides	9
4.2	PUBLIC QUESTION TIME	10
5	CONFIRMATION OF MINUTES	10
5.1	Ordinary Meeting of Council held on 27 March 2024	10
5.2	Agenda Briefing held on 17 April 2024	10
5.3	Elector's General Meeting held on 17 April 2024	10
6	PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS	10
6.1	PETITIONS	10
6.2	DEPUTATIONS	10
6.3	PRESENTATIONS	10
6.4	SUBMISSIONS	10
7	BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)	10
8	ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)	11
9	OFFICER REPORTS	11
9.1	DEVELOPMENT AND REGULATION	11
9.2	CORPORATE AND COMMUNITY SERVICES	12
9.2.1	Monthly Financial Statements - March 2024	12
9.2.2	List of Payments - March 2024	15
9.2.3	Request for Write Off - Toodyay Tennis Club	17

9.3	EXECUTIVE SERVICES	21
9.3.1	Department of Local Government, Sport & Cultural Industries correspondence.....	21
9.3.2	Appointment of community member to Environmental Advisory Committee	23
9.4	INFRASTRUCTURE AND ASSETS.....	25
9.4.1	Schedule of Preventative Maintenance Fire Stations.....	25
9.4.2	Toodyay Racecourse Precinct - Main Building Roof Resheeting.....	28
9.5	COMMITTEE REPORTS.....	35
10	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	36
10.1	Notice of Motion – Toodyay Tennis Club (Cr Madacsi)	36
11	NOTICES OF MOTION GIVEN AT THE MEETING FOR CONSIDERATION AT NEXT MEETING	39
12	QUESTIONS OF MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	40
12.1	Cr Madacsi questions provided on notice.....	40
13	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	42
13.1	MEMBERS	42
13.2	EMPLOYEES	42
14	CONFIDENTIAL BUSINESS	43
14.1	CEO Recruitment and Selection - Potential Housing for new CEO	43
15	NEXT MEETINGS	44
16	CLOSURE OF MEETING.....	44

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

At the Ordinary Meeting of Council held on 27 March 2024, the following questions were taken on notice:

4.1.1 Community Questions taken on notice - A Henshaw

Questions taken on notice at the 27 March 2024 Ordinary Council Meeting are below, inclusive of the responses provided prior to the publication of the draft Agenda.

Question 1

My question refers to the selection and appointment of the independent member for the purpose of CEO Recruitment and Selection panel. Four demonstrable criteria were set by the Council. Was the successful candidate able to demonstrate his ability to meet the set criteria?

Response from Shire President

All information pertaining to the CEO Selection and Recruitment Committee of which this question relates, is confidential.

4.1.2 Community Questions taken on notice - L Graham

Questions taken on notice at the 27 March 2024 Ordinary Council Meeting are below, inclusive of the responses provided prior to the publication of the draft Agenda.

Questions

Questions taken on notice at the 27 March 2024 Ordinary Council Meeting are below, inclusive of the responses provided prior to the publication of the draft Agenda.

Questions 2 and 5

EFT 28472 to the value of \$2,309.13 was paid on 30/06/2020; who approved that payment?

Response from Corporate Services

The Acting CEO at the time and the Finance Coordinator at the time.

Question 12

The advertisement you referred to before was placed by the Consultants hired by the Shire. That does not contain the required details of the remuneration and benefits being offered, and it did not comply with Admin Regulation 18A. So I ask:

- (a) When did Council authorise that advertisement?
- (b) How did Council authorise that advertisement?
- (c) What actions did the Council take to ensure the advertisement complied with the regulations?

Response from the Shire President

Examination of the minutes of council meetings between the Ordinary Council Meeting of 26 November 2019, when Council resolved to manage the recruitment process with the assistance of a Recruitment Consultant, and the Special Council Meeting of 7 April 2020, when Council resolved to authorise the Shire President to negotiate the contract with the preferred candidate, did not reveal any Council resolution to authorise an advertisement.

Based on current advice from the Department of Local Government, Sport and Cultural Industries, a local government may engage a consultant to support it in undertaking certain aspects of the recruitment process including drafting of the advertisement.

Question 13

What are the implications to the Shire of not having a compliant audit for a number of years while having no valid CEO contract?

Response from Corporate Services

We are unaware of a link between findings of the Audit and the CEO's contract.

Question 14

What action is the Council going to take to remedy its:

- (a) Non-compliance, and
- (b) False reporting.

Response from Corporate Services

Non-compliance has not been established therefore the Council is unable to take any action at present.

The Shire's focus is continuous improvement. Council is guided by the model standards for CEO Recruitment developed by the DLGSC, to assist with compliance.

4.1.3 Community Questions taken on notice - G Hill

Questions taken on notice at the 27 March 2024 Ordinary Council Meeting are below, inclusive of the responses provided prior to the publication of the draft Agenda.

Question

Why not lease the old Tennis Club building to the Moondyne Men and receive almost \$2,500 a year in rent?

Response

Currently the property on Fiennes Street is occupied.

4.1.4 Community questions taken on notice - B Ruthven

Questions taken on notice at the 27 March 2024 Ordinary Council Meeting are below, inclusive of the responses provided prior to the publication of the draft Agenda.

QuestionsQuestion 2

The minutes of the ARC special meeting of 14 February, which were confirmed on 6 March, show that the committee rejected the Officer Recommendation to workshop the new charter but, instead, recommended that Council adopt the charter. The reason given was that the committee had already conducted a review.

Did the review take place between the calling of the special ARC meeting on 7 February and the convening of the special meeting on 14 February?

- (a) How was the decision to conduct the review made and by whom?
- (b) When, how and where did the review of the proposed new charter take place?
- (c) Which ARC members took part in the review of the proposed new charter?

Response from Shire President

With regard to paragraph one of your question, the minutes of the 14 February have no mention of an Officer Recommendation to workshop the new charter.

A review did take place between 7 and 14 February 2024.

- (a) On 7 February, the Audit and Risk Committee, as part of its core function of identifying risks, identified gaps and omissions in the Charter adopted by Council on 24 January 2024. Several Committee Members, recognising the potential implications, initiated a review process.

It is now on record in the attachments to today's OCM (See item 9.3.1) that the Department of Local Government Sport and Cultural Industries (DLGSC), after reviewing the Charter adopted by Council on 24 January 2024, agrees that there were indeed omissions, the existence of which supports the actions taken by the Audit and Risk Committee and the reasons why a review was initiated.

- (b) The Charter was reviewed in accordance with accepted Shire practices. The review took place via email communications among ARC members because at that time, the Teams Meeting software, which could also have been used for the review, was compromised with additional non-ARC members having access to Teams.
- (c) All ARC members were involved in the review process. All but two committee members made comments or contributions to the review.

Question 3

The ARC minutes show that the only consultation done by the ARC was with the OAG Better Practice Guide, despite the inclusion of the following passages:

Firstly, from the Auditor General's overview:

"... it is therefore difficult to have a 'one-size-fits-all' approach for better practice guidance. Entities need to consider their relevant legal and regulatory requirements as well as operating environment when using this guide."

Then, from within the document:

For local government entities, the role of audit committee is prescribed by the *Local Government Act 1995* and *Local Government (Audit) Regulations 1996*. They do not have powers or authority to implement actions in areas over which the CEO has legislated responsibility and they do not have any delegated financial responsibility. The committee does not have management functions and cannot involve itself in management processes or procedures.

Given that information, which was in the Better Practice guide, would you, as a member of the ARC, please explain why the ARC did not consult with the Department of Local Government or any local government legislation before recommending the charter to Council?

Response from the Shire President

The process for making a recommendation from a Committee to Council is just a recommendation. It is then up to Council to make a decision.

Before a recommendation is put to Council, it is a function of Shire Officers to review, among other things, legal and statutory compliance, policy compliance, and risk related matters and

report them to Council. The fact of the matter is that one of the identified omissions in the Charter adopted on 24 January 2024, precludes the Audit and Risk Committee from obtaining the necessary external advice and so there was a reliance on the Officers to fulfil their functions in this case.

Question 4

A legislated role of the CEO and administration to advise Council and provide relevant information for decision-making and the importance of risk management to the organisation. The Responsible Officer recommended workshopping the charter before putting it to Council.

What consideration did the Audit and Risk Committee give to the risks of legislative non-compliance and reputational damage to the Shire when rejecting the advice and recommendation from the responsible officer regarding the new charter?

Response from the Shire President

The first paragraph of this question has been dealt with in the response to Question 2 above.

The second paragraph of this question has been dealt with in the responses to Questions 2 and 3 above and I once again refer you to the Audit and Risk Committee minutes of the 14 February 2024.

Question 7

At the rear of 15 Clinton St, near the police lockup is an old shed which has exposed broken asbestos and termite damage. Does the Shire own this shed? What is the risk to the shire associated with this exposed broken asbestos in a public space? Could it be checked?

Response from the Environmental Health Officer

In relation to **Question 7**: Datascape and Department of planning shows the land the shed is on as a Type 3 Reserve that the Shire of Toodyay manages. The Shed has a padlocked wooden door that opens onto 15 Clinton St but a roller door that goes into 8 Duke St which would indicate the Shire doesn't own the shed. The building isn't on the shires asbestos register because there is no record of it being owned or maintained by the Shire.

Description
 15 Clinton Street, TOODYAY 6566
 Strata:
 Reserve: 27152

Details

Polygon Number
 11598605

Land Usage
 Transfer of Land Act (Type 1): Reserve (Type 3 R)

Address
 15 Clinton Street, TOODYAY 6566

House Numbers
 15

Parent House Number
 15

Lot Numbers
 3000

Parent Lot Number
 3000

Locality
 TOODYAY

Strata Number

Reserve No
 27152

Land Area (m²)
 5,870



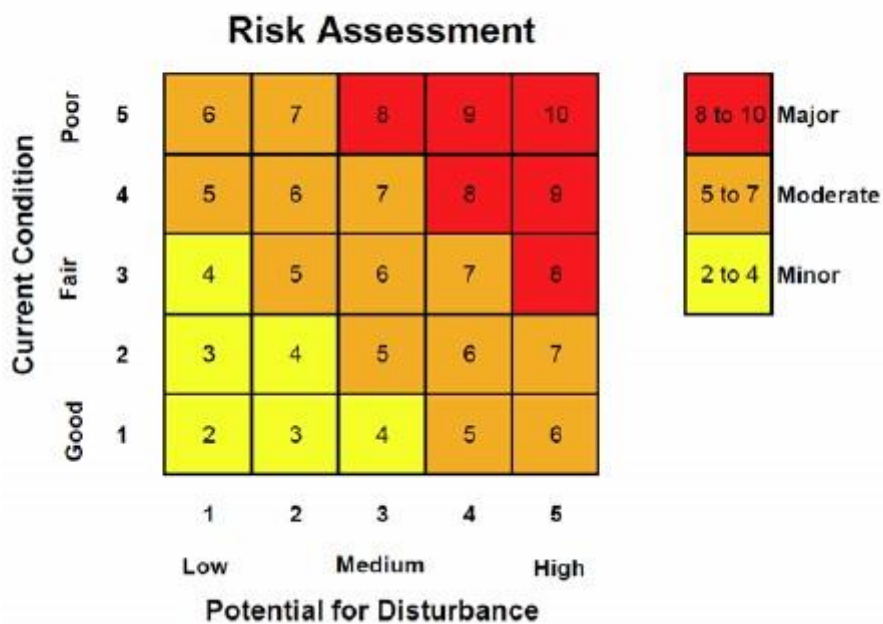
Question 8

What is the risk to the Shire associated with the broken asbestos in a public space?

Response from the Environmental Health Officer

In terms of Risk, the presence of the asbestos is a minor risk to public health at 15 Clinton St. The asbestos is non-friable and in fair condition though it is cracked, fragmented, and exposed to weathering. The Potential for disturbance is low due to it being an area of extremely low traffic far away from the road, paths, and recreational areas. There is also no vehicle passthrough or hard surface the asbestos could be ground on to become more fragmented or friable.

The inherent risk is then calculated using the risk assessment matrix.



Influences to risk: *If shire staff move the lawn in that area it would expose them to a higher risk and if the old lockup was open to the public more foot traffic may lead to some disturbance of the shed and sheeting.*

Future risk: *The shed may become more weathered and crack or break off more sheeting that may contain asbestos. The fence around it may also contain asbestos if the shed is replaced or worked on.*

Possible remediation of the loose fragments:

The cement fragments could be removed via hand picking, including if practical, gently fine raking of wetted soil to 10 cm depth to expose ACM fragments as per Management of Small-Scale Low-Risk Soil Asbestos Contamination by a removalist with a Class B asbestos removal licence.

Personal protective equipment – P2 facemask, gloves, and coveralls required when working on material.

Other Precautions – Work while the area is free of other people.

4.1.5 Community questions taken on notice - S Pearce

Questions taken on notice at the 27 March 2024 Ordinary Council Meeting are below, inclusive of the responses provided prior to the publication of the draft Agenda.

Question 4

Where is the Shire at with the EOI process for the Moondyne Men?

Response

The Shire received the unsolicited expression of interest submitted by the Moondyne Men at the December 2023 Council Meeting.

The Acting CEO has liaised with the Moondyne Men to inform them of the Shire's obligations under the Local Government Act 1995, and in terms of the future of the property.

4.1.6 Community Questions taken on notice - P Sides

Questions taken on notice at the 27 March 2024 Ordinary Council Meeting are below, inclusive of the responses provided prior to the publication of the draft Agenda.

Question

When is the Shire going to rezone lots 4.1ha and above as rural small holdings as opposed to rural residential as they were directed to do so by the Department of Lands more than 12 months ago.

Response from Executive Manager Development and Regulation

The DPLH have been contacted about this. The advice provided to Mr Sides by them is consistent with the Shire's position. The matters raised by Mr Sides will be considered by the Minister when the Scheme is finalised. Mr Sides (along with other members of the community) will have the opportunity to make a submission for future Scheme Amendment proposals as part of an Omnibus Scheme Amendment in the event that Mr Sides is unsuccessful this time around. The Shire is working with DPLH on the finalisation of the Scheme which has been delayed due to staffing.

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

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

5.2 Agenda Briefing held on 17 April 2024**OFFICER'S RECOMMENDATION**

That the Notes of the Agenda Briefing held on 17 April 2024 be received.

5.3 Elector's General Meeting held on 17 April 2024**OFFICER'S RECOMMENDATION**

That the Unconfirmed Minutes of the Elector's General Meeting held on 17 April 2024 be confirmed.

6 PETITIONS / DEPUTATIONS / 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 DEPUTATIONS

A deputation must be applied for, to the CEO in writing at least 5 working days prior to the Meeting.

6.3 PRESENTATIONS

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

6.4 SUBMISSIONS

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

7 BUSINESS FROM PREVIOUS MEETING (IF ADJOURNED)

Nil.

8 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil.

9 OFFICER REPORTS

9.1 DEVELOPMENT AND REGULATION

Nil.

9.2 CORPORATE AND COMMUNITY SERVICES

9.2.1 Monthly Financial Statements - March 2024

Date of Report:	2 April 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	N Mwale – Finance Coordinator
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil.
Council's Role in the matter:	Legislative
Attachments:	<ol style="list-style-type: none"> 1. Monthly Financial Statement as at 31 March 2024; and ⇒ 2. Supplementary Information as at 31 March 2024. ⇒

PURPOSE OF THE REPORT

This report provides Council with financial information for the period ending 31 March 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

From 1 July 2023 all local governments were 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.

Key Financial areas

The following information provides balances for key financial areas for the Shire of Toodyay's financial position for the month ending 31 March 2024.

Outstanding Rates

The notices for rates and charges levied for 2023/24 were raised in September 2023 after adoption of the annual budget. Council approved revised rates due dates at its Ordinary Council Meeting held 25 October 2023 as a result of challenges faced during rates notice production.

The *Local Government Act 1995* provides for ratepayers to pay rates in full or by instalments. The revised due dates for 2023/24 are as follows:

Instalment	Due Date
First Instalment	2 November 2023
Second Instalment	2 January 2024
Third Instalment	4 March 2024
Fourth Instalment	6 May 2024

The total outstanding rates balance at the end of March 2024 was \$2,316,065.97 compared to the February 2024 closing balance of \$2,508,825.47.

Outstanding Sundry Debtors

The total outstanding sundry debtors balance at the end of March 2024 was \$728,449 broken down as follows:

Category	29/02/2024	31/03/2024
> 90 days and over	\$ 12,605.15	\$ 16,941.59
> 60 days and over	\$ 7,303.60	\$ 4,836.34
> 30 days and over	\$ 5,127.24	\$ 530,269.89
Current	\$ 575,146.26	\$ 176,401.18
TOTAL	\$ 600,182.25	\$ 728,449.00

The table above shows an increase in the outstanding sundry debtors balance due to progress claims for grant funding approximating \$522,535 which was sent out in February and awaiting payment. Another invoice for \$107,576 was sent out in March.

The composition of outstanding debtors is included in **Attachment 1**.

IMPLICATIONS TO CONSIDER**Consultative:**

Consultation with Datacom is ongoing in the preparation of the monthly financial statements.
Moore Australia

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:

Authorised Signatories

Purchasing

Corporate Credit Cards

Financial Governance

Delegation

CS1 Payments from the municipal or trust fund (referred to in Section 6.10 "Financial management regulations" of the *Local Government Act 1995*)

Financial:

Financial implications are reported, and explained, in the attached financial statements.

The Shire's surplus funds are invested in bank term deposits for various terms to facilitate maximum investment returns in accordance with the Shire's investment policy.

As at 31 March 2024, the balance of funds held in the Shire's operating accounts was \$571,573.30 and the total of all interest bearing term deposits invested for the period ended 31 March 2024 was \$4,082,649.51

Of the \$4,082,649.51 invested in interest bearing deposits, \$2,540,069.39 relates to reserve funds.

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives, for the month ending 31 March 2024 the following:

- (a) Monthly Financial Statements; and
- (b) Supplementary information.

9.2.2 List of Payments - March 2024

Date of Report:	8 April 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIN30
Author:	N Mwale – Finance Coordinator
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	NA
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Legislative
Attachments:	1. Creditors Payments Listing - March 2024 ⇨

PURPOSE OF THE REPORT

To present the list of payments raised during March 2024.

BACKGROUND

Payments made from the municipal and trust funds are required to be reported to Council for each month, under section 13 of the *Local Government (Financial Management) Regulations 1996* (the regulations).

The regulations were amended this year to further include the requirement for a list of all payments made using a credit, debit, or purchasing card to be prepared each month, effective 1 September 2023.

COMMENTS AND DETAILS

The list of all invoices processed under delegated authority during March 2024 are attached at **Attachment 1**. Electronic Funds Transfers (EFT) are for payments transferred directly to creditor bank accounts. Direct Debits are for direct debits against the bank account such as bank fees, leases, loans, and other charges. Payroll Direct Debits are for payroll and superannuation payments made to employees on a fortnightly basis.

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:

Council has delegated authority to the Chief Executive Officer to make payments from the Municipal and Trust Accounts. Creditor invoices and other charges paid have been duly incurred and authorised for payment in accordance with Shire policies Authorised Signatories and Purchasing.

Financial:

Payments made in March 2024 total \$1,865,714.59

Legal and Statutory:

Local Government Act 1995

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

Regulation 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. Regulation 13A requires that if any payments are made via purchasing cards, a list 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 and gives Council the opportunity to review and question any payments made.

Workforce related:

Nil

VOTING REQUIREMENTS

Simple Majority

OFFICER’S RECOMMENDATION 1

That Council notes as being paid, payments listed and presented for the month of February 2024 as attached to this report, summarised as follows:

Municipal Cheques	\$ 130,881.00
Electronic Funds Transfer Payments	\$ 1,467,440.87
Direct Debits	\$ 0.00
Payroll	\$ 262,646.47
Purchasing Cards	\$ 4,746.25
TOTAL	\$ 1,865,714.59

9.2.3 Request for Write Off - Toodyay Tennis Club

Date of Report:	11 April 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	LEG113
Author:	T Bateman – Acting CEO
Responsible Officer:	T Bateman – Acting CEO
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. Letter re TRC Fees and Charges; and (confidential) <i>Section 5.23(2)</i> <i>(e)(iii) a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government</i> <i>(e)(i) a matter that if disclosed, would reveal a trade secret where the trade secret or information is held by, or is about, a person other than the local government</i> <i>(e)(ii) a matter that if disclosed, would reveal information that has a commercial value to a person where the trade secret or information is held by, or is about, a person other than the local government. (under separate cover)</i> 2. Response from CEO; and (confidential) <i>Section 5.23(2)</i> <i>(e)(iii) a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government</i> <i>(e)(i) a matter that if disclosed, would reveal a trade secret where the trade secret or information is held by, or is about, a person other than the local government</i> <i>(e)(ii) a matter that if disclosed, would reveal information that has a commercial value to a person where the trade secret or information is held by, or is about, a person other than the local government. (under separate cover)</i> 3. Request for assistance; and (confidential) <i>Section 5.23(2)</i> <i>(e)(iii) a matter that if disclosed, would reveal information about the business, professional,</i>

	<p><i>commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government</i></p> <p>(e)(i) <i>a matter that if disclosed, would reveal a trade secret where the trade secret or information is held by, or is about, a person other than the local government</i></p> <p>(e)(ii) <i>a matter that if disclosed, would reveal information that has a commercial value to a person where the trade secret or information is held by, or is about, a person other than the local government. (under separate cover)</i></p> <p>4. Request for Fee Waiver - Toodyay Tennis Club. ↔</p>
--	--

PURPOSE OF THE REPORT

To consider the request for write-off of annual charges payable by the Toodyay Tennis Club (TTC).

BACKGROUND

The 2023/2024 Schedule of Fees and Charges was adopted by Council on 28 August 2023.

At the September 2023 Ordinary Council Meeting, Public questions about the fees at the TRC for each of the clubs were asked and responded to.

In November 2023 the TTC lodged a formal dispute in regard to the TRC Fees and Charges (**Confidential Attachment 1**). Their correspondence was responded to by the Chief Executive Officer (**Confidential Attachment 2**).

In February 2024 the TTC wrote the Shire to seek assistance (**Confidential Attachment 3**).

The TTC has written to Council again, to contest their annual charges, as they perceive that they are unfair and inequitable (**Attachment 4**). The total outstanding charges amount to \$2,530. The club has formally requested that these charges be written off.

Council has delegated authority to the Chief Executive Officer to waive or write off monies owing to a maximum value of \$2,000. This request exceeds the CEO’s delegation and must therefore be considered by Council.

COMMENTS AND DETAILS

The fees imposed on the TTC were part of a structured fee schedule that was reviewed and approved by Council.

The fees were calculated based on standard criteria which aim to distribute costs fairly among the users. These criteria include factors such as facility usage, maintenance costs, and administrative expenses, ensuring that all beneficiaries of the services contribute fairly to the operational costs.

Officers acknowledge that the wording within the Schedule of Fees and Charges may be considered ambiguous due to the fact it states that each *“fee is based on 3 sessions per week: Training x 2 and Game. Night training sessions require the use of lights. This is included in the fee.”*

In this regard, while *each fee* is based on the above maximum usage, the variation in fees also factors into the above-mentioned standard criteria. It is noted that the fees and charges

include a *separate fee* for the Tuesday Tennis Group. At the time of preparing the fees, Officers were unsure if the facility would be used for all TTC fixtures or just the Tuesday bookings. This fee structure gave the TTC the option of both scenarios. It was communicated to the TTC that in the event they resumed regular use of the TRC during the 2023/2024 financial year (beyond the Tuesday fixtures), the amount payable would not exceed \$3,180.

The Tennis Club contends that the fees are inequitable and do not reflect their usage of the facilities.

After consideration and review, the fees charged to the Tennis Club are considered justifiable based on their usage and the overall maintenance needs of the facilities. The recommendation to the Council is to reject the request for write-off based on the principles of equity and financial sustainability for the community. Moving forward, alternative calculation models will be workshopped for consideration in the upcoming budget process.

Options for consideration

Option 1 - Reject the Write-Off Request

Based on the adopted 2023/2024 Schedule of Fees and Charges, Council may opt to reject the write-off request as the fees are aligned with usage and fairly imposed.

Option 2 - Approve the Write-Off Request:

Council may consider writing off the full amount, if it finds substantial reasons beyond the presented arguments, considering the financial and precedential impacts.

Option 3 - Partial Write-Off

An alternative could be considering a partial write-off, should the Council determine there is partial merit to the TTC's claims.

It is recommended that Council rejects the TTC's request to write off the remaining annual charges of \$2,530. The charges in question were adopted by the Council following a thorough review and are in line with the principle of equity and usage proportionality. Accepting the write-off request could undermine the Council's fee structure and annual budget planning processes currently in place.

IMPLICATIONS TO CONSIDER

Consultative:

Toodyay Tennis Club

Clublinks

Strategic:

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

Outcome 9: Responsible and effective leadership and governance

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

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

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

Policy related:

Nil.

Financial:

Whilst the write-off of \$2,530 would result in a minor financial impact to the end of year position, there may be broader implications in the event a precedent is set for future fee disputes and write-offs. This could potentially undermine the financial strategy and fee integrity upheld by the Council.

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

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

Risk related:

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

Workforce related:

Nil.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council:

1. Rejects the Toodyay Tennis Club's request to write off the remaining annual charges of \$2,530; and
2. Requests the Acting CEO to provide a report to Council on alternative calculation models for fees and charges for the Toodyay Recreation Centre prior to adoption of the 2024/2025 Annual Budget.

9.3 EXECUTIVE SERVICES

9.3.1 Department of Local Government, Sport & Cultural Industries correspondence

Date of Report:	10 April 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	MTG7/ICR94409
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Acting CEO
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Review
Attachments:	<ol style="list-style-type: none"> 1. DLGSC Correspondence. ⇒ 2. Attachments to correspondence. (confidential) <i>Section 5.23(2)</i> <i>(d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting (under separate cover)</i>

PURPOSE OF THE REPORT

To receive correspondence of a governance nature or non-compliance matters between the Shire of Toodyay and the Department of Local Government, Sport and Cultural Industries (DLGSC).

BACKGROUND

Council resolved in 2018:

That the CEO submit a report to Council at each Ordinary Council Meeting detailing correspondence of a Local Government governance nature or non-compliance matters between the Shire of Toodyay and the Government of Western Australia’s Department of Local Government, Sport and Cultural Industries (including with the relevant Minister) since the report to the previous Ordinary Council Meeting.

COMMENTS AND DETAILS

There was one incoming piece of DLGSC correspondence received between 10 March 2024 and 10 April 2024 (**Attachment 1**) that was the result of outgoing correspondence to the department. Attachments to the incoming correspondence are provided (**Attachment 2**).

IMPLICATIONS TO CONSIDER**Consultative:**

Nil.

Strategic:

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

Outcome 9: Responsible and effective leadership and governance

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

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

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

Policy related:

Nil.

Financial:

Nil.

Legal and Statutory:

Local Government Act 1995

It is a function of CEO to give effect to the decisions of Council in accordance with s.5.41 of the *Local Government Act 1995*.

Risk related:

Nil.

Workforce related:

The requirement to regularly report the required correspondence can be managed within existing Shire resources.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives the DLGSC correspondence (**Attachment 1 and 2**) as attached to this report.

9.3.2 Appointment of community member to Environmental Advisory Committee

Date of Report:	10 April 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC14
Author:	M Rebane – Executive Assistant
Responsible Officer:	H de Vos – Executive Manager Development and Regulation
Previously Before Council:	N/A
Author’s Disclosure of Interest:	Nil
Council’s Role in the matter:	Executive
Attachments:	1. Membership Expression of Interest. (confidential) <i>Section 5.23(2)</i> <i>(b) the personal affairs of any person (under separate cover)</i>

PURPOSE OF THE REPORT

To consider appointment of a community member to the Environmental Advisory Committee.

BACKGROUND

An expression of interest form was received in January 2024. Due to an administrative oversight, the EOI was not presented to the EAC meeting in January 2024. This report brings the EOI to the committee to consider making a recommendation to Council.

COMMENTS AND DETAILS

Currently there is only one community member on the EAC. The EOI form attached (**Confidential Attachment 1**) will increase the committee membership to four people.

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. Provide strong, clear and accountable leadership.

Policy related:

Governance Framework.

Committee Book.

Council Delegates Roles and Responsibilities Policy; and
Local Government Payments and Gifts to Members

Financial:

There will be a cost involved with the appointment of a member now that the Salaries and Allowances Tribunal has included community members being paid meeting attendance fees. There will also be costs associated with training and induction up to \$800 (approx.).

Legal and Statutory:

s.5.8, s.5.9, s.5.10, s.5.11A, and s.5.11 of the *Local Government Act 1995*.

Risk related:

The Environmental Advisory Committee Meeting was cancelled for 10 April 2024 as it was clear from the apologies received that there would be no quorum. To delay the decision of membership till the next Committee Meeting would be a high risk. This report mitigates the risk.

Workforce related:

A Shire Officer will arrange the member's training and provide an induction pack to the person appointed by Council.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council appoint Mr Sam Roberts as a community member on the Environmental Advisory Committee.

9.4 INFRASTRUCTURE AND ASSETS

9.4.1 Schedule of Preventative Maintenance Fire Stations

Date of Report:	3 April 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	FIR3
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:	Review
Attachments:	1. Schedule of Preventative Maintenance. ⇒

PURPOSE OF THE REPORT

To receive the update on the current program of preventative maintenance for bush fire station buildings.

BACKGROUND

At the Bushfire Advisory Committee Meeting of 1 November 2023, item 2.3.2 Questions from Members, the following was minuted:

Preventative maintenance around the fire stations was previously raised as an agenda item, Motion/BFAC Resolution No. BFAC002/02/23.

Could a request be made for confirmation; that there is now a schedule in place for items such as Insect eradication, Door maintenance, Gutter clearing, Water filter servicing etc.

The response from the Shire of Toodyay Executive Manager Infrastructure, Assets and Services noted that a schedule of preventative building maintenance would be notified to Council.

At the Bushfire Advisory Committee Meeting of 7 February 2024, item 2.3 Inward/Outward Correspondence, the following was minuted:

Question

Preventative maintenance around the fire stations was previously raised as an agenda item, Motion/BFAC Resolution No. BFAC002/02/23. It was raised again at the November BFAC.

During the recent storms and power outages, the emergency backup generator failed to start rendering the station and ancillaries redundant, vehicle charging, radio communications etc.

Could a further request be made for confirmation; that there is now a schedule in place for items such as Insect eradication, Door maintenance, Gutter clearing, generator, and water filter servicing etc?

To respond to the question, a memorandum was issued to the Bushfire Advisory Committee at the Meeting (refer **Attachment 1**) and included in the Minutes.

COMMENTS AND DETAILS

The memorandum (**Attachment 1**) details the various maintenance tasks and the frequency carried out at the bush fire station buildings. The additional service, which is not detailed, is the maintenance and inspection program for the backup generators at each bush fire station.

In the past, this task has been reactive rather than on a regular program basis. Shire Officers are in the process of seeking quotes from two local companies to carry out an annual program of inspection and testing of all the generators in all Shire buildings, of which the bush fire stations form a component.

Once the quotes have been received and evaluated, the cost will be included in the forthcoming Council budget for 2024/2025 for consideration.

IMPLICATIONS TO CONSIDER

Consultative:

Nil

Strategic:

Shire of Toodyay Council Plan 2023-2033

Outcome 1. A safe and healthy community.

1.1. Facilitate community safety.

Recognising the role volunteers play in our community and the need to support and foster volunteering.

Policy related:

Risk Management

Asset Management

Financial:

The costs of the current programmed maintenance activities are included in the current Council budget. The additional cost of the backup generator inspection and testing will be a Shire wide maintenance cost included in the 2024/2025 budget for Council to consider.

Legal and Statutory:

Bush Fires Act 1954

Workplace Health and Safety Act 2020

Risk related:

Safe and effective management of Bush Fire Brigades is a responsibility of Local Government under the *Bush Fires Act 1954* and other legislation, most notably the *Workplace Health and Safety Act 2020*.

Improving and reviewing procedures and standards in relation to the operation of our Bush Fire Service reduces exposure to risk.

Workforce related:

All current and proposed maintenance activities on the bush fire stations will be carried out by external contractors. Shire of Toodyay staff will be required to manage the contract activities.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION 1

That Council receives and notes the Schedule of Preventative Maintenance Fire Stations (**Attachment 1**).

9.4.2 Toodyay Racecourse Precinct - Main Building Roof Resheeting

Date of Report:	3 April 2024
Applicant or Proponent:	Shire of Toodyay
File Reference:	TEC4
Author:	C Sullivan – Executive Manager Infrastructure, Assets & Services
Responsible Officer:	C Sullivan – Executive Manager Infrastructure, Assets & Services
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. Existing Structure Toodyay Race Club Precinct Toodyay Structural Report; ⇨ 2. RFQ012024 Roof Resheeting Evaluation; (confidential) Section 5.23(2) <i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting</i> <i>(e)(iii)a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government (under separate cover)</i> 3. RFQ012024 Reliable Asset Maintenance R2; (confidential) Section 5.23(2) <i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting</i> <i>(e)(iii)a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government (under separate cover)</i> 4. RFQ01-2024 Tender Response; (confidential) Section 5.23(2) <i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting</i> <i>(e)(iii)a matter that if disclosed, would reveal information about the business, professional,</i>

	<p><i>commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government (under separate cover)</i></p> <p>5. RFQ012024 Roof Resheet - section 4; (confidential) Section 5.23(2) <i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting</i> <i>(e)(iii) a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government (under separate cover)</i></p> <p>6. Quote No_25014. (confidential) Section 5.23(2) <i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting</i> <i>(e)(iii) a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person where the trade secret or information is held by, or is about, a person other than the local government (under separate cover)</i></p>
--	--

PURPOSE OF THE REPORT

To consider the award of the Request for Quotation for the Roof Resheeting of the Main Building at the Toodyay Racecourse Precinct.

BACKGROUND

At the Special Council Meeting of 24 January 2024, Council considered a report item 6.1 Toodyay Race Club – Racecourse Precinct Remediations. Council resolved (CRN: SCM001/01/24) as follows:

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 Toodyay Race Club 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.*

Shire Officers did not submit a report to the Ordinary Meeting of Council of 27 March 2024 as the results of the Request for Quotation for the Roof Resheeting of the Main Building was not completed and further definition of proposed and actual works on site carried out by the Toodyay Race Club was being determined.

As discussed at the workshop with Council in December 2023, a structural engineer was required to carry out an independent assessment of the steel portal frames and structural members to assist in identifying any remediation works required. The report from the structural engineer (Lalli Consulting Engineers) was received on 5 April 2024 and is included for reference (**Attachment 1**).

In relation to possible funding sources, Shire officers have identified two possible funding opportunities – Lottery West and the Federal Regional Precincts and Partnerships Program. Shire officers will make submissions if the criteria for funding support can be met. The emphasis is on community led projects for multipurpose community events spaces that promote active community participation.

COMMENTS AND DETAILS

In the report item 6.1 to the Special Council Meeting of 24 January 2024, it was noted that:

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.

Shire officers drafted a Request for Quotation (RFQ) and issued the RFQ 01/2024 to five companies. The closing date for the submission of the RFQ was 15 March 2024. Two companies decided not to submit a response due to workload commitments. The three submissions received were evaluated by Shire officers based on the evaluation criteria included in the RFQ. One submission was deemed as non-conforming due to the scope of works in the RFQ not being fully addressed. Points of clarification were sought from the two conforming submissions to enable the evaluation to be completed.

The evaluation of the RFQ was carried out by the Executive Manager Infrastructure Assets and Services and the Acting Coordinator Project Delivery. An independent review was carried out by the structural engineer who performed the assessment of the building support structure. A copy of the evaluation by Shire staff is included for reference (**Attachment 2**).

The evaluation panel recommends that the quote submitted by Reliable Asset Maintenance following points of clarification be accepted as the preferred submission. Both conforming submissions rated highly in all the non-price criteria as both companies are highly experienced in the scope of work and nominated highly qualified and experienced staff. Both companies are well resourced with suitable plant and equipment to carry out contracts of this type. A copy of the RFQ submission by Reliable Asset Maintenance is included for reference (**Confidential Attachment 3**). A copy of the RFQ submission by WCCD is included for reference as Attachments 4, 5 and 6.

Further to the structural report (**Attachment 1**), it is recommended that exposure of the column footings is carried out to assess any corrosion protection work required, which can be the subject of a quote as an extra to the RFQ. Similarly, it is recommended that further investigation of the existing roof purlins be carried out to determine which ones need to be replaced due to corrosion. Some corrosion protection work will be required on the steel portal frame members as detailed in the report (**Attachment 1**).

Following the decision of Council at the Special Council Meeting of 24 January 2024, the following works have been undertaken on site to date.

- Removal of redundant and unsafe wiring from Tote area.

- Upgrading of electrical switchboards to meet regulatory requirements.
- Install a gravel floor in the maintenance shed.
- Repairs to plumbing underneath the Livery area.
- Establish as built information on sewer lines, leach drains, drainage pipework and soak wells.
- Large scale tree lopping and green waste removal.
- New garden bed established at the public entry point. These will be planted out for the spring growth season.
- Relocate the Joe Broderick memorial to the new garden bed.
- Engage a licenced electrician to negotiate with Western Power for the relocation of the main transformer pole.
- Re-establish the rose beds by the Livery and Finish Post. Install reticulation to the beds.
- General tidy up of all garden areas.
- Engage a licenced builder to perform repairs to the Ticket Booth and Members area outside deck.
- Submission for demolition of the toilet block, jockeys' room, and tote area. This includes all the relevant permits required from Council to perform the demolition and safe disposal of asbestos.
- Establish the position of the various solenoid valves on the ring main that supplies water for the track.
- Negotiate with RAAWA with regards to the supply and installation of the new plastic running rail. This has been delivered and will be installed closer to race day.
- Slashing of the track in preparation for the coming wet season. A qualified greenkeeper will aerate the track and rye grass will be planted once the track has received its first significant rain. The greenkeeper will consult with us over the course of the year to make sure the track is in premium condition for race day.
- Establish a gardening sub-committee to maintain the gardens over the year.

The existing ablutions block has deteriorated to the point where demolition is required. The Toodyay Race Club has submitted a request as required by the lease to demolish the building. A permit to demolish has been submitted as noted above which requires approval by Council. The demolition including removal of asbestos will be carried out at no cost to the Shire of Toodyay.

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.

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

Simple Majority

OFFICER'S RECOMMENDATION

That Council:

1. Notes the report including the progress of works on site;
2. Approves the submission by Reliable Asset Maintenance for the sum of \$121,760.00 excluding GST for the replacement of the roof sheeting to the Main Building; and
3. Approves the request for demolition of the existing ablutions block; and

4. Requests the Acting CEO provide an update through a written report to the Ordinary Council Meeting of 22 May 2024 detailing progress of works on the site including further remediation of the Main building steel structure.

9.5 COMMITTEE REPORTS

Nil.

10 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**10.1 Notice of Motion – Toodyay Tennis Club (Cr Madacsi)**

Date of Report:	16 April 2024
Applicant or Proponent:	Cr Madacsi
File Reference:	MTG7
Author:	M Rebane – Executive Assistant
Responsible Officer:	T Bateman – Acting CEO
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. Correspondence (2021); ⇒ 2. Correspondence (2022); and ⇒ 3. Correspondence Response (2022). ⇒

PURPOSE OF THE REPORT

To consider a notice of motion provided by Councillor Madacsi.

BACKGROUND

On 12 April 2024 Councillor Madacsi provided the Acting Chief Executive Officer notification of a notice of motion for the April 2024 Ordinary Meeting of Council as follows:

NOTICE OF MOTION

That Council based upon,

1. a 16 February 2021 signed agreement between the Shire of Toodyay and the Toodyay Tennis Club to provide access to the Fiennes St courts until February 2023 at which time it would be reviewed by Council, and
2. a 26 April 2022 letter informing the new Toodyay Tennis Club committee any agreement for on-going use of the premises will need to be formalised and considered by council,

Resolves to

- a. Review the Toodyay Tennis Club's agreement for use of the Fiennes Street premises, as agreed;
- b. Consider the future use of the property in line with the Shire's long-term planning and Plan for the future;
- c. Authorise the CEO to seek Expressions of Interest for the Fiennes Street premises in accordance with the *Local Government Act 1995* and regulations;

- d. Request the CEO to bring a report back to Council for consideration by the August 2024 OCM.

Clause 4.4(4)(c) of the Shire of Toodyay Standing Orders Local Law states that the Chief Executive Officer “*may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on matters such as policy, budget and law*”. This report is provided in accordance with such.

COMMENTS AND DETAILS

Correspondence from 2021 (**Attachment 1**), and 2022 (**Attachment 2**) and a response from the CEO in 2022 (**Attachment 3**) is provided as background information with regard to allowing the Toodyay Tennis Club use of the Club rooms and court facilities.

Councillors were informed via email on 1 March 2024 that although a review was due to be undertaken in February 2023, it had not been carried out.

IMPLICATIONS TO CONSIDER

Consultative:

Shire Officers are intending to meet with the Tennis Club on 16 April 2024.

Strategic:

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

Outcome 9: Responsible and effective leadership and governance.

9.1. Provide strong, clear, and accountable leadership.

Policy related:

Financial Governance

Risk Management

Register of Delegations

Disposal of Property Policy

The Shire’s Disposal of Property policy currently provides for *disposal of Shire land and property, deemed surplus to the Shire’s requirements, for community benefit in accordance with Part 3 (Division 3– Subdivision 6) of the Local Government Act 1995*. The policy states that any *Decisions on the disposal of local government property (assets) may only be made in accordance with Instruments of Delegation contained in the Shire’s Register of Delegations, or by resolution of Council*.

Financial:

Nil

Legal and Statutory:

Local Government Act 1995

Risk related:

The risks are minor but as this matter has the potential to cause reputation damage to the Shire the risk is High (10). This report mitigates the risk.

Workforce related:

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

VOTING REQUIREMENTS

Simple Majority

NOTICE OF MOTION – CR MADACSI 1

That Council:

1. Reviews the Toodyay Tennis Club's agreement for use of the Fiennes Street premises, as agreed;
2. Considers the future use of the property in line with the Shire's long-term planning and Plan for the future;
3. Authorises the CEO to seek Expressions of Interest for the Fiennes Street premises in accordance with the *Local Government Act 1995* and regulations; and,
4. Requests the CEO to bring a report back to Council for consideration by the August 2024 OCM.

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 Cr Madacsi questions provided on notice**

The following questions on notice were received from Councillor Madacsi.

Question 1

In relation to the answered conclusion that although Datascape and the Department of Planning shows the shed is on a Type 3 Reserve that the Shire of Toodyay manages, that because a roller door faces into 8 Duke St, it would indicate the Shire doesn't own the shed.

Why is it assumed because a roller door faces another property over a meter away, that the shed belongs to that other property, rather than the more probable explanation it was excised by a past planning decision?

Response

The garage was built at some point between 1960 and 1990. The shed is being used by the owner of Lot 202 however that person does not own the shed as it is clear from the mapping that the shed is not on Lot 202. The Shire holds no further records on this matter.

Question 2

Does the removal through subdivision and sale of the 8 Duke St home from government tenure, mean the shed previously used but remaining under government tenure can be rightfully claimed by the Duke St property owner?

Response

No. A person may not acquire Crown land by adverse possession (s.36 of the Limitation Act 1935).

Question 3

What is the relevance of a record of ownership or maintenance for an old fibro building built on land that belonged to the Education Trust (Department of Education) at the time and remains government land to the question?

Response

The Shire considers the relevant matter to be a compliance issue where it is apparent that a shed on a Crown Land reserve is being used by a private landowner of an adjoining property.

To rectify the issue, the following can be done:

- (a) Formally request the landowner to cease occupation and use of the shed; or*
- (b) The Shire or landowner can submit a Crown Land Enquiry form to the Department of Planning, Lands and Heritage to request that a portion of the Reserve (RV3000) is excised and the landowner of Lot 202 will have the option to purchase the unallocated crown land. The land can then be amalgamated into Lot 202 through a separate application process.*

Question 4

How was a low risk of exposure to the user of the building or other persons determined, when the building is within a tourism precinct, only 15m from a heritage exhibit, next to a short cut between Duke Street and Clinton Street?

Response

The determination of the public health risk was based on the possible asbestos containing material being non-friable, undisturbed, and outdoors. There would need to be significant interaction and disturbance of the material to make it friable and breathable. In its current state and location, the hazard is minor.

Question 5

What is the justification for the expenditure and ongoing maintenance obligation to stabilize a dilapidated fibro shed that is of no value to the community, against the single cost of removal?

Response

Given that the owner of Lot 202 has been in possession of the shed for some time there is no justification for ongoing maintenance expenditure by the Shire.

Question 6

Was the risk to the Shire as the land manager, or the commonwealth, as the owner of the land considered?

Response

Yes.

Question 7

Given the risk to the Shire, should not structural and legal clarity be obtained?

Response

Council can consider seeking structural and legal clarity for the case if it deems that the impact is worth the cost and resourcing of doing so.

VOTING REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That the response to the questions regarding the Community Questions taken on notice raised by Councillor Madacsi 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 CEO Recruitment and Selection - Potential Housing for new CEO

This matter is considered to be confidential under Section 5.23(2) - (a), (c) and (e)(ii) 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, a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting and a matter that if disclosed, would reveal information that has a commercial value to a person where the trade secret or information is held by, or is about, a person other than the local government.

15 NEXT MEETINGS

Ordinary Council Meeting	22 May 2024
Agenda Briefing	15 May 2024
Bushfire Advisory Committee Meeting	1 May 2024
Heritage Advisory Committee Meeting	8 May 2024

16 CLOSURE OF MEETING